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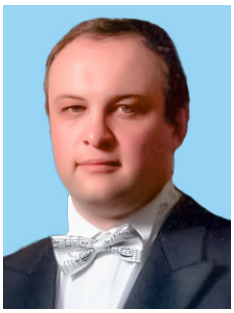

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FROM MONARCHY TO REPUBLIC: KING'S POWER AND PUBLIC AFFAIR IN ANCIENT ROME

Abstract. The exile of King Tarquinius Superbus was surprisingly quick and painless. Although the King was the high priest, the other priests did not seek to challenge his exile, only insisting on the need to save his life. Army commanders did not consider it a treason to move to the side of the rebellious City. The senators, whose mission as elders was to uphold the traditions and way of life of the community, not only did not hinder the revolution, but actually led it. All this indicates that although the exile of the king was an unprecedented event in the history of early Rome, it did not destroy the very model of the universe.

The Republic in Rome was established relatively easy precisely because the idea of a common cause, which meant a collective interest in the prosperity of this new world, was laid down here from the very beginning. The chosen (of the most worthy) kings were to effectively manage the «Roman business», and as long as they coped with it, as long as they ensured the parity of interests of different groups of society, its stable territorial growth and had the support of the gods, no problems arose. Tarquinius Superbus violated an unspoken «social contract» for which he was removed. But this removal did not lead to the cancellation of the contract itself (concluded between humans and gods), and only to its modification.

Getting rid of royal power, which marked a break with the last elements of the traditional world, put on the agenda the question of the need to develop a model that could legitimize the ideal of a common cause. This model is known as «Roman Republic». In its political form, it is opposed to the royal model, but in a worldview, it is a logical development of a Roman idea that has never been associated with either the conception of the divine origin of power or the concept of absolute (and hereditary) monarchy. The continuity between the royal and republican periods of Roman history was expressed in the unity of the original patterns that determine the nature of the Roman idea. Roman society was not formed «for the king» or even «for the gods». The kings and gods served as a means of cementing the community, giving it a sacred nature; the latter, which expressed the concept of the «universal priesthood» as a collective sacred principle, was also the basis of political doctrine. The question of specific forms of government (whether the community will be headed by a lifetime elected king, or magistrates who are elected for a limited time) is secondary.

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The idea of a collective interest in the success of the common cause was inherent in the Roman project from the very beginning, just a new model allowed it (the project) to be implemented more effectively, facilitating both the coming to power of the most capable members of the community and ensuring the control of the people over the activities of the government.

Keywords: *Romulus, Tarquinius Superbus, republic, monarchy, Roman community, king, ancient Rome*

Introduction. Ancient Rome. The superstate of antiquity, which grew out of one city, became famous not only for record conquests. Roman law is rightly considered a legal standard, Roman roads have survived their builders for several centuries, the Roman language (Latin) for more than a thousand years after the fall of Rome was used as the main language of science, religion, international communication. Everywhere you look, there are unique achievements, and even if the Romans borrowed something from outside (as they borrowed the idea of law from the Greeks), they gave the borrowing a unique meaning, so there is no place to talk about cultural plagiarism. Apparently, only in art and philosophy the Romans did not surpass their teachers; in all other areas, they either produced the original forms themselves, or developed other people's ideas so creatively that the copies were not worse, or even better than the originals.

But when we talk about Roman civilization, we usually mean its advanced state, when the Roman genius was in the top league of cultural and historical players. The initial period of Roman history – from the founding of the city to the establishment of a republic in it – much less often attracts attention.

The latter is quite understandable, because reliable data on the events of that time are scarce, and what Roman historians say is too similar to a collection of myths and legends. This can be a problem for historians, as they have to solve the very difficult task of discovering the true history of early Rome and separating it from mythological strata, but from a philosophical point of view – as will be shown later – it provides additional opportunities.

Analysis of recent research and publications. The history of early Rome and its most prominent figures is known primarily from the works of Roman and Greek authors such as Titus Livy, Dionysius of Halicarnassus and Plutarch. These stories differ insignificantly, more differences in interpretations of the same events and personalities.

For example, all three of these authors talk about the founding of the city by Romulus and Remus, and there was a fight between the brothers, as a result of which one of the founders died.

As for the further deification of Romulus, their interpretations differ. Although Livy expressed moderate skepticism, he still believed that the actions of the first king were quite compatible with both the belief in his divine origin and his posthumous worship. (Livy, 1967, p. 57). Dionysius expresses doubts for moral reasons, noting that the deity is incapable of an act unworthy of his blessed nature (Dionysius of Halicarnassus, 1960, pp. 473–475). A graduate of the Platonic Academy, Plutarch believed that the complete denial of the divine principle in valor – blasphemy and meanness, and the mixing of earthly and heavenly –stupidity. Man cannot ascend to heaven and become a god; divine bliss can be achieved by her soul, though not immediately. However, the gods may well be involved in human affairs. As for Romulus, Plutarch said: « We should not be incredulous when we see what a poet fortune sometimes is, and when we reflect that the Roman state would not have attained to its present power, had it not been of a divine origin, and one which was attended by great marvels» (Plutarch, 1967, p. 113).

However, no matter how these and later authors of Romulus themselves assessed it, none of them had any doubts about its historicity. And only in the XIX century historians not only criticized the authenticity of some elements of the biography of the first Roman king, but also questioned the very fact of its existence. Yes, Theodore

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Mommsen argued that the whole legend of the founding of Rome belongs to the category of not very witty fiction (Моммзен, 1997, p. 61).

Mommsen's approach became decisive for subsequent historians, most of whom consider Romulus a mythological character. (Cornell, 1995; Momigliano, 1990; Rodríguez–Mayorgas, 2010; Wiseman, 1995). As Mary Byrd noted, it was not Romulus who gave the city its name, but rather its name derived from the name of the city; therefore, Romulus is the archetypal «Mr. Rome» (Beard, 2015, chap. 2). However, there are researchers who hold the opposite view, considering Romulus and Remus to be historical figures – the founders of Rome; probably the most famous among them is the Italian archaeologist Andrea Karandini (Carandini, 2011).

Thus, we have before us two versions of early Roman history: chronicle–legendary and scientific–critical. Roman and Greek historians have insisted that Rome was founded by vagrants, vagrants, runaway slaves, adventurers, and other marginals who, led by Romulus, created a city out of thin air. According to Mommzen, the place was not empty, that for a long time there lived communities formed around families, each of which had its own patriarchs, and the city emerged as a result of a long process of unification (sometimes peaceful, sometimes – military) of these families, whose heads became senators, and members – patricians. Accordingly, for the first version the role of the founder was key, for the second – no, because there was no founder in the literal sense. It is likely that the history of Rome was fabricated and Romulus never existed, but we are not researching Roman history, but the Roman idea, so for us the historicity of the first king (as well as the historicity of other figures of early Roman history) is not fundamental. Even if it is irrefutably proven that Romulus is the fruit of a legend, will this information affect our perception of Roman civilization, will it force us to reconsider its contribution to the historical experience of mankind? We do not think so. What matters is not whether she was physically a person with that name and whether she did everything that tradition ascribes to her. An important result, in this case – civilization. And this civilization tied its history and its name to Romulus.

Modern historians question the authenticity of subsequent events in early Roman history up to the exile of Tarquinius; this will be discussed later. But for Roman civilization itself, they were perceived as a reality that was not just a story, but a guide to action and a means of identification. Therefore, it is important for us not so much the circumstances under which the Tarquinius lost his power, but that the future generations of conquerors of the world anderstand the uprising against him as a noble and just cause.

The purpose of our article is to clarify the place of imperial power in the evolution of the meanings of Roman civilization.

Formulation of the main material. Baron Ch. L. Montesquieu (2002) considered one of the reasons for the prosperity of Rome that all its kings were great people (p. 262). Perhaps this is an exaggeration, but if the known images of the first seven Roman rulers at least partially correspond to the personalities of real people, we must admit that the Romans were lucky to have such kings because each of them made a significant contribution not only to community life, but also to development of appropriate worldview strategies; even a negative experience came in handy for the Romans.

There are many examples in history of how a certain action, beginning with great pathos and attracting huge masses of people at first (and even more of them simply dragging them into its orbit) ended quietly and modestly in a short time. Many societies that had high expectations were scattered by the wind of historical changes, many peoples who commanded respect or terrified their neighbors, disappeared. Some cities, radiating power and wealth, turned into building material for some tiny settlement, which surprises travelers with the discrepancy between the former greatness and the current miserable state, and some cities disappeared from the map in the darkness of oblivion waiting for their Heinrich Schliemann.

Romulus' ambitious project had every chance to collapse, resulting in something quite ordinary, with the death (disappearance) of its charismatic and extremely active author. Romulus actually started a social mechanism from scratch, but he did not set the goal of giving it some spiritual unity. This task was solved by his successor Numa Pompilius (715–673/72 BC), who carried out some administrative reforms, developed a new calendar, and so on; he was the only king during whose reign the Romans were at peace.

But, perhaps, the main merit of Numa Pompilius was to establish a state cult. The significance of this measure is difficult to overestimate, because religion was the only form of ideology that could unite society. Numa was a reformer, not a prophet, he did not invent a new religion and did not leave behind a revelation. He organized and brought into unity the existing Latin, Sabine and other cults, which formed the basis for the further evolution of the Roman religious system. The Roman patriotism in question stems from the awareness of citizens of their sacred duty to protect common altars. We can say that if Romulus created a community, then the second king gave it spiritual integrity.

The third Roman king, Tullus Hostilius, became famous for his military actions, the expansion of Rome's borders, and doubling of its population. Ancus Marcius, the fourth king, made efforts to develop agriculture, handicrafts and trade; in peacefulness he was similar to Numa Pompilius, but at the same time waged successful wars on the neighbors who encroached on the territory of the Roman state. Under the fifth king, Lucius Tarquinius Priscus (Tarquin the Elder), Rome finally became the leader of the Latin League, the Temple of Capitoline Jupiter, the circus, and the sewage system (Cloaca Maxima, which is still partially functioning today) were built.

Servius Tullius, the sixth king, carried out centuriate and monetary reforms, promoted the welfare of society, redeemed the poor from slavery, and so on. He also passed a law that made the plebeians citizens and established other principles of military service; by granting Roman citizenship to the plebeians, Servius Tullius solved the problem not only of the unity of the community, but also of replenishing the army.

Since before Servius only patricians were considered citizens, it is only natural that the people's assembly – the Curiate Assemblies – was a meeting of patricians. Since the plebeians also have now become citizens, it would be natural to allow them to discuss and make political decisions. However, if all citizens have the same political rights, the voice of the most prominent, noble and deserving will inevitably drown in the cries of blacks. At the same time, if plebeians are not granted political rights, it is difficult to demand that they respect laws they have not discussed or passed.

The king resorted to a trick. By endowing all citizens with political rights, he turned these rights into an empty formality by dividing them according to property qualification. All citizens were divided into seven classes, and the first, consisting of those who had one hundred thousand pounds of copper, received 98 votes, and all the other six classes – only 95 votes in total (Gibbon, 2008, p. 19). Thus, every citizen could please his selfishness with the idea of participating in the solution of state issues, but the actual power remained in the hands of the wealthy.

Lucius Tarquinius Superbus, the seventh and last king of Rome, was famous for his successful conquests and extensive construction, and his tyranny and the atrocities of his sons contributed to the Romans' lasting immunity to royal power and the establishment of a republic that would never be formally abolished.

In almost all ancient societies, the supreme power had a sacred nature, because only through correlation with the higher reality did state institutions gain their legitimacy. As is well known, forms of legitimation reflect the prevailing ideological imperatives in society. While in most modern states the legitimation of power is more or less associated with the idea of the expressed *will of the people*, in most ancient societies it was associated with the idea of the sacred origin of the supreme bearer of

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power and/or his right to a *sacred function*. In some societies, the ruler was a god, in some – a descendant of the gods, their chosen one, etc.

For the ancient leaders, the right to power was a *religious* issue, because considered sacred? For example, the Japanese king, who has nominal power and considerable authority in his society, and today is considered by many to be a descendant of the goddess Amaterasu. And this applies not only to polytheistic religions. The first Jewish king, Saul, according to the Bible, was chosen directly by God and anointed by His prophet Samuel.

A similar situation arises with the election of Roman kings, although the selection procedure itself is not entirely clear. As noted by A. M. Smorchkov (2021), «... perhaps it was an informal proclamation of their leader by soldiers, which in Roman practice corresponds to acclamatio (proclamation)» (p. 135). It is even possible that their powers continued every year. The Roman year began on March 1. On February 23, the Romans celebrated a holiday dedicated to Terminus, the god of the boundaries, and this day was considered the last of the year, and the days from 24 to 28 February were additional (Smorchkov, 2021, p. 124). It was on February 24 that there was a very specific holiday called *Regifugium* («King's Escape»). The exact meaning of this holiday is unknown, so today there are different interpretations and different parallels with other cultures. Perhaps it was a symbolic act of termination of royal powers with the subsequent reinstatement of the king[1].

Be that as it may, the king's power was elective, sole (though not absolute) and lifelong (even if not legally, then in fact). Most scholars agree that it was sacred, and the identity of kings was considered sacred by the Romans. Gaining power took place through the inauguration procedure after the prior consent of the gods. Kings were high priests, and their judicial decisions set precedents that had the force of law. The cult of kings continued to operate with the establishment of the republic, and their golden statues were on the Forum until the beginning of the V century. All these facts allegedly clearly indicate the existence of the concept of the divine origin of royal power.

However, the Roman political model of the tsarist period had significant differences from most other ancient societies. Firstly, a hereditary monarchy was not established in Rome, and therefore the divine sanction was not one–time, as in the cases when the founder of the dynasty passed it on to his heirs; here each election of the king required a *new* sanction. Secondly, the power of the Roman kings was not absolute, because the main decisions concerning the life of the community were made by the senate and the people's assembly (comitia); some historians refer to it as the power of a lifelong magistrate, whose activities were subject to customs and laws (Kofanov, 2001, p. 18). Thirdly, the election of the king by the gods (Jupiter) was not envisaged, but only their approval of the candidate elected by the senate and the people of Rome. Thus, the *initiative* came from the community, not from the gods, who only had to agree or reject this choice. Fourthly, the priests who ordained the king were not themselves members of a closed caste, but only *elected* members of the community to whom it trusted to *deal* with the gods. Fifthly, the Romans treated the gods as *patrons* of the community, not as its leaders; the task of the kings (as later – the republican magistrates) was not to fulfill the will of the gods, but only to maintain peace with them *(pax deorum)*. Therefore, I would venture to say that Roman society was built on secular soil from the very beginning, and that royal power was not perceived by citizens as sacred, neither during its operation nor in subsequent epochs.

In general, when it comes to the sacredness of power, and even more so – about its divine origin, it is implicitly supposed the existence of a certain worldview system in which the supreme power is perceived by the *subjects* as a divine institution, and its bearer – either as a god or as an instrument of higher powers. In any case, it is a

[1] The fact is that the annual cycle had legal significance for the Romans. It was believed that a thing that a person disposes of for more than a year, becomes his own. This holiday could symbolize the fact that although the king managed the affairs of the state, it did not become his «property».

special figure that is obviously above «all others» due to the special ontological status inherent in him as the «chosen one of the gods». Such vision of supreme power is characteristic of ancient monarchies (among the few exceptions, perhaps, we can name some Greek polises), for European medieval kingdoms, etc. Catholics attribute these qualities (with some reservations) to the *pope* as the successor of the apostle Peter and the vicar of the Son of God. To what extent were such ideas characteristic of the ancient Romans?

The inauguration ceremony of the kings was clearly religious in nature, and the role of the augurs themselves (hence the name of the ceremony) was to interpret the will of gods, because the Romans needed to make sure of their consent. Romulus was the first to undergo this procedure, which can be seen as a confirmation of the idea of the sacred nature of royal power in ancient Rome, because it was the gods in the person of Jupiter who allowed him to lead the community.

But let us not jump to conclusions. The fact that Romulus became the king is quite natural, because he was the one who initiated the founding of the City, and it was he who was generally recognized leader of the emerging community. It is hard to believe that the passionaries who flocked to him from all over Italy could take his divine patent seriously. Romulus promised (and gave) them opportunities that they would be deprived of while remaining in their usual environment. His popularity is because many people bet on his project, and this bet played out. Even a natural sense of gratitude required special respect for him, as it did later for his memory.

However, the deification of Romulus hardly influenced the attitude of the Romans to the royal power itself, because if they believed that the latter is a necessary element of the divine world order, then immediately after the disappearance of Romulus, the gods would be offered a new king. This did not happen. Throughout the year, the place left by the divine Romulus was vacant. The city was ruled by senators, who divided the royal powers by lot for 5 days (according to other sources – even for one day). Such «five days» could satisfy the ambitions of the City's fathers, many of them were given the opportunity to «be kings», but the apparent ineffectiveness of such short–term governments forced them to abandon this practice. I would like to emphasize that it was not religious reasons that forced them to return to the institution of the monarchy, but quite practical (even technical) considerations.

Romulus himself was not a senator, he stood at the origins of the community and was as if over the process. But after his death (ascension?) the problem of supreme power arose in full growth. Since Romulus left no male descendants (and only a man–warrior could be the leader of the community), it would be logical to expect one of the senators to succeed him. But the senators of the tsarist era are the heads of patrician families. Apart from the «five days» of the interregnum, none of these patriarchs could claim royal power, because if a senator became king, his family would automatically gain an advantage over the others. Therefore, kings were not senators; moreover, they were not even patricians.

The latter circumstance seems impressive only at first glance. Patrician is a member of the family, and if he became king, there would be legal difficulties. It would turn out that as a king, he had supreme power, but at the same time, he would be in full subordination to one of the senators – the head of his family. This would not only lead to the rise of one of the families, but also make very uncertain the status of the senator from whose family the king came. The fact that the senators did not dare to elect a king for a whole year after Romulus' death is explained, it seems to me, not so much by their personal ambitions as by the difficult problem of «where to get a king?». Senators did not fit for such a role, patricians – even more so. Since only patricians were considered citizens of Rome, only non–citizens could be proclaimed kings. That was strange, but there was no other way. The Conscript Fathers were faced with the need to make a difficult decision, and inviting Numa Pompilius, a Sabine ally («so that no one would be offended», according to Livius), was very wise.

The principle of «king–outsider» continued to operate. Ancus Marcius was

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the grandson of the Sabine Numa, both Tarquiniuses came from an Etruscan–Greek family, Servius was a native of the Corniculus destroyed by the Romans. Only Tullus Hostilius, who was the grandson of Hostius Hostilius, a soldier of Romulus, had Roman roots, but the details of the biography of both of these Hostiliuses and their historicity remain in great question.

Romulus at his inauguration, commanded that the community not make anyone king without the consent of the gods. And the Romans did ask for their consent, but at first they decided on the candidate. However, the last two kings – Servius Tullius and Tarquinius Superbus – did not have this formal divine mandate, although only the last of them was perceived as a usurper, and the reasons for this were by no means religious. The reign of Tarquinius Superbus is considered by the tradition as usurpation since his power was not approved by the *people*; in addition, the last Roman king created a regime of personal tyranny, significantly reduced the senate by the supporters of his predecessor and tried to convene it as rarely as possible. This was one of the reasons for his exile.

It can be concluded that the sacredness of royal power was only secondly associated with divine sanction, and firstly with the *choice of the community*, which endued the leader with the sacred authority to communicate with the gods. Even if the king did not have a good relationship with Jupiter (as in the case of Tullus Hostilius[2]), even if the king «forgot» to ask the gods about his assignment (as Servius Tullius), it did not particularly affect the attitude to the king and his memory, did not abolish the sacred nature of the fact of his *recognition by the community*, especially if he had merits to it. Thus, already in the tsarist period, a feature characteristic of all Roman history was formed. The sacred nature was inherent not in the bearer of supreme power, nor even in the position he held, but in the *community* (civitas) and *its choice*; the deification of kings, as well as later kings, was not the decision of Jupiter and his colleagues, but the realization by the community of its sacred powers.

One of the favorite topics of philosophy of history is the problem of the role of the individual in the historical process. When it comes to a person who changed the course of history, we mean, as a rule, a «great person» – a prominent legislator, reformer, military leader, thinker or prophet. Upon closer examination, it turns out that not only prominent philanthropists of mankind, but also «great villains» are responsible for large–scale changes; however, the difference between the first and the second is often very conditional.

Be that as it may, «great personalities» are opposed to the «masses of the people», and already in such a problematic field a discourse unfolds which is devoted to the degree of historical freedom of the former and the creative possibilities of the latter. But many of the great events that have significantly changed the course of history have nothing to do with the activities of individuals who, for one reason or another, could be called «great». Due to more or less accidental circumstances, individuals who are quite ordinary sometimes play the historical role.

The transition to republican rule in Rome refers to such events. The key figure who caused a chain reaction of only partially controlled events was Lucius Tarquinius Superbus (534–509 BC) – not that ordinary, but not a great person.

The beginning of the reign of Tarquinius Superbus was marked by the assassination of his predecessor, whose plebeian reforms set a patriciate against him and cost him the support of the senate. By the way, Servius Tullius was removed only on the second attempt, because at first Tarquinius' plans were thwarted by the people, who stood up for their beloved king for obvious reasons. Lucius Tarquinius worked on the errors and the next time he dared to take radical action at a time when the people were busy in the fields. He convened a senate and proclaimed himself

[2] Although this ruler had the mandate of the gods, in his fascination with the policy of conquest, he paid little attention to religious ceremonies, for which he was wiped out by the lightning of Jupiter. However, the wrath of the supreme god, having shortened the reign of the third king, did not affect the veneration of those whose merits to the community were obvious.

king. When Servius appeared before the curia to drive out the imposter, Tarquinius threw him down the stairs to a stone platform, and his supporters killed the monarch.

The senators initially welcomed the change of ruler (they approved him for the post, without a vote in the people's comitia), but the new king did not think to share power with them, surrounding himself with favorites and establishing a regime of unlimited sole power. As a result, Tarquinius Superbus managed to set against him all the segments of people. The last straw for the Romans was the rape of Sextus (one of Tarquinius' sons), the beautiful and virtuous matron Lucretia, the wife of Tarquinius Collatinus, who unable to bear the shame stabbed herself. Outraged citizens, led by relatives of Lucretia, revolted against the king. It was successful. A spontaneous wrath prompted the Romans to close the gates of the city to their king, who was on a military mission at the time, and the army that accompanied him decided to leave their commander–in–chief and side with the people.

Supporters of Tarquinius Superbus tried to organize a royalist coup, but were quickly exposed and demonstratively punished (one of the republican leaders, Lucius Junius Brutus, who had by then become consul, was forced to execute two of his own sons, participants in the uprising). In order to avoid an audit of the republican government, all senators took an oath of allegiance to the people.

When the former king realized that he no longer had enough support in Rome itself, he found nothing better than to turn to his colleagues for help, convincing them that the Romans would try to extend republican forms of government to all of Italy. By instigation of Tarquinius, Lars Porsena (king of the Etruscan city of Clusium) moved his troops to Rome, winning a number of victories and even approaching the City. However, the courage of its defenders embarrassed the foreign monarch. According to legend, the patrician young man Mucius crept into the Porsena's tent with the intention of killing him, but by mistake he took the life of his scribe. When he was captured, he said he was just one of 300 young men who had sworn to kill the occupier leader at the cost of their own lives. To confirm his determination, Mucius reached out his right hand to the fire and held it there until it was charred. This fact impressed Porsena so much that he released the young man (later named Scaevola – left–handed), preferring a peace treaty with the Romans. Tarquinius Superbus himself died in exile in 495 BC. In general, this is how it all ended (Cornell, 1995, pp. 215–217). If we talk about the level of events, this is something like the republic in Rome was established.

Now let us analyze this story.

The reason for the overthrow of the king was Lucretia's rape by Sextus, and some researchers emphasize it, comparing this plot with analogues in the Greek tradition, or considering it as a sacred ritual in which something went wrong, or as an arena of political intrigue, etc. An overview of the relevant reconstructions can be found in the article by Alexander Koptev (2009). Some versions are quite interesting, but it does not seem to me that rituals played a paramount role here. They play the role of ideological support for the system existing in this society and at this moment, but it is hard to believe that they are able to radically change the system itself.

There is also a version that King Lars Porsena (Porsenna) actually captured Rome, forcing Tarquinius Superbus to flee. Porsena, who sought to strengthen his position in Latium, imposed an unfavorable and humiliating treaty on the Romans, and after a while, when the Romans managed to free themselves from the power of a foreign conqueror, and royal power was abolished, they decided to «forget» about this humiliating episode of their history, inventing a plot with both the expulsion of Tarquinius and the heroic struggle against Porsena (Forsythe, 2005, pp. 148–149). This version is also not without interest, but its main disadvantage is that it, like the previous ones, is based more on the conjectures of modern researchers than on historically recorded facts.

But to what extent can the official version expounded by Titus Livius and other ancient authors be considered a «fact?» Concerning the tsarist period of Roman

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history, there is not much information that could rightly be considered established facts. However, the historiographical tradition is in itself a fact of the spiritual life, and this fact reflected a concept that the Romans themselves *accepted as truth*, recognizing it *plausible*. The research of historians may force us to reconsider existing reconstructions of empirical facts, but it is unable to influence the facts of spiritual life, which are the interpretation of experience, in this case – the historical one. If generations of Romans believed that Tarquinius Superbus was exiled by outraged citizens, and Porsena was his ally, then even if this was not the case, these newly discovered circumstances will in no way erase from the minds of the Romans what they believed to be true, and most importantly – further *actions*, which were based on the corresponding picture of the world.

Any political structure has some margin of stability, which determines not only its ability to respond effectively to the challenges of history, but also the inertia of social mechanics. It is important to believe that the establishment of the republic is caused only by the reaction to the willfulness of the king and the adventures of his sons. Even if the personality of Tarquinius Superbus caused such a negative in society that getting rid of his tyranny was perceived as a benefit, the need to *expel the king does not imply the need to change the form of government*.

Guy Bradley notes that the Roman Revolution was similar to a palace coup, as the overthrow of the regime was led by members of the royal family: Tarquinius Collatin was a cousin of Tarquinius Superbus, and Junius Brutus was his nephew. (Bradley, 2020, p. 132). From the outside, this may seem like something, but palace coups are usually aimed at changing the owner of the palace, not changing the form of ownership of the palace.

But the Roman Revolution was hardly a pre–arranged project. There is no reliable information about anti–royalist societies that would prepare public opinion, conduct propaganda, collect weapons and recruit supporters. If there were any opposition structures, we should not talk about their strength and organization. During the Roman Revolution, many factors were intertwined, which led to the general opinion: the Romans no longer wanted to live the old way. And it was not about replacing the «bad» king with «good», but about a complete reset of power.

In the ancient world there were many examples of uprisings against unpopular kings, cabals against them, coups and even assassinations. Nobody, I think, keeps such statistics, but in any case, this number must be quite significant. As for the cases when dissatisfaction with the monarch led to the abolition of the monarchy, you can count on your fingers. Even long training and favorable conditions did not guarantee the success of the Republicans, because it is much easier to kill a monarch than to destroy the monarchical idea.

In Rome, however, everything happened quickly and almost bloodlessly. It took Titus Livius only a few pages to describe the events starting from the rape and suicide of Lucretia to the exile of the king (Livy, 1967, pp. 201–209). There are no traces of a serious ideological struggle. We can say that in Rome there were not even royalists as such, that is, there were no ideological supporters of the royal power, but a few supporters of Tarquinius himself. Although the king was the high priest, other priests did not try to challenge his exile, only insisting on the need to save his life. Army commanders did not consider it a treason to move to the side of the rebellious City; on the contrary, the army fought desperately against foreigners who tried to regain power to Tarquinius. The senators, whose mission as elders was to uphold the traditions and way of life of the community, not only did not hinder the revolution, but actually led it.

All this indicates that although the exile of the king was an unprecedented event in the history of early Rome, it did not destroy the very model of the universe. Society did not disintegrate or even restructure: patricians remained patricians, plebeians – plebeians, and so on. They had to make only the necessary amendments (political, legal and religious) in the form of society functioning. One detail was removed from

the top, but the pyramid remained standing. Therefore, this detail (I am not talking personally about Lucius Tarquinius Superbus, but about the royal power in Rome in general) was not system–forming, so its elimination did not become a catastrophe for society and did not blow the brains of a completely religious «average Roman» who surprisingly easily adopted the republican paradigm.

But what about the prevailing among historians theory of the sacred nature of royal power in Rome? It seems to me that if for two and a half centuries the Romans were instilled with the idea that the king is a necessary element of the divine universe, that it is his connections with the gods ensure the order and prosperity of the state, that he has a special mandate from Jupiter (Halapsis, 2014), how would they immediately (in a few years) completely change their views? Even when it came to the need to expel the «bad» king, the Romans would immediately fill the vacancy with a «good» candidate (for example, someone like Servius Tullius). If royal power had a sacred (that is, worldview) significance, the Romans would not have abandoned the *institution* of kings, especially unexpectedly.

Apparently, in their minds this institution did not play such an important religious role with which modern researchers endow it. When kings lost their moral authority, their functions (including sacred ones) were transferred to elected magistrates, and no one saw this as a problem. I have already mentioned that within a year after the disappearance of Romulus (either he was assassinated, which the people accused the patricians of, or ascended to heaven, as the patricians themselves insisted) and the election of Numa Pompilius, the Romans did without kings. The world did not collapse during this year; in fact, this year was the first attempt at republican rule. That is, the idea that the Roman state could cope without kings, did not appear in 509 BC, but much earlier.

Thus, the Roman model of the world was never tied with the king, so his exile did not require a radical review of the model itself. The king was neither the vicar of the gods nor their protege. The monarch was the leader of the community to whom it (not Jupiter) gave power, including in the religious sphere. Given that the community chose its own leader itself (and Jupiter only approved him) and endowed him with powers, it is natural that it was able to revoke these powers from a leader who has lost confidence, and generally change the approach to determining its leaders. This seemed obvious, so the exile of Tarquinius Superbus did not provoke *religious* protests. The absence of ideological struggle between the royalists (monarchists) and the republicans, relatively rapid and painless establishment of the republic confirm the thesis of the secular nature of the institution of royal power in the Roman community. Because the community itself is sacred, it determines those who are entrusted with communicating with the gods on its behalf, as well as the procedure for their appointment.

Conclusions. The Romans saw themselves as a *community of equals*, managed only by the most *worthy*, who proved it by their personal qualities, not the antiquity of the family and the right of inheritance. The Republic in Rome was established relatively easy precisely because the idea of a *common cause*, which meant a collective interest in the prosperity of this new world, was laid down here from the very beginning. The chosen (of the most worthy) kings were to effectively manage the «Roman business» in civil, military and religious aspects and as long as they coped with it, as long as they ensured the parity of interests of different groups of society, its stable territorial growth and had the support of the gods, no problems arose. When doubts about the effectiveness of the royal power arose, it was simply replaced by another *form of government*, but the *principle of community* itself (and the idea of a common cause that was at its core) remained intact. Tarquinius Superbus violated an unspoken «social contract» for which he was removed. But this removal did not lead to the cancellation of the contract itself (concluded between humans and gods), and only to its modification.

Getting rid of royal power, which marked a break with the last elements of

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the traditional world, put on the agenda the question of the need to develop a model that could legitimize the ideal of a common cause. This model is known as «Roman Republic». In its political form, it is opposed to the royal model, but in a worldview, it is a logical development of a Roman idea that has never been associated with either the conception of the divine origin of power or the concept of absolute (and hereditary) monarchy. The continuity between the royal and republican periods of Roman history was expressed in the unity of the original patterns that determine the nature of the Roman idea. Roman society was not formed «for the king» or even «for the gods». The kings and gods served as a means of cementing the community, giving it a sacred nature; the latter, which expressed the concept of the «universal priesthood» as a collective sacred principle, was also the basis of political doctrine. The question of specific forms of government (whether the community will be headed by a lifetime elected king, or magistrates who are elected for a limited time) is secondary. The idea of a collective interest in the success of the common cause was inherent in the Roman project from the very beginning, just a new model allowed it (the project) to be implemented more effectively, facilitating both the coming to power of the most capable members of the community and ensuring the control of the people over the activities of the government.

Although the idea of a common cause, born of awareness of common destiny and common interest, originated in the first settlers, it is somewhat opposed by another trend, which was genetically related to pre–Roman history, and which consisted of the idea of the state as a matter solely «noble». Does the plebs have a relationship with the state, can he influence government decisions, is he part of the community? The second last Roman king gave an affirmative answer to these questions, and it was decisive for the further development of this unique civilizational project. Therefore, it seems to me that the reforms of Servius Tullius, who introduced the plebeians into the Roman community, were much more important to the Roman worldview than the establishment of a republic. After all, forms of government are fleeting, as demonstrated by the following events that historians associate with the imperial era. The power vertical and the methods of its formation are, of course, important, but the worldview issues related to collective identity are much more important.

It is possible (and probable) that the initiators of the establishment of the republic dreamed of a transition from a monarchical to an aristocratic model of power, but these plans (if they existed) were not destined to be fully realized. Since both patricians and plebeians are citizens, the state is a common cause not only of the former, but also of the latter. Of course, class partitioning remained, but it was not impenetrable.

In addition, we must not forget about the evolutionary transformations of the very principle of aristocracy. For medieval Europe, the nobility of origin automatically gave the right to power and privileges, regardless of the identity of the person who claimed this power and privileges. For the Romans (as well as for the Greeks) noble origin was not so much a right as a responsibility. Power in Roman society was not property and could not be inherited. Even royal power was not seen as property; moreover, it was not the *property* of the empires of the republican magistrates, being legally limited in time. Therefore, the son of the consul could be respected by citizens for the merits of his father, but in itself this did not give him the *right* to consular post. Imperium was not inherited, the community itself determined the persons worthy of being its (temporary) bearer. And not only representatives of ancient and noble families could be worthy.

The participation of plebeians in the second board of the Decemvirs, their gradual admission to other (ordinary and extraordinary) magistrates (including magistrates of consul and dictator), the abolition of restrictions on marriages between patricians and plebeians, «reconciliation of the gods», etc., testified to the formation of *corporate statehood*. For the Romans, a republic is not so much a form of political system as a model of society in which every citizen felt like a member of one team.

Of course, neither the reforms of Servius Tullius nor the establishment of the republic are explained by chance or a simple coincidence. The very idea of a republic is implicitly present in the tsarist period as an inviolable maxim. Roman kings were not autocrats, in their activities they were forced to take into account the views of the community.

The main thing was the community, not the king; when Tarquinius Superbus «forgot» about it, he was quickly «reminded». Implicitly, the idea of a common cause of patricians and plebeians was also present in the minds of citizens before the reforms of Servius Tullius.

The foundations of statehood laid by Romulus and his successors will be used in the future. When the systems of *principate* and *dominate* will be formed, these traditions of the Roman Empire will be reproduced, except for one essential difference: the empire was a *republican* form of government, and therefore the supreme bearer of power was not the ruler but the people of Rome. It is here that one should look for the origins of the Roman idea, which is the ontological project of this original civilization.

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Олексій Халапсіс, Александрос Халапсіс

ВІД МОНАРХІЇ ДО РЕСПУБЛІКИ: ЦАРСЬКА ВЛАДА ТА СПІЛЬНА СПРАВА В СТАРОДАВНЬОМУ РИМІ

Анотація. Вигнання царя Тарквінія Гордого пройшло напрочуд швидко та безболісно. Хоча цар був верховним жрецем, інші жреці не намагалися оскаржувати його вигнання, лише наполягавши на необхідності збереження його життя. Армійські командири не вважали за зраду перехід на бік повсталого Міста. Сенатори, чия місія як старійшин полягала у підтримці традицій і укладу життя громади, не лише не перешкоджали революції, але й фактично її очолили. Все це свідчить про те, що хоча вигнання царя і було безпрецедентним випадком в історії раннього Риму, воно не руйнувало саму модель світобудови.

Республіка так відносно легко встановилася у Римі саме тому, що ідея спільної справи, під якою розумілася колективна зацікавленість у процвітанні цього нового світу, була закладена тут із самого початку. Обрані (з найдостойніших) царі повинні були ефективно керувати «римським бізнесом», і доки вони з цим справлялися, доки вони забезпечували паритет інтересів різних груп суспільства, його стабільний територіальний ріст та мали підтримку богів, проблем не виникало. Коли ж в ефективності царської влади виникли сумніви, її просто замінили іншою формою правління, але сам принцип громади (і ідея спільної справи, що була покладена в його основу) залишився недоторканним. Тарквіній Гордий порушив негласний «суспільний договір», за що і був відсторонений. Але це відсторонення не призвело до скасування самого договору (укладеного між людьми і богами), а лише — до його модифікації.

Позбавлення від царської влади, яке знаменувало собою розрив з останніми елементами традиційного світу, поставило на порядок денний питання про необхідність розробки моделі, яка могла б легітимізувати ідеал спільної справи. Ця модель відома як «Римська республіка». За характером політичних форм вона протиставляється царській моделі, але в світоглядному плані вона виступає логічним розвитком римської ідеї, яка ніколи не була пов'язана ні з уявленням про божественне походження влади, ні з концепцією абсолютної (та спадкової) монархії. Наступність між царським і республіканськими періодами римської історії виражалася в єдності вихідних патернів, що визначають характер римської ідеї. Римське суспільство сформувалося не «під царя» і навіть не «під богів». Царі і боги служили засобами цементування громади, надання їй сакрального характеру; саме останній, що виражав уявлення про «загальне священство» як колективне сакральне начало, був покладений і в основу політичної доктрини. Питання про конкретні форми управління (чи буде на чолі громади стояти обраний довічно цар, чи магістрати, які обираються на обмежений час) виявляється другорядним. Ідея колективної зацікавленості в успіху спільної справи була властива римському проекту з самого початку, просто нова модель дозволяла йому (проекту) реалізовуватися більш ефективно, сприяючи як приходу до влади найбільш здібних членів громади, так і забезпеченню контролю народу над діяльністю уряду.

Ключові слова: *Ромул, Тарквіній Гордий, республіка, монархія, римська громада, цар, Стародавній Рим.*

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DIRECTIONS OF ANTI-CRISIS MANAGEMENT OF RESTAURANT BUSINESS

Abstract. In this article, the authors emphasize that the pandemic and quarantine measures have brought the normal functioning of the world economy and the activities of many enterprises. The tourism business and the hotel and restaurant sector, which have recently developed greatly, have suffered from extensive losses and bankruptcies, a large number of restaurants and cafes have been closed, and many people have lost their jobs and their income. Even large chains of hotels and restaurants have suffered as well as other businesses.

The hotel and restaurant business was the first one that has to adapt quickly to changes caused by the pandemic, to stablish work in new conditions and develop new directions and measures

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that will take the restaurant business out of the crisis. Given the current need to apply security rules, and the need to comply with quarantine measures, it is necessary to use computer and digital technologies that will help managers to attract new customers and earn extra income.

The authors propose to use such tools of crisis management of the restaurant business as: technologicalization, online marketing and influencer – marketing, unique content. These activities are necessary in order to pay new attention to the dishes and services offered by cafes and restaurants. To restart this business in a modern way and with new tendencies, and to adapt to changes in the changing environment and to quarantine measures.

To develop additional promotions and offer «economy», «standard» and «luxury» class menu. To organize the fast, high-quality delivery to cafes and restaurants in modern conditions, preferably free, it has become a great necessity and convenience in pandemic conditions; it will attract additional consumers to the restaurant business.

In the modern market concept of restaurants in a pandemic, it is necessary considering not only the factors that existed for many years, but also new additional factors in the hotel business, without which it is now impossible to operate this business in a pandemic, it would be safe to provide services, awareness of the service or product, in the use of digital technology by an institution that wants to get more income and occupy a larger segment in this market of hotel and restaurant business.

The authors insist that in modern conditions, it is essential to take into account the laws of competition; because now the consumer chooses a quality product or service at a better price, other goods or services do not attract consumers.

Keywords: *hotel and restaurant business areas of crisis management, online marketing, influencer – marketing, unique content, new factors of work*

Introduction. Presently, the whole world is in standby mode or impose, or not impose another lockdown, or quarantine measures. Whether or not businesses will work properly or everyone will work in a special regimen, and finally, how to get out of the crisis caused by the COVID-19 virus pandemic. But there is no time to wait, as we live now, we need to work, but with the new requirements of society and time. It is necessary to adapt to all changes in the environment. The economic downturn caused by the pandemic crisis has removed all businesses from normal operation, so it is necessary to develop areas of crisis management for the restaurant sector.

Analysis of recent research and publications. Scientists were engaged in anticrisis management of hotel and restaurant business: M. Malska, S. Belous (Malskaya. & Belous, 2020), O. Kravets, I. Samarina (Kravets & Samarina, 2017), H. Munin (2008). However, in the conditions of quarantine measures, it is necessary to change the work of such business, to introduce new technologies and directions.

The purpose of our article is to develop areas of crisis management for restaurant business in modern conditions of quarantine measures.

Formulation of the main material. Due to the virus spread, a large number of enterprises were closed, some enterprises went bankrupt, especially in the field of transport, services and tourism. Catering and restaurant businesses are suffering from huge losses around the world, and a large number of restaurants have closed.

People need somewhere to eat, and there are those, who want not just to eat but enjoy what they eat and where. Unfortunately, the quarantine regime has changed the conditions of the restaurant business, imposing restrictive measures and the need to restructure business processes. This business around the world is forced to adapt faster than all other areas.

If we were asked: «What changes are we ready to accept for our own safety, safety of our health, health of our loved ones and our lives?», we would answer: «for the radical changes».

Therefore, what radical changes do we need for our life and leisure? The first one is to reduce contact with other people, setting the right priorities for this need. Second, to introduce measures that will improve the conditions of our life, work and leisure. Third, to organize events that will make our life and rest better, brighter and with an unforgettable experience.

Now information, computer and digital technologies have filled our space,

without them the modern development is not possible, so the restaurant business must also use these technologies, such as online marketing and influencer – marketing, content and more.

The digital revolution has opened many new technological directions, transformations are taking place in all spheres of life. The hotel and restaurant business is also undergoing radical changes, for which factors such as mobility, comfort, creativity, environmental friendliness, availability of additional services, health and safety are very important.

Digital marketing, e-marketing, and Internet marketing – in marketing surveys based on electronic technologies. If the marketing is attracting and retaining customers, the Internet marketing is attracting and retaining customers in the Internet (E-marketing. Https://uk.wikipedia.org).

What do these technologies give us? Especially following quarantine measures, most people go online, staying at home much more time they spend on phones, tablets, computers and working remotely. Restaurateurs also need to pay more attention to their websites, to advertise their establishment through social networks. It is possible to conduct online presentations of new unique dishes (nano technologies), master classes with famous chefs and confectioners, presentations and catering menus that can be ordered at this establishment. With these measures it is possible to attract a large number of new customers and earn extra income for the restaurant business.

Marketing impact (Eng. influencer marketing, influencer – marketing) – a way to promote products or services through influencers. An influencer is a person, brand or group of people who are able to influence the behavior and decisions of their audience. The main principle of this type of marketing is native and unobtrusive communication through recommendations (Marketing of influence. Https://uk.wikipedia.org).

However, restaurants, like any other business, are a complex system that is influenced by many different factors, but their work is very much needed.

Restaurants play a very important role in human life. In addition to meeting the physiological needs of nutrition, «going out» to the restaurant digs up an important social function. A person needs not only to eat, but also to communicate. Restaurants are one of the few places where all the senses work, which generate a general sense of satisfaction (Tourism management. Restaurant business: basics of functioning. Https://library.if.ua).

However, in today's pandemic conditions, the market concept acquires new additional factors in the functioning of the hotel business. Now for the successful operation of an establishment the factors that created the philosophy of the restaurant business, such as: the quality of food, menu, level of service, price, atmosphere, management, location, are not enough.

Presently, they acquire special significance for the work of an establishment: security of service provision, awareness of a service or a product, use of digital technologies.

Nowadays, consumers who like to watch different Internet videos, more often trust recommendations and opinion of leaders, famous athletes, actors, singers. If your favorite singer has visited a particular establishment, and this establishment has satisfied all his tastes, he will recommend this establishment to all his fans and friends, and it will cause a large number of consumers. In addition, if a famous and a favorite person held a wedding or birthday in this place, and a video of this event has got into the Internet, on his page, then this restaurant is now in trend. In the near future this restaurateur will be known for its events.

Since last year, the global market for influencer marketing has almost doubled. The trust of consumers with the recommendations of opinion leaders reached unprecedented figures: 92% more quickly believe blogger than in advertising (Influencer marketing: how it works in Ukraine source: https://marketer.ua).

Currently, restaurateur and hoteliers began to produce more content in the Internet, especially unique content. This is very important, because interesting recipes, creative dishes, useful tips, as well as broadcasts from the city of the event,

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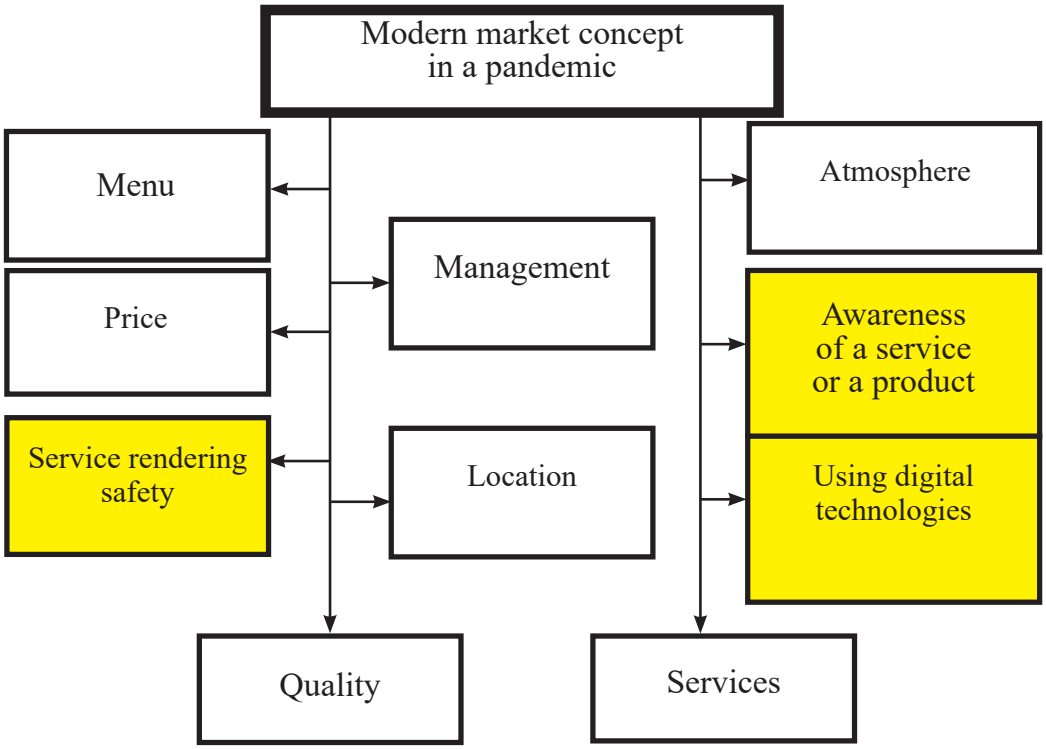

Figure 1 – Modern market concept of restaurants in a pandemic
Sources: (Tourism management. Restaurant business: basics of functioning. URL : https://library.if.ua) with the work of T. Charkina)

must meet the current real expectations and needs of service users.

Unique content is material that contains a unique and useful content load and does not occur in exactly this form in the Internet (Content. URL : https://termin.in.ua/).

Imagine that you are very familiar well with organizing the beautiful outbound catering on holidays and weddings. Using your experience you can write a useful article, which suggest own concept and experience of catering, offer it in various cities for the event, tips on exclusive menu, life hacking and make conclusions. If you tell about your famous confectioner and his unique products, you will get even more bonuses. This article, which is based on your experience and personal knowledge of this case, will be unique, which is considered the most valuable. This content, which has a useful semantic load, will give the impression to users of these services and connect them to your establishment, which will help to generate more income for the restaurant business.

At the present time, in modern quarantine conditions, the delivery is a very important factor in restaurant sector establishments. High-quality, fast resignation is a step towards gaining new consumers in the restaurant sector. This requires special attention in modern quarantine conditions; it has become a great necessity and convenience, even at night. Now it is very difficult to choose a place at night that will offer and deliver quality food, so delivery must be fast, and the food must be brought at the right temperature in the right form.

During this time of fierce competition, a large number of entrepreneurs, SMEs, offer consumers the same products or services. Consumers choose the establishment that offers the best quality of goods and services for the same price. Law and competition dictate their rules and conditions, one of the laws according to which the world is an objective process of improving the quality of products, services and reducing the unit price of goods or services. Competition law leads to the leaching of low-quality expensive products from the market.

When the companies' heads forget that competition is a constant process of managing entity for its competitive advantage in a competitive market to obtain victory or achieve other goals in the fight against competitors for the pleasure of objective and subjective needs, and cease to develop their competitive advantages, or lose them, they have a risk to lose their business. Therefore, those who want to stay in the hotel and restaurant business need to introduce constantly new services, produce innovative products, introduce digital technologies and quickly adapt to changes.

Nevertheless, we must remember that not only the restaurant business is in a difficult situation, but also a large number of consumers, given the economic, political, social crisis and the pandemic crisis. Therefore, except of preparing healthy, high-quality food, you have to offer a variety of services, additional promotions, various events, so that the customer can order it in your restaurant or cafe.

There is another law of competition, the law of increasing human needs (Economic law of growth of needs), in accordance with this law, the continuous development of needs is the driving force of economic and spiritual progress of mankind, which, in turn, stimulates the emergence of new and new needs, and exclusive goods and services are about twice as fast as goods and services for people with low income.

This means that now, in addition to increasing the number of types of goods and services, variety of dishes, sophistication of dishes, it is time to change the structure of consumer goods and services. In a pandemic, quarantine, it is necessary not just to visit restaurants to eat and socialize with friends, but also provide a qualitatively new format of safe staying in restaurant, enjoying a tasty, healthy product and an additional range of services at this place. And it is not possible without a variety of activities, marketing and skillful management. And these measures must be designed for all segments of the population.

Many restaurateurs understand that some people are now ready, while others are not able to buy expensive and delicious meals for extra money.

Restaurateurs can offer sales for family breakfast, lunches or dinners and develop creative menus of «Economy», «Standard» and «Luxury» class, in these conditions it is essential to think about the different levels of service consumers. These menus can be posted on the restaurant's website, for everyone to think about the PR-move, to create content for better acquaintance.

Under quarantine, delivery will be at the expense of the establishment, and for example, lunches for more than 6 people, with a discount of 10-15%, depending on the number of people and on Sundays. For example, each Monday all customers of the restaurant get a dessert as a gift from the chef. Or when more than 10 people order a family dinner, they get a cake as a gift. All these events will also attract additional customers. People will always be where they are valued, waited for and given gifts and discounts. The more satisfied consumers, the more they will use the services of this establishment, and the more income its owners receive.

And most important in modern conditions («On prevention of the spreading of the acute respiratory disease COVID-19, caused by the crowns virus SARS –CoV-2, in the territory of Ukraine», of 11.03.2020 nomber 211), when one quarantine can replace another, and it can last a long time, there is a need to arrange areas for eating so that you were kept a distance between guests, in the summer dominated by outdoor cities and special sites using zoning. Verandas, areas on the roof of the restaurant, areas with a winter garden or open balconies with air circulation, special booths.

Conclusions. To overcome the manifestations of the systemic crisis in the restaurant business in the context of digital transformations, the leading management needs to ensure the implementation of advanced tools for crisis management to ensure the financial stability of enterprises, and to intensify

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innovative transformations. Among the priority areas for the implementation, it is worthy to highlight such tools of crisis management for restaurant business as: technologicalization, online marketing and influencer – marketing, unique content and offer a menu of «economy», «standard» and «luxury» class.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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Олександр Пшінько, Тетяна Чаркіна, Олена Пікуліна, Нандіні Басіста

НАПРЯМИ АНТИКРИЗОВОЇ ДІЯЛЬНОСТІ ПІДПРИЄМСТВ РЕСТОРАННОГО БІЗНЕСУ

Анотація. В даній статті автори наголошують, що пандемія та карантинні заходи вивели з нормального функціонування економіку всього світу та діяльність багатьох підприємств. Туристичний бізнес та готельно – ресторанне господарство, які в останній час дуже розвинули свою діяльність, зазнали масштабних збитків та банкрутства, закрилася велика кількість ресторанів та кав'ярень, багато людей втратили робочі міста та дохід. Навіть крупні мережі готелів та ресторанів постраждали не менше інших підприємств.

Одним з перших готельно-ресторанний бізнес змушений швидко адаптуватися до змін, викликаних пандемією. Важливо налагодити роботу в нових умовах та розробити нові напрямки та заходи, які виведуть з кризового стану підприємства ресторанного бізнесу. Враховуючи сучасну потребу в застосуванні правил безпеки та необхідність дотримання карантинних заходів, необхідно застосувати комп'ютерні та цифрові технології, які допоможуть керівникам закладів залучити нових клієнтів та отримати додатковий дохід.

Автори пропонують використати такі інструменти антикризового управління ресторанного бізнесу, як: технологізація, он-лайн маркетинг та інфлюенсер – маркетинг, унікальний контент. Ці заходи потрібні для того, щоб по-новому звернути увагу на страви та послуги, що пропонують кав'ярні та ресторани. По-сучасному та з новими тенденціями перезапустити цей бізнес та

адаптуватися до змін мінливого середовища та до карантинних заходів.

Додатково розробити акційні пропозиції, та запропонувати меню класів «економ», «стандарт», «люкс». Обов'язково кав'ярням та ресторанам в сучасних умовах організувати швидку, якісну доставку, бажано безоплатну, це стало великою необхідністю та зручністю в умовах пандемії, це ще привабить додаткових споживачів ресторанного бізнесу.

А також в сучасній ринковій концепції роботи ресторанів в умовах пандемії, врахувати не тільки ті фактори, що діяли багато років, але і нові додаткові фактори функціонування готельного бізнесу, без яких зараз просто неможливе функціонування цього бізнесу в умовах пандемії: це безпека надання послуги, інформованість про послугу або товар, використання цифрових технологій закладом, що хоче отримати більший дохід та займати більший сегмент на даному ринку готельно-ресторанного бізнесу.

Автори наполягають, що в сучасних умовах вкрай необхідно врахувати закони конкуренції, тому що зараз споживач обирає якісний товар або послугу за більш вигідну ціну, інші товари чи послуги не приваблюють споживачів.

Ключові слова: *готельно-ресторанний бізнес, напрями антикризового менеджменту, онлайн маркетинг, інфлюенсер – маркетинг, унікальний контент, нові фактори роботи закладів ресторанного бізнесу*

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MODELING ECONOMIC COMPONENT OF NATIONAL SECURITY

Abstract. The national economic security is a complex and multilevel structure. In addition, it is an integral characteristic of the state of the economic system, since the system includes a number of subsystems – the most important, interconnected structural components of economic security, reflecting the functioning of the economy separate sectors. The main task of the state is to ensure a guaranteed level of security for all its constituent components, including methods of neutralizing the negative impact of internal and external threats. The dynamics of such macroeconomic indicators as: gross domestic product, inflation, money supply have been investigated. The volume and level of expenditures on national defense financing are analyzed, which testify to the provision of the necessary conditions for the country's defense capability. An integral index of the country's economic security has been constructed and factors that have a negative impact on the level of economic security of the country have been identified. The comparison of the state of economic development of Ukraine with other countries of the world by the index of global competitiveness, the quality of population's life, the level of social development and military power has been made. A multi-factor multiple regression model of Ukraine's economic security has been constructed and factors have been identified that play a significant role in threatening the country's economic and national security.

Keywords: *national security, national economic security, threats to economic security, modeling of national security, military power of the state, globalization processes, integral index, regression model*

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Introduction. National security concerns the interests of many countries. In the current conditions of the country's economic development of problems of internal and external character that lead to deterioration of economic and national security become relevant and need to solved. Therefore, measures should be taken to identify and prevent major threats to Ukraine's national security.

Economic security of the country is an important component of the national security system, which forms the protection of national interests, provides sustainable socio-economic development in the country, forms a mechanism to counter internal and external threats, contributes to improving the population living standard and the development of the system of international economic interdependence.

The novelty of the work is to build a multifactorial multiple regression model of Ukraine's economic development and to identify factors that play a significant role in making threats to the country's national and economic security.

The rate of economic growth depends on the country's economic strength, the population's living standards, the implementation of social programs, the success of competitiveness in the world market. Therefore, economic growth, namely the growth of gross domestic product (GDP), is the main content of economic development and one of its most important components. The GDP dynamics of Ukraine in 2010-2020 (State Statistics Service of Ukraine, 2021; Financial portal of the Ministry of Finance of Ukraine, 2021) is displayed in Fig. 1.

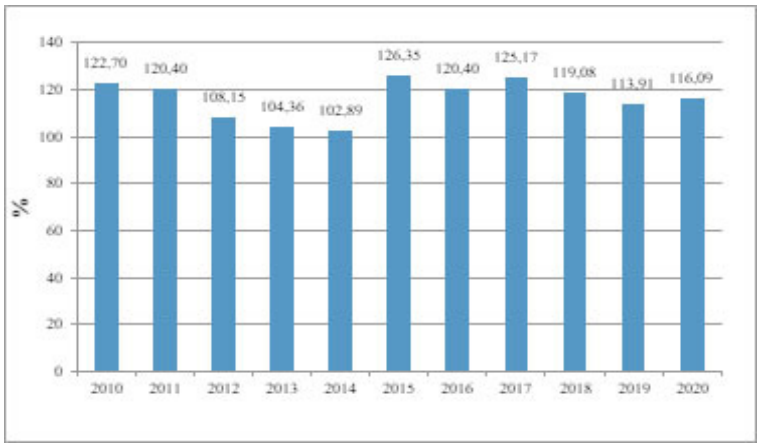

Figure 1 – Dynamics of Ukrainian GDP of 2010-2020 (in % to the corresponding period of the previous year)

(Source: built by the authors according to the data (State Statistics Service of Ukraine, 2021; Financial portal of the Ministry of Finance of Ukraine, 2021)

Analysis of GDP threshold vectors, where the value of real GDP growth of 2% is taken as the lower threshold; lower and upper optimal – 5 and 8% growth of real GDP; for the upper threshold – 13% (Yu. Kharazishvili & E. Drones, 2014, 117 p) showed that in Ukraine in 2010, 2011 and 2015-2020 there is a significant excess of the upper threshold (Fig. 1), which negatively affects the country's economy. Anti-inflation policy methods must be used to stabilize the economy. A significant indicator for assessing the state of the monetary area is also the level of dollarization of monetary circulation, because the high value of this indicator will testify to the dependence of the national economy on fluctuations of the foreign exchange rate, in particular the US dollar. The level of inflation is also a determinant of the level of internal stability of the country. The inflation is reflected in rising prices, which causes a depreciation of funds of economic entities and the population.

One of the most important indicators in the national security system is the volume and level of expenditures for financing national defense (Fig. 2), which indicate the government's desire the to provide the necessary conditions

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for the country's defense capability (Financial portal of the Ministry of Finance of Ukraine, 2021). The world practice of financing national security allows to distinguish three main approaches to the formation of military doctrine: 1) complete abandonment of military expenditures; 2) building of a powerful military superpower; 3) funding defense based on the principle of minimum sufficiency.

The main task facing the Armed Forces of Ukraine today is to protect sovereignty, independence, territorial integrity. The Constitution of Ukraine (2021) establishes as one of the most important functions of the state, which is the cause of the whole Ukrainian people, the protection of the sovereignty and territorial integrity of Ukraine, ensuring its economic and information security (Article 17).

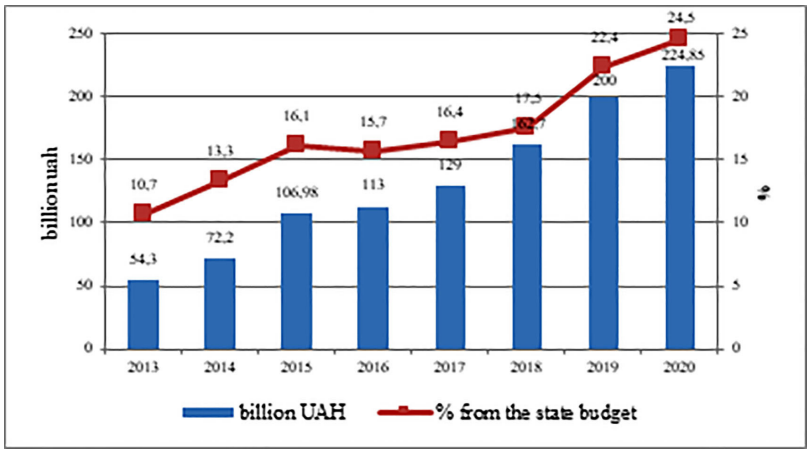

Figure 2 – Defense and law enforcement expenditures in 2013-2020

From 2013 to 2018, defense and law enforcement spending from the State Budget increased in 3.8 times (from UAH 54.3 billion to UAH 162.7 billion), which is 10.7% and 17.5% % of the total expenditures of the State Budget of Ukraine respectively. According to the forecast of the Ministry of Defense of Ukraine in 2019-2020 expenditures for the maintenance and development of the Armed Forces of Ukraine will increase and will amount to 200 and 224,85 billion UAH. respectively, which makes up at least 5% of the country's GDP and complies with the National Security Strategy of Ukraine and the Concept of Development of the Security and Defense Sector.

The need to increase the level of national security is conditioned by the challenges of globalization, which require increasing the country's economic and social level, improving living standard of the population and the international competitiveness of Ukraine.

Analysis of recent research and publications. During the last decades a lot of efforts have been aimed at the study of economic security of the country, regions, industries and enterprises. The economic development of a country depends on many of its components, the basis of which is to ensure an adequate level of security both from internal and external threats. The national economic security depends on the state of national security and the country's ability to generate and use its economic attractiveness to strengthen national values. The national economic security depends on many factors, which depend on global economic stability, the international economy, economic policy with other leading countries in the world, on human capacity building, scientific, technical and innovative activities in the country. For example, in the US, security is achieved not only by military means but also by the entire American economy (Nanto, 2011, p.78).

The United States could field an overwhelming fighting force and combine it with economic power and leadership in global affairs to provide far greater resources

than any other country against any threat to the nation's security (Krepinevich, 2010).

This paper (Pugach & Matkovskiy, 2014) examines the existing threats to the economic security of Ukraine in the social area, where a relatively high level of poverty and a large differentiation in wages have been defined. This situation contributes to the catastrophic gap between the incomes of a relatively small proportion of the rich population and a predominantly larger proportion of the poor. In this regard, ensuring the economic security of Ukraine is considered in the development of a comprehensive policy on poverty eradication and the development of a strategy to avoid systemic threats to economic security in the country.

Economic security depends heavily upon (1) an economic growth rate sufficient to keep the unemployment rate low and provide opportunities for entrepreneurs, (2) US industries able to compete in international markets, and (3) US leadership in science, technology, and innovation (Levit, 2010).

To be economically secure, American families must work with good wages, be financially secure, and develop entrepreneurial skills. This is the kind of economic security that becomes national security. Only economic prosperity provides the new resources and technological innovations needed to create the world's most advanced armed forces. Economic security is national security, US tax, regulatory, energy and trade policies are now raising spending on defense, arms sales, and pursuing a strong defense policy that is one of President Trump's key strategies for security and prosperity of the country (Navarro, 2018).

The Gulf National Security Survey in 1990–2014, using panel data, showed that its national security was at a very low level and had a negative indicator, but foreign investment and trade factors had a positive effect on its economic growth (Asghari, 2017). The close link between military spending and economic growth in China in 1992-2010 has been proven through the use of econometric analysis and the making the model that shows that military spending is largely related to security which took place in the economy and affected its development in different periods, not vice versa (Dimitraki & Menla Ali, 2015; Chiwei et al., 2018).

Making a model using dynamic data for 106 countries in 1988–2010 (Dunne & Tian, 2014) and for 109 low-income countries in 1998–2012 (D'Agostino et al., 2019) showed that national security is represented in military spending for countries with different level of income, natural resources, conflict state does not affect economic development. That is, groups of countries with low level of living, low-income and other military spending do not affect economic growth or have a negative impact.

The allocation of military and non-military expenditures for developing economies is a major policy issue that can direct the pace of economic growth of Shahbaz, Afza, and Shabbir (2013). The macroeconomic theory has no clear link between defense spending and economic development (Dakurah et al., 2001). Other studies show that the causes are ambiguous and unconvincing (Kollias, Mylonidis & Paleolodou 2007, Wijeweera & Webb, 2009) (Kollias et al., 2007).

This article examines the work of many scholars concerning national security, but it is important that such study has not been in the research literature before, as far as the authors are aware.

The purpose of our article is to analyze the main components of Ukraine's national security, identify the problems that impede its economic development, formulate priorities that are aimed at stabilizing the national interests of the country and its security.

Formulation of the main material.

Methodological approach for the evaluation of the state's economic security level. Studies of many national scholars on assessing the level of national and economic security of Ukraine have become the basis for the elaboration, analysis, generalization of approaches, improving the methodology, innovative components of indicators of integrated assessment of the national economic security, the use of a wide range of proposed methods of justification of thresholds and calculations of the methods

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presented in this paper (Kharazishvili & Drones, 2014). The methodology proposed by them makes it possible to compare the dynamics of the integral index with the integral thresholds on a single scale, that is, to correctly identify the state of economic security.

The national economic security is an integral characteristic of the state of the economic system, since the system includes a number of subsystems – the most important, interconnected structural components of economic security, reflecting the functioning of certain branches of economy: macroeconomic, investment, innovative, financial, social, foreign economic, energy, food, demographic one.

In Fig. 3 the dynamics of the level of integral indices of economic security of Ukraine and its components are displayed.

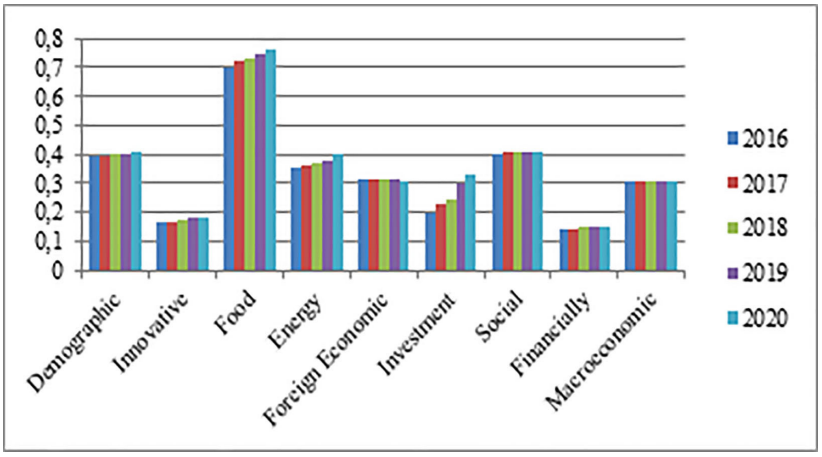

Figure 3 – Dynamics of the integral index of economic security of Ukraine and its components in 2016-2020

According to the projected calculations by 2020, according to the optimistic scenario of socio-economic development, only 3 components of Ukraine's economic security barely cross the lower threshold (macroeconomic, investment, energy one), 4 components continue to be below the lower threshold (innovative, foreign economic, social, demographic one), financial security balances at the bottom of the threshold and only one component – food in the forecast period is in the range of optimal indicators.

In Fig. 4 the dynamics of the weight coefficient of the integral index of the level of economic security of Ukraine in comparison with the lower threshold index.

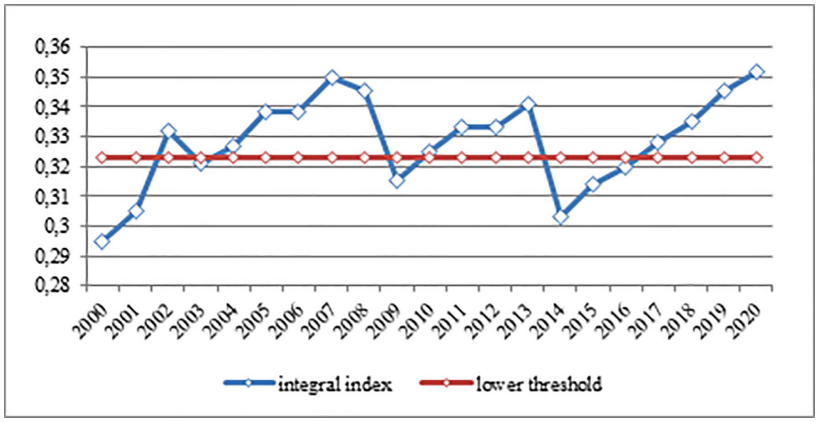

Figure 4 – Dynamics of the level of economic security of Ukraine in comparison with the lower threshold

Source: built by the authors according to the data (Kharazishvili & Drones, 2014)

According to the calculations results (Kharazishvili & Drones, 2014), the level of economic security of Ukraine (Fig. 4) balances at the level of the lower threshold. Among its 9 components, at the end of 2018, 6 are below the lower threshold (innovative, financial, foreign economic, social, demographic and energy ones) (Fig. 3). The rest balance on the border of the lower threshold or between the lower threshold and the lower optimum. None of the components are within the optimal range. All this testifies to the inefficiency of the existing model of economic development and macroeconomic policy as a whole.

The reasons for the low level of national economic security are the high level of shadow economy; low level of investment, low level of updating of fixed assets; low level of financing of innovative activity; high level of external and internal debt; high cost of bank loans; high level of import dependence; low level of remuneration, significant level of shadow employment; high mortality rate.

2.2. *Empirical data.* One of the important indicators in the study of the economic security of the state is the standard of living of the population. According to the rating of the countries of the world in 2016-2020 (Quality of Life Index 2020, 2021) the first three are headed: Australia (Canberra), Netherlands (Eindhoven) and the USA (North Carolina). Ukraine has gone down by 37 steps compared to 2016, ranking 189 out of 226 countries (Table 1).

Table 1

The life quality of the countries of the world in 2016-2020

Country, City	**2020**	**2019**	**2018**	**2017**	**2016**
	227 countries	**226 countries**	**226 countries**	**184 countries**	**177 countries**
	Rank				
Australia, Canberra	1	1	1	1	1
Netherlands, Eindhoven	11	2	2	4	7
USA, North Carolina	2	3	3	3	2
New Zealand, Wellington	4	8	8	2	3
Poland, Warsaw	137	127	127	102	82
Ukraine, Kiev	189	192	192	160	152

Source: built by the authors according to the data (Quality of Life Index 2020, 2021)

The surveyed indicators include: purchasing power index, safety index, health index, cost of living index, real estate price to income ratio, transport time index, pollution index and climate index (Quality of Life Index 2020, 2021). The lowest rates in Ukraine were: health, safety and public administration. This situation indicates a significant deterioration in the living standard in the country by all indicators, which was studied in 2016-2020.

According to the World Economic Forum, which published the ranking of the countries of the world on the Global Competitiveness Index 2017-2019, traditionally, the rating is headed by Switzerland. The top ten most competitive are the United States, Singapore, the Netherlands, Germany, Hong Kong, Sweden, the United Kingdom, Japan and Finland (Ukraine's Position In The Rating Of The World By Global Competitiveness Index 2017-2019, 2021). Ukraine ranked only 85-st among 140 countries of the world.

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The negative factors for doing business in Ukraine are defined (in decreasing order): inflation, corruption, political instability, high tax rates, complexity of tax legislation, instability of governments, difficult access to finance, inefficient state bureaucracy, regulation of the currency market, insufficient oscillation of the labor market, poor workforce ethics, lack of innovation capacity, restrictive labor market regulation, inadequate infrastructure quality, crime and theft, poor health care.

The macroeconomic environment in Ukraine is such that during 2015-2019 Ukraine has taken almost the last place in the ranking among other countries of the world (Ukraine's Position In The Rating Of The World By Global Competitiveness Index 2017-2019, 2021). The inflation rate is also very high. From 140 countries in 2015-2016, Ukraine ranked 134-th, in 2016-2017 – 136, in 129 – in 2017-2018 and 134 – in 2018-2019.

According to the level of the Social Development Index of the World Rating developed by the American non-governmental organization Social Progress Imperative with the support of Deloitte (Social Progress Index 2020, 2021), Ukraine in 2020 ranked 63-th between Mexico (62) and Sri Lanka (64) and remains in the group of developing countries above average. The index consists of a number of indicators of social development and the environment, reflecting three strands of social development: basic human needs, well-being and opportunities. According to the results of this year's Index among the CIS countries, Ukraine gave way to Belarus (47) and Poland (31) (Fig. 5).

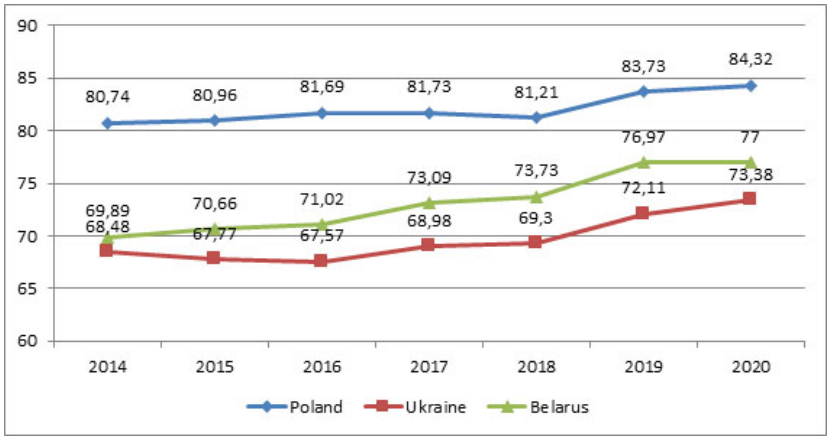

Figure 5 – Index of Social Development of Ukraine in 2014-2020
Source: built by the authors according to the data (Social Progress Index 2020, 2021)

There was a slight improvement in Ukraine's performance in the Basic Human Needs, Fundamentals of Wellbeing and Opportunities categories. Ukraine's GDP per capita has increased from $ 7,46 in 2017 to $ 12,81 in 2020 (Social Progress Index 2020, 2021).

Norway is the leader of the Social Development Index for 2020, receiving 92.73 points out of 100. The country has performed well on all index components. Norway has strengthened its position by 3.97 points compared to 2014, the highest figure among other Northern European countries.

Topical for the analysis of national security problems is the international ranking of the military power of the countries of the world – Global Firepower Index (GFP), which annually provides a unique analytical presentation of data on the modern military forces of the countries of the world. This rating (Military Strength Ranking 2020, 2021) combines more than 50 indicators. The assessment of military power is focused not only on the total number of weapons in the country, but the

main focus of the GFP is on the variety of weapons, which provides an optimal balance of combat damage. In this case, the index does not take into account the factor of nuclear weapons (Table 2).

Table 2

Ranking of countries by military capability index

№	Country	Index 2020	№	Country	Index 2018	№	Country	Index 2016
1	US	0,0606	1	US	0,0818	1	US	0,0897
2	Russia	0,0681	2	Russia	0,0841	2	Russia	0,0964
3	China	0,0691	3	China	0,0852	3	China	0,0988
4	India	0,0953	4	India	0,1417	4	India	0,1661
5	Japan	0,1501	5	France	0,1869	5	France	0,1993
6	South Korea	0,1509	6	United Kingdom	0,1917	6	United Kingdom	0,2466
7	France	0,1702	7	South Korea	0,2001	7	Japan	0,2466
8	United Kingdom	0,1717	8	Japan	0,2107	8	Turkey	0,2623
9	Egypt	0,1872	9	Turkey	0,2216	9	Germany	0,2646
10	Brazil	0,1988	10	Germany	0,2461	10	Italy	0,2724
27	Ukraine	0,4457	29	Ukraine	0,5383	30	Ukraine	0,5867
138	Bhutan	10,1681	136	Bhutan	7,5497	126	Central African Republic	3,7343

Source: built by the authors according to the data (Military Strength Ranking 2020, 2021)

In 2016-2020, the US, Russia and China have traditionally split the top three, with Ukraine ranking 30 and 27, respectively (Military Strength Ranking 2020, 2021). The top ten also included India, Japan, South Korea, France, the United Kingdom, Egypt and Brazil.

The World Economic Security Rating in 2005-2020 (Economic Data and Statistics on the World Economy and Economic Freedom. 2020 Index of Economic Freedom, 2021) is based on such basic indicators as: property rights, judicial efficiency, integrity (activity) of government, tax pressure (burden), government spending, physical health, freedom to do business, the right to free labor, freedom of money relations, freedom of trade relations, investment and financial independence (Fig. 6).

The state's economic independence index shows the ratio between economic independence and a range of socio-economic indicators. These indicators include: property rights, integrity of the government, judicial efficiency, freedom of work, tax pressure (burden), public spending, physical health, freedom to do business, freedom of money relations, freedom of trade relations, investment (attractiveness) and financial independence. Economic independence is linked to the state of health, the environment, per capita income, human development, democracy and the fight against poverty.

According to the World Economic Security Index and the authors' calculations for 2005-2020, a multifactorial multiple regression model of the dependence of the index of economic freedom y on such basic components as freedom of labor

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– x1, tax pressure (load) – x2, public spending – x3, freedom to do business – x4, freedom of money relations – x5, freedom of trade relations – x6 and investment (attractiveness) independence – x7.

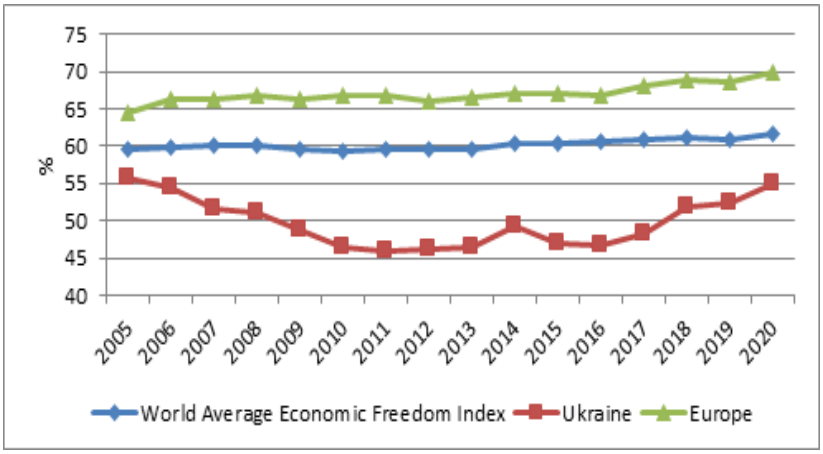

Figure 6 – World Economic Security Index 2005-2020

Source: built by the authors according to the data (Economic Data and Statistics on the World Economy and Economic Freedom. 2020 Index of Economic Freedom, 2021)

The influence of selected factors on the level of economic development of Ukraine has been studied with the help of econometric and mathematical modeling methods and a measure of the influence of each factor on the formation of threats to the economic and national security of the country has been obtained.

The even correlation coefficients have been calculated (Table 3) and the model for multicollinearity has been studied.

$$r[X, Y] = \frac{K[X, Y]}{\sigma[X]\sigma[Y]}$$

Table 3

Even model correlation coefficients

$$R = \begin{pmatrix} & y & x_1 & x_2 & x_3 & x_4 & x_5 & x_6 & x_7 \\ y & 1 & -0,137 & 0,667 & 0,923 & 0,058 & 0,299 & -0,858 & 0,788 \\ x_1 & -0,137 & 1 & -0,442 & -0,317 & 0,187 & -0,619 & 0,197 & 0,266 \\ x_2 & 0,667 & -0,442 & 1 & 0,775 & -0,290 & 0,417 & -0,669 & 0,314 \\ x_3 & 0,923 & -0,317 & 0,775 & 1 & -0,142 & 0,255 & -0,896 & 0,656 \\ x_4 & 0,058 & 0,187 & -0,290 & -0,142 & 1 & -0,011 & 0,268 & -0,093 \\ x_5 & 0,299 & -0,619 & 0,417 & 0,255 & -0,011 & 1 & -0,237 & -0,199 \\ x_6 & -0,858 & 0,197 & -0,669 & -0,896 & 0,268 & -0,237 & 1 & -0,725 \\ x_7 & 0,788 & 0,266 & 0,314 & 0,656 & -0,093 & -0,199 & -0,725 & 1 \end{pmatrix}$$

Source: built by the authors

Factors x3 and x6 were found to have a significant effect on the y, compared to other factors, there is multicollinearity between factors x3 and x6, so these factors were excluded from the model and were not considered for further study, but with the remaining factors the multifactor model has been made:

$$y = \underset{(-2,92)^*}{-16,59} + \underset{(4,16)^*}{0,31x_1} + \underset{(6,82)^*}{0,35x_2} + \underset{(6,42)^*}{0,15x_4} + \underset{(4,24)^*}{0,09x_5} + \underset{(9,74)^*}{0,33x_7}$$

The determinant Δ rx1x7 =0,2759, whose value indicates a low dependence between factors, has been calculated. The brackets give the calculated values of t – statistics for estimating regression parameters. One asterisk indicates the

parameters significant at a significance level of 5%.

For certainty, for the absence of multicollinearity between the remaining factors, the Farrar-Glober method was applied and the values of χ2 – chi-square were calculated for the factors:

$$\chi 2 = - [n-1- (2m + 5) / 6] \ln (\det [R]) = 13.52$$

and a table value has been found

$$\chi tabl2(8;0,05) = 15,5.$$

Since $\chi 2 < \chi tabl2$, there is no multicollinearity in the factor vector. The quality of the model is investigated and the multiple correlation coefficient is found to be R=0.9828 and shows a sufficiently high correlation between the indicator and the factors. Determination factor values

$$R^2 = 1 - \frac{\sum_{i=1}^{16} l_i^2}{\sum_{i=1}^{16} (y_i - y)^2} = 0,9914$$

shows that 99.14% explains the dependence of the index of economic freedom y on the factors x1, x2, x4, x5, x7. The model is adequate according to the Fisher criterion with a reliability level of P = 0.05, since the calculated value

$$F_p = \frac{R^2 / m}{(1-R^2) / n-m-1}$$

more critical $F_{tabl(0,05;16;8)}$=3,20

The standard error of regression is: s=1,1. The average coefficients of elasticity kex1=0,33, kex2=0,57, kex4=0,15, kex5=0,13 and kex7=0,16 are calculated, which show that with the increase of labor freedom x1 by 1%, the index of economic freedom y increase by 0.33%, with increasing tax pressure (load) x2 by 1%, economic freedom index y increase by 0.57%, with increasing business freedom x4 by 1%, economic freedom index y increase by 0.15% , with the growth of monetary freedom x5 by 1%, the index of economic freedom y increase by 0.13%, with the growth of freedom of labor x7 by 1%, the index of economic freedom y increase by 0.16%, that is, of all the factors, the biggest influence is tax pressure (load) x2 and the labor freedom x1 on the economic freedom index y.

Thus, the level of national and economic security in Ukraine depends on all the factors selected. That is, in the state during 2005-2020 there was a tendency to increase the level of tax burden and shadowing of the economy, low (ineffective) level of activity of the government and public confidence in the government, low level of trade and monetary relations (high cost of bank loans, significant level of dollarization of the economy, external government debt and a negative balance of payments), as well as low investment attractiveness, which are the main indicators of a threat to Ukraine's national and economic security.

Conclusions. The conducted research showed that the economic security of the state is an important component of national security, which for many years has been at a very low level due to the influence of a number of destabilizing factors that lead it to such a situation, namely: high level of shadow economy and consolidated budget revenues, low the level of investment, macroeconomic, innovative, demographic, foreign economic, social and energy security. Therefore, to strengthen the economic security of Ukraine it is necessary to take strategic measures at the state level, which should be aimed at stabilizing the economy of the country, including by improving the legislative framework.

The state guarantees the protection of national economic interests. However, Ukraine does not yet have a well-defined national economic interests, and their integrated system is not formed. This enables governments at different levels to justify their actions by assuring that they are fully in line with national economic

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interests.

Balancing the development of all elements of the economic system will strengthen the security of the national economy, and their development will determine the activity of economic processes that affect the economic system of Ukraine.

The national security is an important component in ensuring development in all sectors of the economy, strengthening ties with the leading countries in the world, as well as in ensuring competitiveness.

Threats to the national economic security of Ukraine are factors that directly or in the future impede or complicate the realization of national economic interests, creating obstacles to the normal development of the economy and a danger to the independent state existence and well-being of the people.

Among the most important national economic interests, which determine the future of Ukraine, the well-being and prosperity of the nation, are the building of a powerful national economy with a reliable system of economic security, the solution of social problems by the government, the development of scientific and technical potentials of Ukraine, the development of entrepreneurship, ensuring employment and decent salary of the people.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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МОДЕЛЮВАННЯ ЕКОНОМІЧНОЇ СКЛАДОВОЇ НАЦІОНАЛЬНОЇ БЕЗПЕКИ ДЕРЖАВИ

Анотація. Економічна безпека держави є складною та багаторівневою структурою. До того ж, вона виступає інтегральною характеристикою стану економічної системи, оскільки система включає ряд підсистем – найважливіших, взаємопов'язаних структурних складових економічної безпеки, що відображають функціонування окремих сфер економіки.

Основним завданням держави є забезпечення гарантованого рівня безпеки для усіх її складових компонент, включаючи методи нейтралізації негативного впливу внутрішніх і зовнішніх загроз. Досліджено динаміку таких макроекономічних показників, як: валовий внутрішній продукт, інфляція, грошова маса. Проаналізовано обсяг та рівень видатків на фінансування національної оборони, які свідчать про забезпечення необхідних умов обороноздатності країни.

Побудовано інтегральний індекс економічної безпеки країни та виявлено фактори, які негативно впливають на рівень економічної безпеки держави. Виконано порівняння стану економічного розвитку України з іншими країнами світу за індексом глобальної конкурентоспроможності, рівнем якості життя населення, рівнем соціального розвитку та військової могутності. Розроблена багатофакторна множинна регресійна модель економічної безпеки України та виявлено фактори, які відіграють суттєву роль у формуванні загроз економічній та національній безпеці країни.

Ключові слова: *національна безпека, економічна безпека держави, загрози економічної безпеки, моделювання національної безпеки, військова могутність держави, глобалізаційні процеси, інтегральний індекс, регресійна модель*

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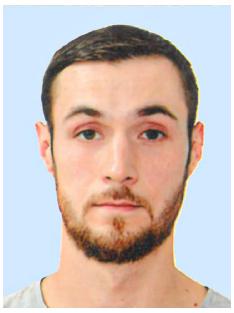

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INCREASING THE EFFICIENCY OF MANAGING THE FINANCIAL RESULTS OF MARKET ACTIVITIES

Abstract. In the modern world with a predominance of a market economy system, financial performance management is a central aspect of the effective operation of an organization. The main goal of sustainable development is to ensure the optimal structure of financial results in the mechanism of a market economy and the development of proposals that ensure its sustainable financial development.

Based on the foregoing, the classification of factors and reserves used to improve the efficiency of the organization's financial results management system allows us to develop comprehensive measures to improve the management system. These circumstances determine the need for theoretical, methodological, and practical developments in the field of improving management systems in organizations. Effective management of financial results is ensured by the implementation of a number of principles, the main of which is systematic construction. Financial results management should be built as a single interconnected set of elements that ensure the effective development and implementation of goals that are guided by the strategic goals of financial development. Management of financial results should be characterized by a high dynamism of response to the adverse impact of factors of the external and internal financial environment and the legality of management decisions.

The main models of financial markets that have emerged to date – the hypothesis of an efficient financial market and the behavioral finance approach – are based on the analysis and comparison of methods and instruments of financing, but a fundamentally new concept of reflection is gradually gaining ground and is a full-fledged alternative to other models.

Keywords: *finance, result, financial resources, management system, profit, efficiency, optimality*

Introduction. Nowadays financial performance management is a central aspect of the effective operation of an organization. The financial condition is provided by the financial resources necessary for their normal management and effective use (Balabanov, 2009). The need for effective management of the financial results of market activities is due to the main activity of commercial organizations – making a profit. The main goal of sustainable development is to ensure the optimal structure of financial results in the mechanism of a market economy and the development of proposals that ensure its sustainable financial development.

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Analysis of recent research and publications. In modern economic literature, a lot of attention is paid to the study of issues related to the definition of financial results, the order of their formation and use (Tirole, 2006). Financial resources are understood as all sources of funds accumulated by an enterprise to form the assets it needs in order to carry out all types of activities. This happens both at the expense of their own income, savings, and capital, and at the expense of various types of income (Romanovsky & Vostroknutova, 2011), which, ultimately, appears to be financial results of organizations. At the same time, a number of issues of the theory and practice of financial resources and financial results management remain controversial and not fully explored in financial science. In the researches related to the content of the organization's financial resources, there is an ambiguity and sometimes contradictory interpretation of concepts (Pavlova, 2015). An unambiguous and well-grounded consideration of the essence of financial resources is of paramount importance not only for theory but also for the practice of their management (Guseinov, 2015).

The purpose of our article is to develop optimal approaches to the selection of criteria for managing the financial results of market activities.

The objectives of the financial results management system are (Guseinov, 2015):

– ensuring the constant growth of the market value of the organization;

– profit maximization;

– increasing the efficiency of personnel participating in the formation, distribution of financial results;

– achieving optimal proportions between profitability and the maximum level of risk.

Formulation of the main material. Based on the foregoing, the classification of factors and reserves used to improve the efficiency of the organization's financial results management system allows us to develop comprehensive measures to improve the management system. These circumstances determine the need for theoretical, methodological, and practical developments in the field of improving management systems in organizations.

Financial results management is a system of principles and methods for the development and implementation of management decisions related to ensuring their effective formation, distribution, and use in the process of market activities. Management efficiency is ensured by solving the following tasks: 1) ensuring the formation of a sufficient amount of financial resources in accordance with the development objectives; 2) optimization of the structure of sources of formation of financial resources; 3) optimization of the distribution of generated financial resources.

Effective management of financial results is ensured by the implementation of a number of principles, the main of which is systematic construction. Financial results management should be built as a single interconnected set of elements that ensure the effective development and implementation of goals that are guided by the strategic goals of financial development. Management of financial results should be characterized by a high dynamism of response to the adverse impact of factors of the external and internal financial environment and the legality of management decisions.

This principle means that the entire system of obtaining the necessary information should be carried out on the basis of the current legislation and not contradict the current regulatory legal acts. Financial results management includes the following stages: 1) planning; 2) operational management; 3) financial control. Management efficiency largely depends on the information used for this purpose. In the process of assessing the quality of the generated information base, its completeness and accuracy are checked for the study of individual sources of formation and directions of use, as well as the reliability of information sources.

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Financial control is carried out on the basis of continuous monitoring of the results of management decisions taken. Based on the monitoring results, if necessary, adjustments are made to previously adopted management decisions aimed at achieving the envisaged goals. A special role belongs to the internal control over the formation and use of financial results. It is an organized process of checking the execution and implementation of all management decisions in the field of formation and use of financial results in order to implement the developed strategy and indicators of operational and current financial plans.

The ultimate goal of effective management of financial results can be considered the achievement of financial stability of the organization, i.e. the state of the structure of resources and factors, which allows the organization to achieve the most effective results of activity and provides an opportunity to move to the next stage of the life cycle (Muth, 1961). A special role in this regard is assigned to the functioning of the financial market and forecasting possible changes in activities.

Currently, there are three theoretical approaches to building models of the financial market: efficient financial market, behavioral finance, and the concept of reflexivity. All three approaches study the mechanisms of formation of equilibrium in the financial market, and the resulting features of the pricing of a financial asset.

The theory of an efficient financial market is based on the postulate of the rationality of market participants' expectations:

1) their expectations (forecasts) are adequate to future processes (Friedman & Savage, 1948);

2) as payment for uncertainty, they require a risk premium described by the expected utility of wealth (Friedman & Savage, 1948).

The behavioral finance approach is based on the facts of the deviation of the behavior of decision-makers from the postulate of rationality. Key work in this area is devoted to the psychological characteristics of decision-making under conditions of uncertainty (Kahneman & Tversky, 1978). Using the survey method, D. Kahneman & A. Tversky showed that there are stable effects influencing both the occurrence of subjectivity in assessing probabilistic outcomes and the subject's propensity to take risks, which are not taken into account by the hypothesis of rational expectations. They took these effects into account when creating their Prospect Theory. From the perspective of Prospect Theory, the value of the prospective outcomes for the subject depends on the connection point, i.e. for the subject, the value function is defined not for the absolute value of his wealth, but for its change, i.e. for wins and losses.

The third approach to creating models of the financial market – the concept of reflexivity was first proposed for consideration by J. Soros (1999) in the book «Alchemy of Finance». Soros moves from considering equilibrium processes in financial markets to analyzing dynamic ones. For this, he introduces the concept of reflexive interaction, in which two variables participate, each of which is both a factor attribute and an effective one for another variable. Based on this concept, J. Soros proceeds to describe the cyclical, two-way, reflexive interaction between the expectations (preferences) of financial market participants, and the fundamental indicators of the organization, in which expectations depend on the fundamental indicators and influence them. J. Soros was the first to emphasize that financial markets in practical reality function in conditions when independent and objective expectations are not only not available to financial market participants but are simply absent. This statement is very important since it already clearly demonstrates the key difference between the two theoretical approaches described above and the concept of reflexivity. The concept of reflexivity states that there are no objective probabilities and values of future outcomes independent of the researcher's activity.

The presence of various models of market functioning is determined, first of all, by those who play a dominant role in investing in the real sector of the economy –

the banking system through lending or the capital market through the issue and circulation of securities. None of the models can be considered theoretically the best or optimal since the supervision model of any country must correspond to the financial structure of that country, be effective and efficient.

So, for example, Yu. Ichkitidze and I. Ryzhkov (2021) described a model in which they showed that under certain conditions the fair price of a share, ie the price calculated by discounting the expected future cash flows from a share is a function of its market price. Based on this model, the process of forming reliable expectations among financial market participants is considered. It is shown that under the conditions of this model, financial market participants do not have the opportunity to form their expectations, which are independent of their own behavior. Their expectations, to be reliable, must be based not only on the expectations of the organization's performance but also include the expectations of the actions of the participants in the financial market. From this, many different valid expectations arise in the model. Any of them may turn out to be reliable in the future, but to do this, it must be confirmed by the occurrence of a certain trajectory of the market price on the stock market.

Thus, considering various models of the functioning of the financial market, its participants must identify all possible trajectories of equilibrium between the market and fair prices of shares and make sure that any of them, prior to the experiment, has every right to comply with the reliability criterion. However, only the course of the experiment itself, which in this case is the market trading of a share, will be able to name to the participants of the financial market anyone, specific, equilibrium trajectory implemented in this experiment.

Another experiment, representing the following equilibrium trajectory, can be chosen directly by the financial market participants. This choice is not limited anyhow, so it will be the way the participants of the financial market want to see it. In contrast to the implementation of the approach based on the hypothesis of rational expectations, in this setting the investor makes a decision, realizing that any chosen equilibrium trajectory can be both confirmed by the course of the experiment and refuted. Therefore, before the start of the experiment, the investor does not know which of the equilibrium trajectories will be reliable in the future.

The approach proposed by the concept of reflexivity to solve this problem is as follows:

– the investor makes decisions under the conditions of an experiment, based not on the expectations of the probabilities of realizing one or another equilibrium trajectory, but on the concept of choice;

– each investor realizes the equality of implementation in the course of the experiment of one or another trajectory;

– each investor makes a subjective preference in favor of one of the trajectories;

– for each investor, the criterion for the economic optimality of market behavior is the choice in favor of the trajectory that is chosen by other investors;

– for each investor, it is desirable that other investors join this choice a little later than he did himself.

The main models of financial markets that have emerged to date – the hypothesis of an efficient financial market and the behavioral finance approach – are based on the analysis and comparison of methods and instruments of financing, but a fundamentally new concept of reflection is gradually gaining ground and is a full-fledged alternative to other models.

Conclusions. 1. The main goal of sustainable development of the organization is to ensure the optimal structure of financial results in the mechanism of a market economy and the development of proposals that ensure its sustainable financial development.

2. To improve the efficiency of the organization's financial results

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management system, it is necessary to develop comprehensive measures for improving the management system.

3. The efficiency of managing the financial results of market activities necessitate the theoretical, methodological and practical developments in the field of improving management systems in organizations.

4. The presence of different models of market functioning is due to the presence of different approaches to investing in the real sector of the economy – the banking system through lending or the capital market through the issue and circulation of securities.

5. The proposed approach of the concept of reflexivity is gradually gaining ground in the global market economy and is a full-fledged alternative to other models, in particular, the hypothesis of an efficient financial market and the behavioral finance approach.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ПІДВИЩЕННЯ ЕФЕКТИВНОСТІ УПРАВЛІННЯ ФІНАНСОВИМИ РЕЗУЛЬТАТАМИ РИНКОВОЇ ДІЯЛЬНОСТІ

Анотація. Розглянуто існуючі в теперішній час теоретичні підходи до побудови моделей фінансового ринку: ефективного фінансового ринку, поведінкових фінансів та концепції рефлективності. Фінансовий стан організації визначається забезпеченістю фінансовими ресурсами, необхідними для нормального функціонування, доцільним управлінням ними і ефективним використанням. Завдання системи управління фінансовими результатами полягають у наступному: забезпечення постійного зростання ринкової вартості організації; максимізація прибутку; підвищення ефективності участі персоналу у формуванні, розподілі фінансових результатів; досягнення оптимальних пропорцій між прибутковістю і граничним рівнем ризику. Класифікація факторів і резервів, які використовуються для підвищення ефективності системи управління фінансовими результатами організації, дозволяє розробити комплексні заходи щодо вдосконалення системи управління, досягти найбільш ефективних результатів діяльності організації та надає можливість перейти на наступний етап життєвого циклу. Наявність різних моделей функціонування ринку обумовлюється, перш за все, тим,

кому належить домінуюча роль в інвестуванні реального сектора економіки – банківській системі шляхом кредитування або ринку капіталу через емісію та обіг цінних паперів. Жодна з моделей не може розглядатися як теоретично найкраща або оптимальна, оскільки модель нагляду будь-якої країни повинна відповідати фінансовій структурі цієї країни, бути ефективною і дієвою. Сформовані до теперішнього часу основні моделі фінансових ринків – гіпотеза ефективного фінансового ринку і підхід поведінкових фінансів будуються на основі аналізу і зіставлення методів та інструментів фінансування, проте принципово нова концепція рефлексії поступово завойовує позиції і є повноцінною альтернативою іншим моделям. Пропонований концепцією рефлексивності підхід для вирішення цієї проблеми наступний: інвестор приймає рішення в умовах експерименту, спираючись не на сформовані ним очікуваннях ймовірностей реалізації тієї чи іншої траєкторії рівноваги, а на понятті вибору; кожен інвестор усвідомлює рівноправність реалізації в ході експерименту тій чи іншій траєкторії; кожен інвестор робить суб'єктивну перевагу на користь однієї з траєкторій; для кожного інвестора критерієм економічної оптимальності поведінки на ринку є вибір на користь траєкторії, що обрана ще іншими інвесторами.

Практична значимість розробок за темою досліджень обумовлена тим, що ефективна система управління фінансовими результатами – один з ключових факторів, які визначають перспективи розвитку організації, її інвестиційну привабливість, кредитоспроможність та ринкову вартість. Дано обґрунтування застосування рефлективності на практиці при виборі інвестором критерію економічної оптимальності поведінки.

Ключові слова: *фінанси організації, фінансовий результат, фінансові ресурси, раціональні очікування, система управління фінансовими результатами, прибуток, ефективність, поведінкові фінанси, рефлективність, оптимальність*

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TRENDS AND PROSPECTS OF ECONOMIC COOPERATION BETWEEN THE REPUBLIC OF KAZAKHSTAN AND UKRAINE

Abstract. Development of international cooperation in the context of globalization as an important component of the foreign economic activity has been considered. One of perspective areas of the foreign economic activity for Ukraine is the development of economic cooperation with the Republic of Kazakhstan.

The results of analytical assessment of the economic cooperation effectiveness are being in need for the development of the effective foreign economic strategy. Methodological approach in order to conduct the research and to quantify the development of economic cooperation with the Republic of Kazakhstan has been developed.

Formation of the information databases with the main indicators for the analysis of economic cooperation between countries has been foreseen. Analysis of the dynamics of foreign trade with the quantitative assessment on the base of the generated databases has been performed. Analysis of the structure of the foreign trade and investment activities has been presented. Developed methodological approach allows to form the analytical basis for the Ukraine's foreign economic strategy.

Indicators of the foreign trade in goods and services, information about results of the intellectual activity for the analysis of economic cooperation have been used. Particular attention is being paid to the study of investments as a form of the international capital flows.

Trending algorithms for commodity markets with the identification of possible export reserves have been developed. Analytical bases of the effective foreign economic strategy of Ukraine and development of economic cooperation with the Republic of Kazakhstan have been formed.

Keywords: *foreign economic activity, analytical assessment, trends*

Introduction. Globalization of the world economy is characterized by systematic integration of the world and regional markets, as well as all spheres of human activity. Economic growth is accelerated as a result of the globalization processes. Development of international cooperation in the context of globalization is becoming an integral part of the economic activity of each participant in the market relations.

Forms and conditions of such participation are regulated by the Law of Ukraine «About Foreign Economic Activity» (on Foreign Economic Activity,

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1991) and by the number of the documents which are aimed at the regulating of the foreign economic activity. This Law defines the main legal and organizational principles of implementation of the foreign economic activity in Ukraine and aims at improving of the legal regulation of the all types of the foreign economic activity in Ukraine within the framework of international agreements.

Main forms of the foreign economic activity are distinguished by the information about the results of intellectual activity, foreign trade in goods and services. Particular attention should be paid to the study of investments as a form of the international capital flows.

At the same time, it should be born in mind that the main directions of the effective international cooperation consist of the mutual economic, scientific and technical interest in solving common issues. The foreign economic strategy should be developed by a complex issue consisting of many questions of the foreign trade policy. The solving of these issues should be based on the results of the analysis of effectiveness of the export-import operations and identifying trends in commodity markets with estimation of export reserves. One of the perspective areas of international activity is the development of economic cooperation between Ukraine and the Republic of Kazakhstan.

Analysis of recent research and publications. Modern scientists pay special attention to the prospects of international cooperation in the context of globalization and transition to the digital economy. In particular, K. Vitman, D. Kolodin, Yu. Tsurkan-Saifulina, (2019, pp. 697–717) have claimed that globalization processes increasingly enter people's lives and define continuous development of society as a fundamental principle of modern progress. L. Klymenko, Yu. Zborovska (2015) have defined the directions and contradictions of the contemporary processes of globalization. Z. Baimukasheva, N. Tovma, Y. Tyurina, A. Ussabayev, (2020, pp. 1575–1586) have emphasized that transition to the digital economy determines the readiness of the national economy complex for the emergence of new industries and forms of economic cooperation.

Scientists consider the processes of economic transformation and research the potential of economic systems. In particular, G. Aubakirova, (2020, pp. 113–119) is describing the transformation processes in the economy of Kazakhstan and identifies the key factors impeding the growth of competitiveness of the economy in the medium term. M. Parshina (2015, pp. 299–306) claims that the intromission of Ukraine in the system of the world globalization requires the solution of complex questions on strategic management of the region potential use on scientific basis.

I. Biletska, O. Iatsenko, W. Meyers, O. Yatsenko, (2017, pp. 18–23) have considered the main analytical stages of economic effects of the free trade area between countries and have studied the features of the bilateral trade and economic cooperation in terms of global transformations. E. Aktureeva, U. Dzhakisheva, R. Janshanlo, G. Nurgaliyeva, Z. Oralbaeva, (2020, pp. 81–92) claim that human capital is becoming the most important factor in economic growth of the modern economy.

The issue of international cooperation is being considered in numerous publications of the modern scientists. A. Kubaienko, (2018, pp. 91–114) has made the focus on the fact that the full-fledged involvement of Ukraine into the European association stipulates the creation and adherence to the terms of reinforcing of the economic and commercial relations, which should be promoted to the gradual integration of the national economy into the European market. R. Jumanova, (2019, pp. 175–190) has analyzed the foreign economic activity and foreign investment processes in the Republic of Kazakhstan. I. Benešová, A. Laputková, L. Smutka, (2019, pp. 29–43) have discussed the specifics of mutual trade between the selected countries in the post-Soviet region, its structure, nature and development processes. E. Kpomblekou, K. Wonyra, (2020) have analyzed the spatial diffusion of the international trade. A. Kubaienko, (2018, pp. 91–114) has applied the integral approach and determined the actually assess of achieved progress in making shifts

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in the trading field and matters, which are related to the economic collaboration. L. Klymenko, Yu. Zborovska (2015) have analyzed the international experience of the state which is regulating the international trade transactions.

Scientists use different methods during conducting research. In particular, I. Benešová, A. Laputková, L. Smutka, (2019, pp. 29–43) have used the cluster analysis of individual commodity aggregates to analyse foreign trade. R. Janshanlo, G. Nurgaliyeva, Z. Oralbaeva, U. Dzhakisheva, E. Aktureeva, (2020, pp. 81–92) have used various methods including analysis and synthesis, measurement and comparison. J. Kang, D. Ramizo, (2020, pp. 334–352) have suggested econometric models and estimated the trade impact of these measures on export of different country groups from North America, European Union and developing Asia.

M. Anokhina, R. Abdrakhmanov, M. Arrieta-López, N. Dzhalilova, Y. Gridneva, A. Meza-Godoy, (2020, pp. 1921–1936) have built the fuzzy cognitive map of the formation of the competitive potential of agricultural territories of the Republic of Kazakhstan. Z. Baimukasheva, N. Tovma, Y. Tyurina, A. Ussabayev, (2020, pp. 1575–1586) have provided mathematical justification of the integration model for digital complexes within various economy sectors of the individual regions. O. Grytten, V. Koilo, (2019, pp. 167–181) have used the structural analysis for the forming of cycles in time series. A. Raišienė, A. Vojtovicova, N. Karasova, V. Nitsenko, O. Yatsenko, (2019, pp. 193–207) have determined the main factors which influence the strategic development of the partner economic relations between countries by using SWOT-analysis. Methodical approach on the basis of the fuzzy modeling methodology for the enterprises competitiveness providing has been developed and the indices system of the quantitative estimation has been formed (O. Parshyna, Yu. Parshyn, 2018, pp. 83–92).

O. Yatsenko, O. Iatsenko, W. Meyers, I. Biletska, (2017, pp. 18–23) have assessed the impact of economic crisis manifestations in Ukraine and Canada on the trade turnover by using the gravity modeling method. Conclusion about the greatest impact on bilateral trade by Canada's GDP has been drawn. It has been shown that the change in price of logistical costs produces small effect on the turnover.

Scientists use different indicators during conducting research. In particular, I. Benešová, A. Laputková, L. Smutka, (2019, pp. 29–43) use the following indicators: RCA, coverage of import by export and the Lafay index in the cluster analysis. Kubaienko (2018, pp. 91–114.) offers the European Integration Progress Index as a relative and integral value which is measured in terms of the aggregation of indices. These indices show the efficiency of the main goals achieving of the economic integration with the EU at the regional level. R. Jumanova, (2019, pp.. 175–190) examines the foreign trade turnover of the Republic of Kazakhstan, its main trading partners, the structure of goods and services of export and import. O. Yatsenko, O. Iatsenko, W. Meyers, I. Biletska, (2017, pp. 18–23) suggest the quantitative indicators of foreign trade between the countries.

O. Grytten, V. Koilo, (2019, pp. 167–181) use the cycles of three parameters representing the real economy, i.e. gross domestic product, manufacturing output and unemployment and four parameters representing the financial markets, i.e. money supply, credit volumes, inflation and government debt. Scientists have compiled twelve different indices of the institutional development. These indices are standardized and presented in the institutional development matrix. Researchers have shown that the general institutional framework for the eleven economies was weak previous to and after the meltdown of the economies.

As a result of the research, scientists identify the dependencies in economic processes, analyze the trade structure and formulate proposals for the increase of effectiveness of international cooperation. In particular, it has been shown the considerable dependence on raw materials which are presented as a significant part of the overall foreign trade, claimed I. Benešová, L. Smutka, A. Laputková, (2019, pp. 29–43). Scientists have established that the degree of similarity between

Russia, Kazakhstan and Kyrgyzstan is low. It is evident that the Eurasian Economic Council countries are focusing on the different commodities in order to use the different trade structure.

The relationships between the political decisions and economic cooperation of Kazakhstan and its main strategic partners have been explored by A. Konopelko, (2018). Jumanova (2019, pp. 175-190) has revealed the modern trends of Kazakhstan's foreign trade and the priority directions of the development of Kazakhstan's economy in order to create the favorable conditions for business.

E. Kpomblekou, K. Wonyra, (2020) claim that the promotion of economic cooperation and policy of free movement of goods and services in the union should be very favorable to the trade and development of the countries. M. Anokhina, R. Abdrakhmanov, M. Arrieta-López, N. Dzhalilova, Y. Gridneva, A. Meza-Godoy, (2020, pp. 1921–1936) propose to use cognitive modeling technologies in order to develop strategy of the competitiveness managing of Kazakhstan's agricultural territories. The implementation of strategy allowed to achieve the sustainable dynamics of agricultural production and increased the efficiency of the agricultural economy. Z. Baimukasheva, N. Tovma, Y. Tyurina, A. Ussabayev (2020, pp. 1575–1586) suggest the regional development programs in order to facilitate the increase of position of Kazakhstan in the ratings of the world development. M. Parshina, (2015, pp. 299–306) offers the conceptual approach to strategic management system of the region potential use.

G. Aubakirova, (2020, pp. 113–119) has concluded that the structural transformation of the country's poorly diversified economy should be based on the accelerated development of the manufacturing industry, increase in exports and attraction of the foreign direct investment in economic sectors. N. Karasova, V. Nitsenko, A. Raišienė, A. Vojtovicova, O. Yatsenko, (2019, pp. 193–207) have determined the direct dependence between trade turnover and gross domestic product of the countries on the basis of the modeled data using the empiric gravitation model tools. Scientists have defined prospective directions of the trade-economic relations.

Kubaienko (2018, pp. 91–114) has proposed the monitoring and estimation of the economic reform progress in the regions of Ukraine in terms of the European Integration processes which are aimed to establish strong and weak sides, substantiate priorities and measures of their achievement. O. Grytten, V. Koilo, (2019, pp. 167–181) have shed light on the financial crisis of 2008–2010 in eleven emerging Eastern European economies (EE11): Armenia, Azerbaijan, Belarus, Bulgaria, Georgia, Kazakhstan, the Kyrgyz Republic, Moldova, Romania, Tajikistan and Ukraine.

L. Klymenko, Yu. Zborovska, (2015) have determined general provisions for the improvement of the state regulation mechanisms of export-import activities in Ukraine. N. Karasova, V. Nitsenko, A. Raišienė, A. Vojtovicova, O. Yatsenko, (2019, pp. 193–207) have focused on the studying of current specificities of the countries' bilateral trade, opportunities and threats relating to the trade and developmental perspectives of trade-economic cooperation.

Wide range of theoretical and methodological aspects of the analysis of the foreign economic relations, foreign trade, monetary and financial policies of the Republic of Kazakhstan is being considering in the scientific works of Kazakhstan economists. Ukrainian scientists present the studies results of various aspects of the international activities. However, the identification of existing trends in trade and economic cooperation between individual states requires further research, in particular, between the Republic of Kazakhstan and Ukraine.

The purpose of our article is to identify the development trends of economic cooperation between the Republic of Kazakhstan and Ukraine as an analytical basis for the formation of the effective foreign economic strategy.

Formulation of the main material. The Republic of Kazakhstan and

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Ukraine are economic partners. Diplomatic relations between Ukraine and the Republic of Kazakhstan were established July 23, 1992. It should be noted that almost until 1991 they were disordered and regulated by the inertial system of intra-union communications.

The first joint interstate Ukrainian-Kazakh Commission for economic cooperation was established in September 1995. The Commission is the permanent agency with certain powers and functions which are taken to ensure the fulfillment of joint obligations.

Association Agreement between Ukraine and the EU had been functioning partially in some areas. Cooperation between countries in the field of economic cooperation began from November 2014. Association Agreement in the free trade zone has been operating since January 2016. The other parts of Agreement began to operate in September 2016. These parts of Agreement provide the strengthening of the EU-Ukraine interaction in foreign policy, security and other areas (The Council of the European Union approved the Association Agreement with Ukraine. Https:// www.5-tv.ru).

N. Tovma, A. Ussabayev, Z. Baimukasheva, Y. Tyurina, (2020, pp. 1575–1586) have said that the Republic of Kazakhstan is a country with the widely differentiated regional development. A. Konopelko, (2018) examines the current geopolitical situation in Ukraine and Central Asia and believes that the new «EU-Kazakhstan Enhanced Partnership and Cooperation Agreement» will develop more areas, taking into account security and stabilization issues.

Nowadays, the new completely different stage of cooperation and diplomatic relations between the Republic of Kazakhstan and Ukraine begins (Ukraine and Kazakhstan: 25 years of friendship and cooperation. Https://astanatimes.com/). Major irreversible changes are occurring in the post-Soviet space and in the Commonwealth of Independent States (CIS) free trade zone which are including the Republic of Kazakhstan and Ukraine. These factors predetermine the need for the form adjustment of cooperation between countries.

Methodological approach for the analysis of the economic cooperation development between the Republic of Kazakhstan and Ukraine has been developed (Fig 1). Research by using estimates of the international organizations has been conducted. Formation of information databases with the main indicators for the analysis of economic cooperation between countries has been foreseen.

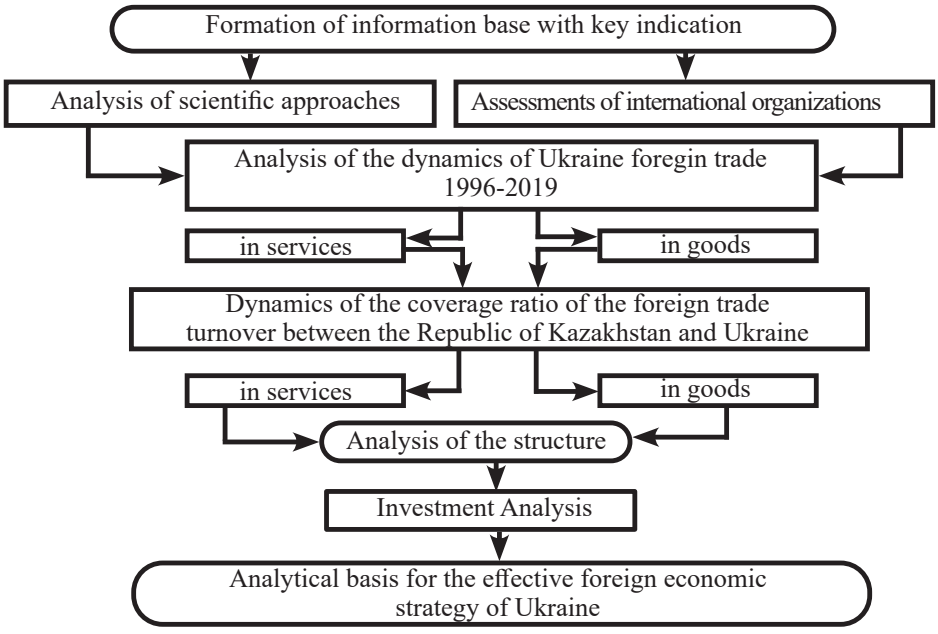

Figure 1 – Methodological approach for the analysis of economic cooperation development between the Republic of Kazakhstan and Ukraine

Dynamics analysis of foreign trade with the quantitative assessment on the base of generated databases has been performed. Dynamics of foreign trade in services and dynamics of foreign trade in goods have been analyzed. Analysis of the structure of the foreign trade and investment activities has been presented. Developed methodological approach allows to form the analytical basis of the Ukraine's foreign economic strategy.

Research by using the Global Competitiveness Report 2019 (World Economic Forum: The Global Competitiveness Report 2019. Https://gtmarket.ru/), World Happiness Report 2019 (Sustainable Development Solutions Network: World Happiness Report 2019. Https://gtmarket.ru/) and Foreign Direct Investment Report 2019 (The World Bank: Foreign Direct Investment 2019. Https://gtmarket.ru/) in accordance with the developed methodological approach has been done. According to the conclusions of the World Economic Forum (World Economic Forum: The Global Competitiveness Report 2019. Https://gtmarket.ru/), the countries with the most competitive economies are able to pursue the comprehensive policy, taking into account the whole range of factors and economic relationships. Countries which have ranked leadership positions in 2019 are Singapore (1st position with an index value of 84.8), United States of America (2nd position with an index value of 83.7) and Hong Kong (3rd position with an index value of 83.1). Ukraine has ranked 85th position with an index value of 85.0 out of 141 countries. The Republic of Kazakhstan has ranked on 55th position with an index values of 62.9. In 2018, Ukraine has ranked on the 83rd position and Kazakhstan – on 59th position (Global Competitiveness Report 2018. Https://www.weforum.org/). Thus, the decrease in the level of the Ukraine competitiveness has been observed.

Kubaienko (2018, pp. 91–114) has claimed that the presence of significant regional disproportions in the social and economic development in Ukraine requires differentiated approaches to the development of regional policy which should be directed on the creating of the free trade area and reinforcing of the economic and sector collaboration of Ukraine and the EU.

As it is known (Sustainable Development Solutions Network: World Happiness Report 2019. Https://gtmarket.ru/), World Happiness Report is an international research project which measures the population's happiness in countries around the world. According to World Happiness Report 2019 (Sustainable Development Solutions Network: World Happiness Report 2019. Https://gtmarket.ru/), Ukraine has ranked 133rd position with an index value of 4.332 out of 156 countries. Kazakhstan has ranked 60th position with an index value of 5.809. Countries which have ranked leadership positions in 2019 are Finland (1st position with an index value of 7.769), Denmark (2nd position with an index value of 7.6) and Norway (3rd position with an index value of 7.554).

R. Janshanlo, G. Nurgaliyeva, Z. Oralbaeva, U. Dzhakisheva, E. Aktureeva, (2020, pp. 81–92) have analyzed values of the human development index clearly and showed that for the economic development of states, attention should be paid properly to indicators of the education level and the decent standard of living for every citizen. Scientists have claimed that the main areas of the human capital formation should be directed to the education and health by enhancement of the investment.

The main incentive for the intensive development of the international investment process are increase of the businesses competitiveness at the international level by expanding their activities in new markets, by streamlining of the production, reducing costs, diversifying risks, access to resources and strategic assets of the countries.

Ukraine has ranked the 62nd position with 2,476,000,000 million according to the World Bank by indicators of the Foreign Direct Investment 2019 (out of 201 countries) (The World Bank: Foreign Direct Investment 2019. Https://gtmarket.ru), at the same time Kazakhstan has ranked the 134th position with 208,064,585 million. Leading countries by indicators of the Foreign Direct Investment 2019 are United

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States of America (1st position with 258,390,000,000 million), China (2nd position with 203,492,014,029 million) and Germany (3rd position with 105,277,588,652 million).

R. Jumanova, (2019, pp.175–190) has identified the main trends of the foreign investment in Kazakhstan on the results of analysis and assessment of Kazakhstan's activities in international trade.

Dynamics analysis of the foreign trade in services of Ukraine based on statistical information (Economic statistics. International economic activity and balance of payments. Https://ukrstat.org) during the period 1996–2018 shows the presence of growth dynamics by export and import (Fig. 2). Results of analysis confirm the sustainable development of the international cooperation. The excess of exports over imports throughout the research period has been identified. However, decrease of these indicators in 2008 has been observed which is explained by the global crisis. Thus, 14.3% decrease in exports and 16.4% decrease in imports during the period 2014–2016 has been revealed. The situation of foreign trade in services of Ukraine is characterized by positive changes in recent years. In particular, export increased 17.9% and imports –18.4% in 2018 relative to 2016.

Steady growth dynamics of the foreign trade in goods of Ukraine during 1996–2008 by statistical information (Economic statistics. International economic activity and balance of payments. Https://ukrstat.org) has been identified (Fig. 3). Positive growth dynamics until 2012 have been observed which is accompanied by 73.4% export increase, as well as 86.5% import increase. Negative processes during 2012–2015 have been revealed. It has been calculated 35.8% export reduce and 41.1% import reduce during the global crisis in 2008–2009. In particular, we have 44.5% export indicators reduce and 55.7% import indicators reduce in 2015. Positive changes in recent years have been identified which are characterized by 13.5% export increase and 32.2% import increase.

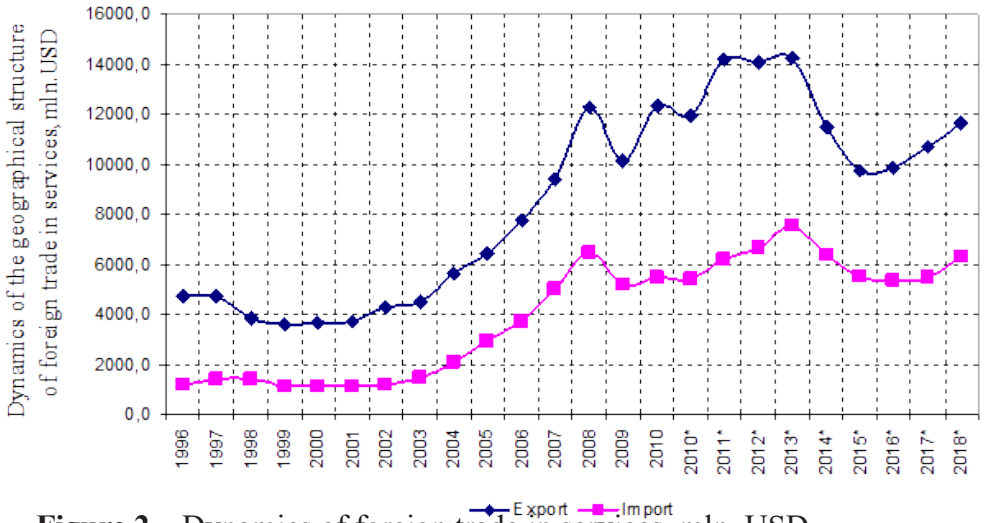

Figure 2 – Dynamics of foreign trade in services, mln. USD

* Information in 2010–2013 excluding the temporarily occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol, in 2014–2016 – excluding the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and part of the anti-terrorist operation zone, in 2017–2018 – exclude the temporarily occupied territory of the Autonomous Republic of Crimea, the city of Sevastopol and a part of temporarily occupied territories in the Donetsk and Luhansk regions.

However, at the same time, the decrease in the efficiency of economic

cooperation between the Republic of Kazakhstan and Ukraine by the coverage ratio of the foreign trade turnover has been indentified (Fig. 4). It should be noted that the coverage ratio by using statistical data (Official site of the State Statistics Committee of Ukraine. Http://www.ukrstat.gov.ua/) has been calculated and the relationships between export and import of goods and services have been shown.

Decrease in foreign trade between the Republic of Kazakhstan and Ukraine has been revealed. Identified negative trends can be explained by economic reasons. Firstly, Russian and Belarusian goods have become the main competitors in the Kazakh market as a result of international cooperation within the framework of the Eurasian Economic Union (EAEU). Secondly, Kazakhstan strategy, which is aimed at the reviving of engineering and metallurgy, has led to the increase in volume of domestic production of many types of goods. Thus, competitiveness of Ukrainian products has been reduced. And the third reason is that many enterprises in eastern Ukraine can't work effectively and produce products in the same volumes due to the partial shutdown for the number of political and economic reasons.

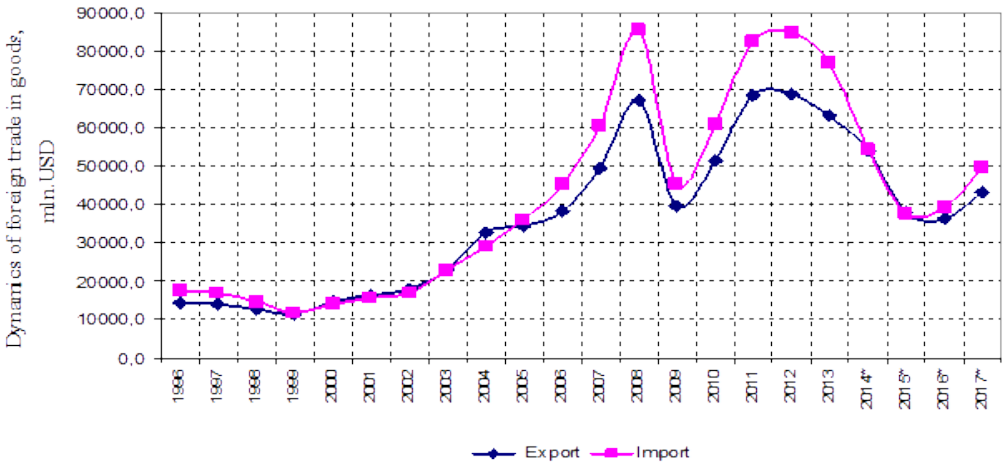

Figure 3 – Dynamics of foreign trade in goods, mln. USD
* Excluding the temporarily occupied territories of the Autonomous Republic of Crimea, the city of Sevastopol and part of temporarily occupied territories in the Donetsk and Luhansk regions

Analysis of foreign trade in goods and services of Ukraine with the Republic of Kazakhstan have been based on statistical data (Economic statistics/International economic activity and balance of payments. Https://ukrstat.org/, Official site of the State Statistics Committee of Ukraine. Http://www.ukrstat.gov.ua/). Decrease in 5.4 times in export of goods, in 1.4 times in import of goods and exports of services in 2.2 times in 2018 relative to 2013 have been identified. Negative trends in decrease in export and import of the foreign trade in goods and services during the research period have been revealed.

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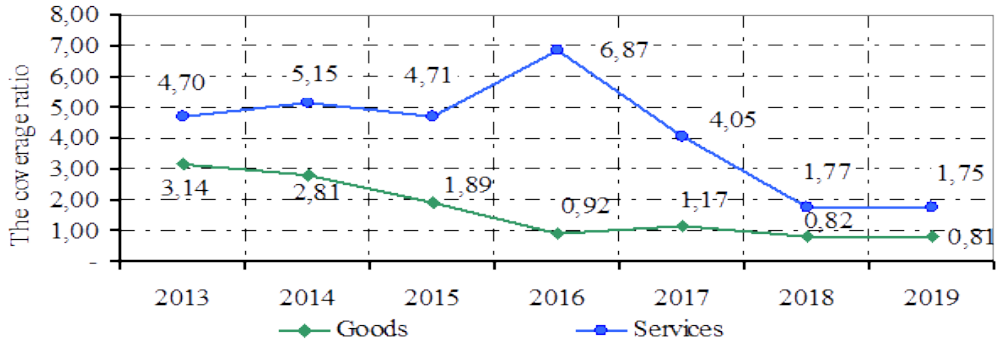


Figure 4 – Dynamics of the coverage ratio of the foreign trade turnover between the Republic of Kazakhstan and Ukraine

Negative trend in decrease in import of the foreign trade in services during 2013–2017 has been identified. However, increase in import of services in 1.2 times has been observed (table. 1).

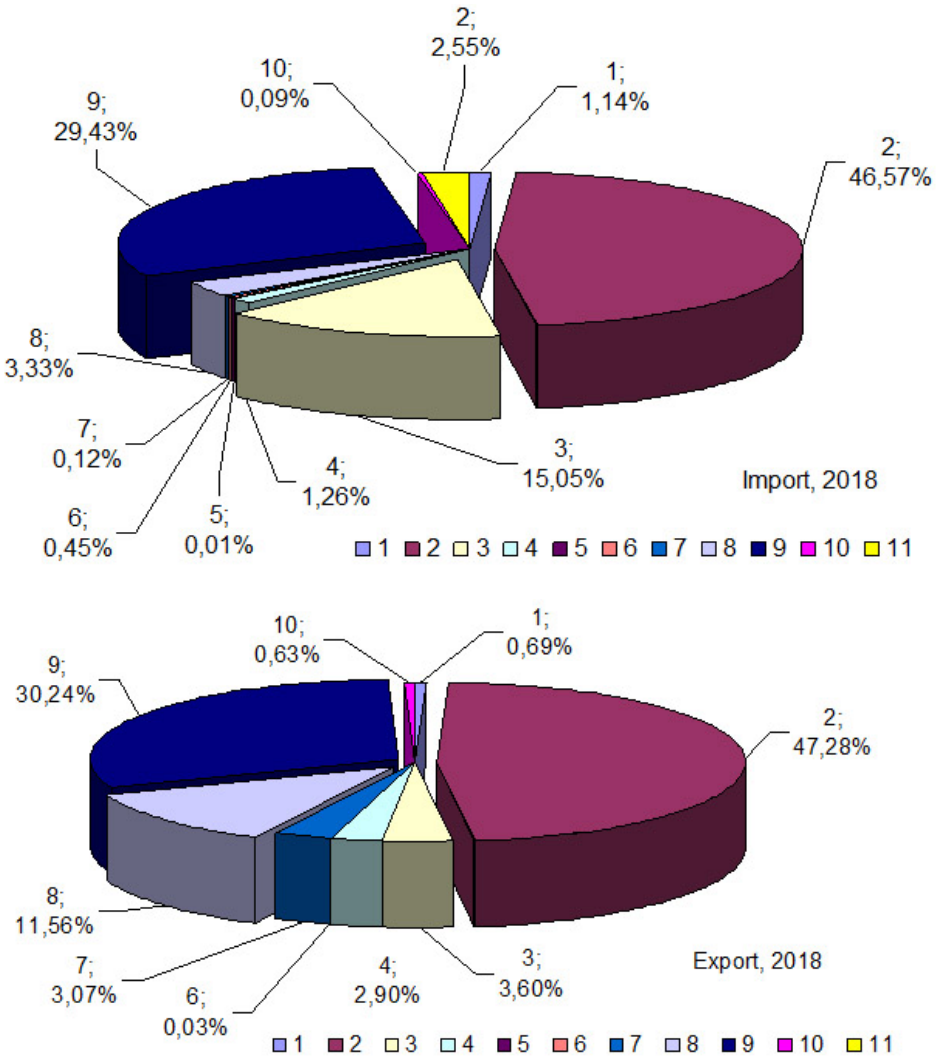
Table 1

Foreign trade in goods and services of Ukraine

	2013	2014	2015	2016	2017	2018
Foreign Trade in Goods, mln. USD						
Exports	2084,1	1069,4	712,7	400,1	372,1	376,5
Imports	663,798	380,59	377,6	434,3	318,0	460,0
Foreign trade in services, mln. USD						
Exports	139,7	98,1	65,7	81,7	74,2	59,1
Imports	29,8	19,0	14,0	11,9	18,3	33,4

The main items of the import and export structure in 2018 in services have been analyzed. Analysis of the types of import of services in 2018 allows to claim that 46.57% of all services are transport services, 29.43% – business services and 15.05% – travel services (Fig. 5). Analysis of the types of export of services in 2018 shows that 47.28% of all services are transport services, 30.24% – business services and 11.56% – telecommunication services, computer and information services.

The excess of export over import in the structure in 2018 in the sectors of economy has been revealed. Thus, sectors of telecommunications services, computer and information services (8.23% export excess); royalties and other services related to the use of intellectual property (3.33% export excess); construction services (1.64% export excess) has been identified.



1 - Services for repair and technical servicing, which are not presented to the other categories; 2 - Transport services; 3 - Travel services; 4 - Building services; 5 - Insurance services; 6 - Services related to financial activities; 7 - Royalties and international services due to intellectual property; 8 - Services in the field of telecommunications, computer and information services; 9 - Business services; 10 - Services to private persons, cultural and recreation services; 11 - State services.

Figure 5 – The main items of the import and export structure 2018 in services

The excess of import over export in the sectors of economy has been established, in particular, sectors of travel services (11.45% import excess), state and government services (2.55% import excess), services related to financial activities (0.42% import excess). It is necessary to note the slight decrease in the investment activity between Ukraine and the Republic of Kazakhstan due to instability in economic relations. Analysis of dynamics of the direct investment in the Ukrainian economy and direct investment from Ukraine to Kazakhstan (Fig. 6) allows to explain the main processes of economic cooperation. In particular, stability in investment processes during 2011–2014 has been observed, while the direct investments in the Ukrainian economy exceed the direct investments from Ukraine to the Republic of Kazakhstan. At the same time, negative trends in 2019 relative to 2014 have been identified. Direct investments inflow in 2019 into the

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Ukrainian economy with 79% decrease and direct investment from Ukraine to the Republic of Kazakhstan – with 97% decrease.

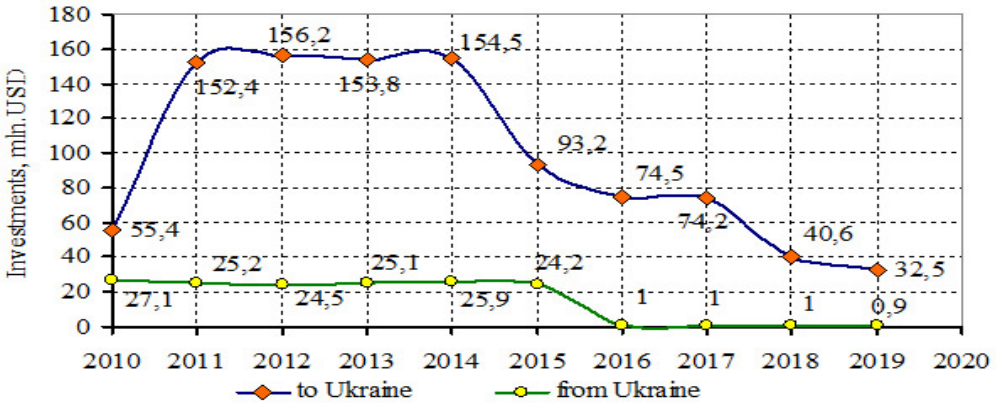

Figure 6 – Dynamics of investments between the Republic of Kazakhstan and Ukraine

Experts in the field of the foreign economic relations between Ukraine and the Republic of Kazakhstan pay attention to the development of the main promising areas (Embassy of Ukraine in the Republic of Kazakhstan. Http://kazakhstan. mfa.gov.ua/):

– development of the Kazakhstan deposits of oil, gas, metals and uranium;

– creation of new business ventures in the fuel and energy complex;

– participation of Ukrainian companies in the implementation of the strategic development plan of the Republic of Kazakhstan;

– participation in the State program for the accelerated industrial and innovative development of the Republic of Kazakhstan;

– participation in the scientific projects in the aircraft building, engineering and space sectors, in particular, in the serial production of Antonov brand aircraft in the Republic of Kazakhstan and other industry projects;

– participation of Ukrainian enterprises in «Novokramatorsky Machine-Building Plant» for the implementation of projects in the field of heavy engineering and the equipment supply for metallurgical plants;

– cooperation between the Republic of Kazakhstan and Ukraine in the nuclear energy industry.

Currently, the Republic of Kazakhstan is implementing political reforms, modernizing the economy and renewing its self-identity. Ukraine is strong in the field of IT, development and implementation of the advanced agricultural technologies. (Ukraine and Kazakhstan: 25 years of friendship and cooperation. Https://astanatimes.com/). Consequently, these countries are able to find many points of contact and development of international cooperation.

Conclusions. Important component of the foreign economic activity in conditions of globalization is development of international cooperation. Significant changes in the post-Soviet space and the Commonwealth of Independent States free trade zone have been occurred. Perspective areas of the foreign economic activity of Ukraine are the development of economic cooperation with the Republic of Kazakhstan.

For the formation of the effective foreign economic strategy of Ukraine should be developed analytical base. Methodological approach for research and quantification of the development of economic cooperation between the Republic of Kazakhstan and Ukraine has been developed. Information databases with economic indicators have been formed. Analysis of structure of economic cooperation, foreign trade and investment activities has been conducted. Promising directions for the

increasing of export have been proposed which should be related with development of the machine-building equipment, products of metallurgical and machine-building industries, agro-industrial complex and chemical industry products.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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Олена Паршина, Юрій Паршин

ТЕНДЕНЦІЇ ТА ПЕРСПЕКТИВИ ЕКОНОМІЧНОГО СПІВРОБІТНИЦВА МІЖ РЕСПУБЛІКОЮ КАЗАХСТАН ТА УКРАЇНОЮ

Анотація. Розвиток міжнародного співробітництва в умовах світової глобалізації розглядається як важлива складова зовнішньоекономічної діяльності. Одним з перспективних напрямків зовнішньоекономічної діяльності для України є розвиток економічного співробітництва з Республікою Казахстан. В якості основних форм зовнішньоекономічної діяльності можна виділити зовнішню торгівлю товарами і послугами, інформацією, а також результатами інтелектуальної діяльності. Особливу увагу слід приділяти дослідженню інвестиції як форми міжнародного руху капіталу. Водночас слід мати на увазі, що основні напрями ефективного міжнародного співробітництва складаються із взаємного економічного, науково-технічного інтересу у вирішенні спільних питань. Зовнішньоекономічна стратегія повинна розроблятися на підгрунті використання комплексного наукового підходу, що складається з багатьох питань зовнішньоторговельної політики. Вирішення цих питань повинно базуватися на результатах аналізу ефективності експортно-імпортних операцій та виявленні тенденцій на товарних ринках з оцінкою експортних резервів. В статті представлено результати досліджень сучасних вчених, в яких особливу увагу приділено перспективам міжнародного співробітництва в умовах глобалізації та діджиталізації економіки. Надано стислий аналіз методів, кількісних показників, моделей та встановлених економічних взаємозв'язків, які були використані в ході наукових досліджень. Проведені дослідження дозволили констатувати, що для формування ефективної зовнішньоекономічної стратегії необхідні результати аналітичної оцінки ефективності економічного співробітництва. З метою проведення наукових досліджень та здійснення кількісної оцінки розвитку економічного співробітництва з Республікою Казахстан розроблено методичний підхід. Для аналізу економічного співробітництва використано показники зовнішньої торгівлі товарами і послугами, інформацією, а також результати інтелектуальної діяльності. Особливу увагу приділено дослідженню інвестицій як форми міжнародного руху капіталу. Розроблено алгоритми виявлення тенденцій кон'юнктури товарних ринків з визначенням можливих резервів експорту, що становить аналітичну основу формування ефективної зовнішньоекономічної стратегії України, спрямованої на розвиток економічного співробітництва з Республікою Казахстан.

Ключові слова: *зовнішньоекономічна діяльність, аналітична оцінка, тенденції*

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BASIC COMPONENTS OF THE INVESTMENT CLIMATE FORMATION OF THE UKRAINIAN ECONOMY IN MODERN CONDITIONS OF GLOBALIZATION TRANSFORMATIONS

Abstract. The challenges facing the economies of the world in the 21-st century shape the need to adapt to changing factors of influence, conditions of competitiveness, political and legal environment in the implementation of international economic relations. On a global scale, changes are constantly occurring, however, the speed of such economic changes necessitates the introduction of innovative mechanisms, the search for strategic priorities and the creation of conditions for the creation of a state investment climate, the priority attraction of free economic resources in strategically important sectors of the economy, ensuring the effective economic model of the state economy. The priority, in the context of globalization transformations, is the need to ensure that the mechanism for managing the investment climate of the state's economy through the formation of attractiveness in strategically important, priority sectors of the national economy. However, the management process is complicated by the lack of a clear understanding of its nature.

Despite the considerable amount of research, scientific papers and publications of domestic and foreign scientists, the issues of implementing a systematic approach to managing the investment climate through the priority sectors of the Ukrainian economy are topical and not fully addressed. There is a need for further practical research in this area.

Keywords: *globalization, economy, investment climate, estimation, sector, component, management*

Introduction. Acute respiratory disease COVID-19, caused by the coronavirus SARS-Co-V-2, has created significant problems in different economies. Rapid changes in environmental considerations, the need to abandon strategic plans and forecasts, planned production and sales with the purpose of health maintaince, create new conditions for determining competitiveness in the global market of metallurgical products. The dynamic development of the leading countries in the production of metallurgical products in the world are not in the position to respond quickly to changes in working conditions and make informed management decisions on strategic actions. In this situation, it is important to solve the urgent problem of ensuring national competitiveness on a global scale, reorienting to increase the metallurgical products sector in the international market,

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ensuring innovative production to meet the consumers needs globally.

The driving force of the potential development of metallurgical production in Ukraine is the creation of preconditions for the state's investment climate formation, which will ensure the sustainable development of the national economy, creating attractive conditions for image development.

Analysis of recent research and publications. Solving the issue of investment climate formation in the economies of the world has been considered by many scholars, in particular, Rahim M. Quaz (Official Website of Standard & Poors. Http://www.standardandpoors.com/) considered ways to create a favorable investment climate through the prism of foreign investment projects.

R. Barro (Official Website of Pricewaterhouse Coopers. http://www.pwc.ru/) analyzed the potential growth of economic indicators of the countries across the world, emphasizing the need to increase the number of implemented capital investment projects by domestic investors, reducing the number of foreign investments.

Some scholars see the need to improve macroeconomic indicators to stimulate private investment, which will create favorable conditions for the formation and development of investment attractiveness of strategically important sectors of the economy (Ndikumana) (Official Website of Moody's Investors Service. Https://www.moodys.com/), empirical literature has identified public and private investment as the strongest determinants of economic growth, which specify trends formation in the strategic development of the state (Levine & Renelt) (Official Website of Journal, Euromoney. Http://www.euromoney.com), especially investment in equipment (De Long & Summers) (Computed results based on compiled data from Report Doing Business. Http://russian.doingbusiness.org/).

In general, recent theoretical and empirical studies of literature sources have highlighted the urgent need to ensure the formation of fundamental components of the investment climate of the world economy.

Akhmet-Zaki & Mukhamediyev (2018) investigated the potential determinants of foreign direct investment in the Eurasian Economic Union, which revealed a significant positive relationship between investment capital inflows and growth of gross domestic product, infrastructure and education, which determines the operation of an effective mechanism of investment climate management in the long run (Ya. Gromova, 2012, pp. 37–45).

Both private investment and government investments are the key determinants of interstate disparities in long-term economic growth. This empirical relationship between investment and growth has led observers to identify low investment as one of the leading causes of slow growth in developing economies (Greene & Villanueva; Collier & Gunning).

The analysis of these sources shows that a number of issues related to the formation of a mechanism for managing the investment climate of the state by improving the attractiveness of strategic sectors of the national economy remain unresolved: in the scientific literature there is a wide variety of views on the specific content of informational background of such research.

The purpose of our article is to find an effective mechanism for managing the investment climate in the world economy through the prism of forming the attractiveness of strategic sectors of the economy, priority guidelines of investment projects implementation under current conditions of globalization development.

To achieve the goal of scientific research, the following tasks are being solved:

−one of the priority sectors of strategic development of Ukrainian economy is being determined;

−an effective mechanism of innovative climate management is being developed on the basis of forming the attractiveness of a strategically important sector of the national economy;

−the managerial functions of the investment climate of Ukrainian economy are being formed;

−the principles of investment climate management in the national economy are being considered.

Formulation of the main material. The state has an important role to play in investment activities. Analysis of the world practice of investment processes makes it possible to distinguish two types of public investment policy: passive and active. In the former case, the state uses methods that are mainly legal and economic character, limiting direct administrative intervention in investment processes to a minimum, and in the latter case, all methods are used, and the state often becomes an investor itself. An effective tool for managing the investment climate is an investment strategy. The question arose: what should be the investment strategy of a country focused on the production of innovative products.

The economic development of the advanced countries of the world testifies to the urgent need to maintain a leading position due to the effective interconnection of research and production.

Thus, the main priority of the investment strategy of the state should be a close combination of production technologies with a favorable technical and technological position in the world market.

Acute respiratory disease COVID-19, caused by the coronavirus SARS-Co-V-2, has significantly affected all sectors of the world's economy. The metallurgical industry has not become an exception. Thus, according to the World Steel Association in March 2020, world steel production decreased by 7.8%, due to a significant decrease in production in Asian countries (-4.1%) and the European Union (-20.4%) (Scientific and innovative activity in Ukraine. Statistical collection, 2015).

The dynamics of steel consumption in the world is shown in the Figure 1.

From the list of TOP-20 world leading steel producers, only Turkey (4.1%), Iran (14%) and Vietnam (3.5%) showed stable growth. As at April 2020, Ukraine ranks 12th place among the largest steel producers in the world. The increase of rating positions for Ukraine became possible due to the cessation of production of metallurgical products in Italy (Ya. Gromova, 2012, pp. 37–45).

Metallurgical products production in India decreased by 14.2%. India ranks 2nd in the ranking of world producers of metallurgical products and is forced to significantly reduce its own production capacity because of the quarantine (Scientific and innovative activity in Ukraine. Statistical collection, 2015).

Accordingly, one of the most important problems in the world economy in such conditions is the problem of overcapacity, which creates the need to urgently seek the possibility of loading abroad. This situation will increase competition, create pressure on prices, which will lead to the opposite reaction – strengthening of protectionist measures. However, China continued to operate even under quarantine conditions without reducing production. The Association of Cast Iron and Steel Producers of the People's Republic of China is witnessing an increase in demand for metallurgical products, a significant reduction in stocks of finished metallurgical products in the country, and enterprises continue to gradually increase production capacity. The results of the report of the World Steel Association in January 2020 show some changes in the world's metallurgical industry, namely: a share of Chinese production in the global metallurgical sector increased from 50.9% to 53.3% (Scientific and innovative activity in Ukraine. Statistical collection, 2016).

Particularly significant decline in steel production was reflected in the economies of European countries (EU average: -4.5%): Germany (-6.5%), Italy (-5.2%), France (-6.1%), Spain (-5.2%), Poland (-10.8%).

The sharp decline in global steel consumption and a significant increase in the cost of purchasing permits for harmful emissions have prompted manufacturers to shut down capacity in order to introduce an artificial equalization of market equilibrium and improve price policies. At the same time, due to the protectionism aggravation and the domestic

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market weakness, export-oriented enterprises in Turkey (-19.6%) and Brazil (-18.3%) suffered significant losses. Against the background of the world's sharp decline in steel consumption, in Ukraine in January 2020 there was a decrease in production by 1.2%. However, in comparison with other countries of the world, it is necessary to constantly look for opportunities to adapt to changing environmental factors.

For example, in early 2020, 22 rolling mills in Egypt stopped production because local steelmakers did not sell square billets to the domestic market. Thus, in 2019, the load capacity of steel production in Egypt amounted to only 55%. At the same time, the purchase of billets from abroad requires additional overpayment of the protective duty, which is 15% unprofitable for rolling mills (Scientific and innovative activity in Ukraine. Statistical collection, 2016). Therefore, local producers were forced to stop production in search of performance potential to challenge customs duties on imports of semi-finished products. Since cloasing plants will lead to an increase in market prices. It is known that rolling mills receive a loss of $ 60 per ton of fittings from abroad, and, therefore, the company will be able to work with a profit only if the duty is replaced by a quota. It must be noted that the Egyptian market is one of the largest for Ukrainian exporters of procurement. In 2019, the sale of billets in this direction amounted to 760 thousand tons (Scientific and innovative activity in Ukraine. Statistical collection, 2016).

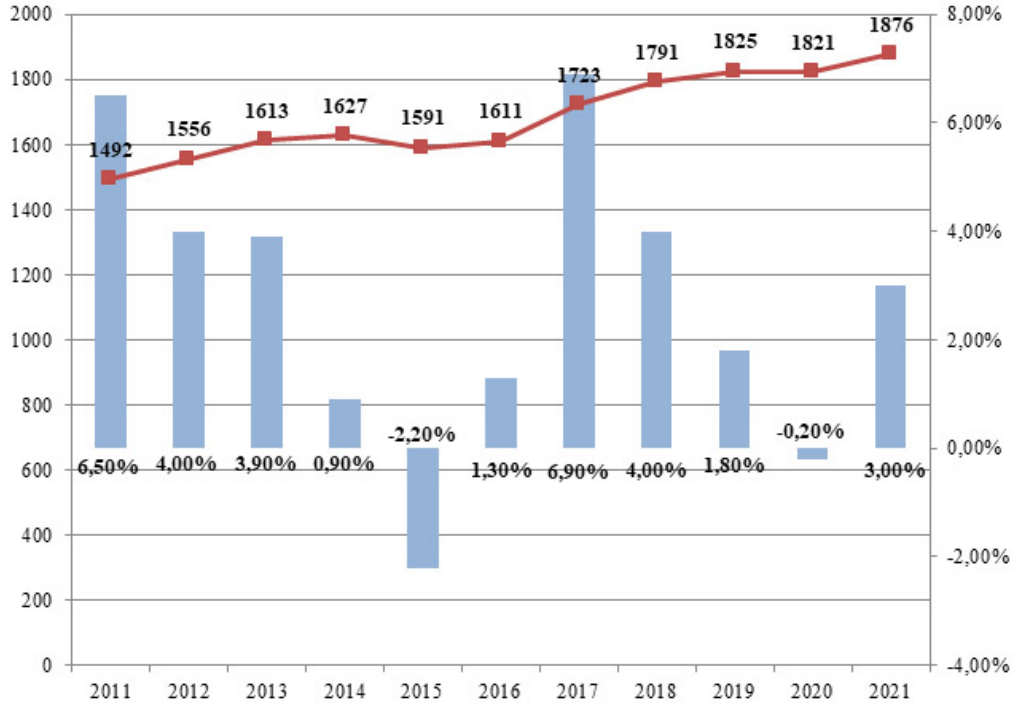

Figure 1 – Dynamics of steel consumption in the world, 2019, 2020, 2021 – projected values
Source: compiled by the author based on (O. Reznikova, 2014, pp. 54–63)

The European Steel Association (EUROFER) predicts that demand for steel consumption in the world will improve in 2020-2021. Thus, demand is expected to increase in 2020 by 0.6%, and in 2021 – by 1.4% (Scientific and innovative activity in Ukraine. Statistical collection, 2016). However, square billet is not the only element of production of Ukrainian metallurgical plants. Since February 2020, negotiations have been underway between the leaders of two states: Ukraine and the United States of America. Under US law, imports of any type of metallurgical

product require a 25% duty. However, some countries in the world have exceptions, namely: Brazil, Mexico and Canada. Such conditions create a competitive advantage for these states. For Ukraine, the US market is important for the sale of pipes. For example, United States Steel Corporation (US Steel) is the largest steelmaker in the United States. In 2019, the corporation's net income amounted to 12.9 billion dollars. US (-9.2% in 2018), EBITDA – 711 million dollars. US dollars (-59.9% in 2018), net loss – 642 million dollars. US dollars (compared to a net profit of 1.1 billion US dollars in 2018). The most problematic segment of US Steel is pipeline (EBITDA has a negative profitability ratio) (Scientific and innovative activity in Ukraine. Statistical collection, 2016).

US Steel has limited production in 2020 and is shutting down blast furnaces. Thus, it was announced to close production in Detroit and stop investing in European divisions of the corporation. In May 2020, the blast furnace will be shut down at the plant in Gary.

From the conducted analytical review of the situation it is possible to draw a conclusion that pipe products manufactured at Ukrainian enterprises may be in great demand in the American market. In January-March 2020, the enterprises of the mining and metallurgical complex of Ukraine reduced steel production by 3.4% to 5.32 million tons, namely (Scientific and innovative activity in Ukraine. Statistical collection, 2016):

−agglomerate – by 0.4%, up to 7.86 million tons;
−pellets – by 6.7%, to 5.09 million tons;
−coke – by 6.5%, up to 2.44 million tons;
−tubular goods – by 25.4%, up to 211.7 thousand tons.

As of April 2020, 14 out of 21 blast furnaces, 4 out of 8 open-hearth steel furnaces, 11 out of 16 converters, 5 out of 15 electric furnaces are in operation (Scientific and innovative activity in Ukraine. Statistical collection, 2016). Under such conditions, it is fundamentally important to create an effective mechanism for managing the investment climate of the national economy in view of the attractiveness of the metallurgical sector, attracting investment funds that will create conditions for sector development, innovation and competitiveness.

In 2019 capital investments of PJSC «ArcelorMittal Kryvyi Rih» amounted 229.4 million US dollars (11.2% less than in 2018). The main projects implemented by PJSC ArcelorMittal Kryvyi Rih in 2019 are modernization of small section mill №250-4, construction of Continuous Casting Machine (CCM) №2 and № 3, reconstruction of sintering shop with installation of electrostatic precipitators. However, in July 2019, the construction of the caster was threatened with failure due to criminal proceedings (Scientific and innovative activity in Ukraine. Statistical collection, 2016).

In addition, for the first time since 2008, PJSC «ArcelorMittal Kryvyi Rih» paid dividends in the amount of $ 441 million USD. Withdrawal of funds, in parallel with the deterioration of the situation on the world market, had a significant negative impact on investment projects implemented at the enterprise. However, the management of PJSC «ArcelorMittal Kryvyi Rih» assures that by 2022 $ 1.8 billion USD will be invested in the production of metallurgical products (Scientific and innovative activity in Ukraine. Statistical collection, 2016). Considering the transformation of the world economy, the transient changes in external conditions of influence, arises the question about the formation of a favorable investment climate in the Ukrainian economy. Disclosure of functioning patterns of complex economic systems in solving problems of investment processes intensification is impossible without the application of a multifaceted approach to determining the structural elements of such systems that would rely on the modern development of the national economy in the financial crisis and resource constraints. Thus, the analysis of the theoretical and applied base for the intensification of investment processes in Ukraine proved the need to transfer the center of gravity in the

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management of investment processes to the national level. Since the tasks which the subjects of investment climate management in the Ukrainian economy perform are diversified, therefore, the management content is also different. It consists of a number of control functions. In the modern literature there are many approaches to the management functions classification, which is explained by the use of various criteria for their evaluation. After analyzing the publications of both domestic and foreign scientists (O. Gavrilyuk, 2013, pp. 99-100. Official site of the «Institute for Management Development (IMD)». Http://www.imd.org/, official Website of Standard & Poors. Http://www.standardandpoors.com/en_US/web/guest/home, Urata, S. & Ando, M., 2013, pp. 137-204., Vakulich, M., 2014, pp. 31-36, A. Escribano & J. Pena, 2012, pp. 121-126), it was found out that the issue of separation of investment climate management functions has not been studied.

We propose that the main functions of investment climate management in the economy of Ukraine should include the following (Fig. 2).

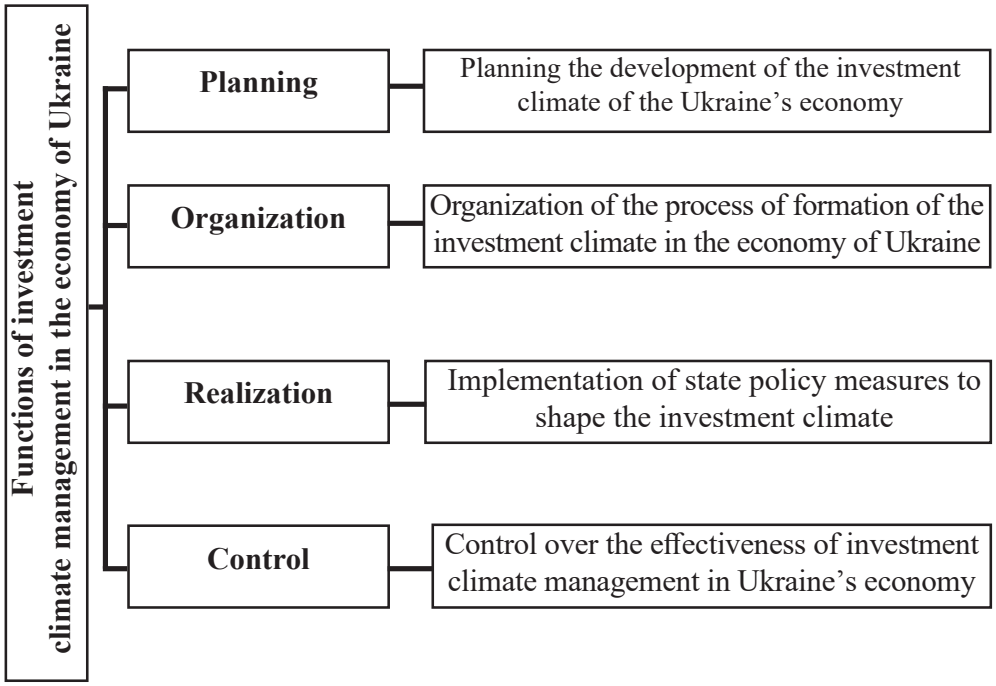

Figure 2 – Functions of investment climate management in the economy of Ukraine
Source: author's study aid

Monitoring the effectiveness of investment climate management in Ukraine's economy – the process of comparing the planned results with the actual results that guarantee the effective implementation of all other functions. The essence of control is that it ensures the achievement of set targets aimed at the unconditional achievement of objectives of investment climate development under specified conditions. The objectives of control are: collection and systematization of information about the state of the investment climate; evaluation of the obtained results about the state of the investment climate of the national economy; analysis of causes of deviations and the factors influencing the investment climate formation; preparing and implementing decisions aimed at achieving the objectives of investment climate development in Ukraine's economy.

In the context of forming the principles of effective investment climate management in the national economy, we propose to highlight the following: the principle of integration with the management system at the state level, the complex nature of management decisions, the principle of high decision dynamism, variability of approaches to management decisions (Table 1).

Table 1

Principles of effective investment climate management in the national economy

№	Principle	The essence of the principle
1	Integration with the investment climate management system at the macro level	Implementation of an integrated management system – the creation of a common investment climate management system that functions as a whole and aims to improve the efficiency of the national economy and achieve maximum positive effect from investment activities.
2	The complex nature of the management decisions formation	Management is a comprehensive system that provides the development of interdependent management decisions, each of which contributes to the overall performance of the national economy.
3	High dynamism of decisions	Taking into account changes in external and internal factors, resource potential, forms of investment activities organization, market conditions.
4	Variability of approaches to the management decisions development	Planning and forecasting options for long-term strategic development of the national economy, finding and justifying alternative management decisions in the field of investment climate.
5	Consistency with the strategic goals of the national economy	Focus on the strategy of long-term development of the national economy, constant comparison, within the control function, planned and actual performance indicators of the investment climate in the national economy.

In the context of identifying the principles of effective investment climate management in the national economy, it is necessary to introduce the principle of integration with the management system, which allows to increase the efficiency of the national economy and achieve maximum positive effect from investment activities.

Based on the study and identifying the lack of a unified approach to determining the factors influencing the investment climate formation in Ukraine's economy in view of the attractiveness of the metallurgical sector, we offer the following risk groups in 2020 for the metallurgical complex of Ukraine (Fig. 3).

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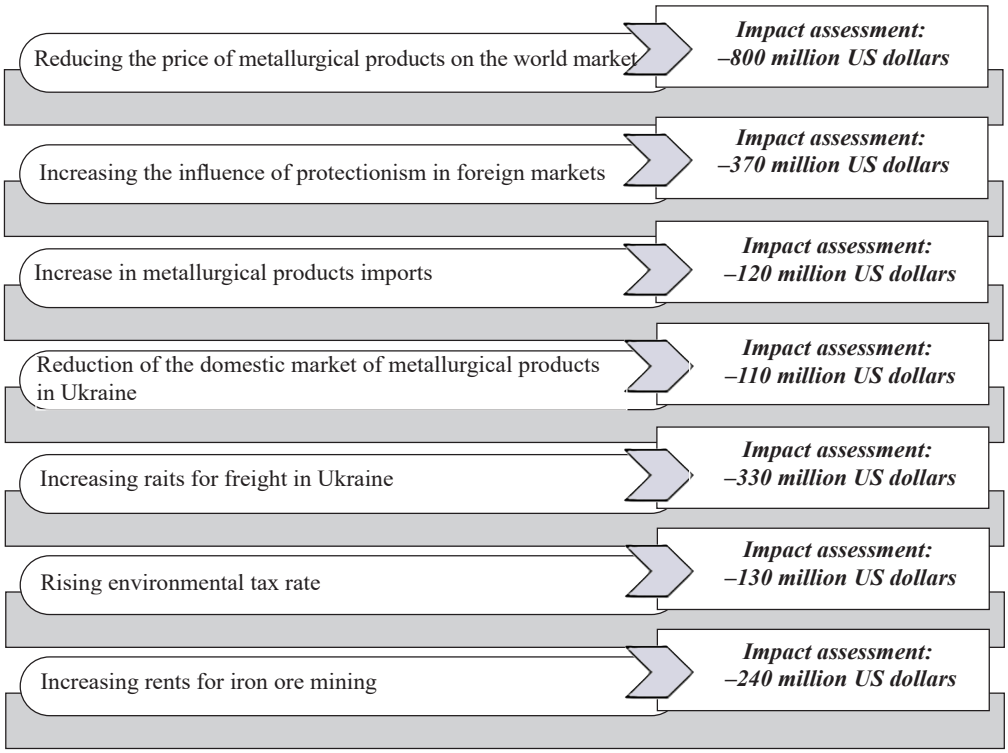

Figure 3 – Risk groups for 2020 for the metallurgical complex in view of the formation of the investment climate in the Ukraine's economy

Source: author's study aid based on (Official Website of Journal, Economist. Http : //www.economist.com/, Ratings Agency Moody's http : //www.moodys.com)

According to practical studies, investors in most cases ignore micro- and meso-level factors when deciding to invest, if the host state is characterized by a high level of investment attractiveness and guarantees to a potential investor an appropriate level of return on investment with the minimal risk. This indicates the priority of influencing the factors shaping the investment climate at the state level, distinguishing their groups on the basis of content and reliable identification.

At the heart of the investment climate management process in the state economy are three fundamental components:

1. Investment policy of the state, which provides a set of measures aimed at creating favorable conditions for the investment climate formation in order to attract capital or ensure the social effect of the investment process.

2. Monitoring and controlling the investment climate, which is part of all stages of the investment policy development process, is an integral part of defining strategic and tactical goals of investment climate management in Ukraine's economy to assess the developed investment strategies and tactics and affects the investment policy implementation process. in the field of investment climate management. A key element of the investment policy development process in the field of investment climate management is that controlling and monitoring the investment climate are concepts that do not compare with each other because they are different in nature and are at different levels of government.

3. A set of tools for motivation and incentives for the investment climate development ensures the interest of domestic and foreign investors in investing and further reinvestment.

For the successful functioning of the national economy, a balanced, scientifically sound investment policy is needed, designed not only for the current situation, but also for fundamental development in the future. In addition, the

general science-based concept should be specified by economic sectors, regions and deadlines. Secondly, systemicity and complexity play an important role, because it is impossible to solve the economic problem of perspective development of the national economy by separate measures. Thus, investment climate management is a necessary condition for accelerating the pace of economic development of Ukraine, which provides conditions for sustainable economic development of the national economy.

Conclusions. The study of the problems of investing in the economy has always been in the focus of economics. In today's unstable economy, an important problem is to determine the effectiveness of investment costs, the relationship of capital investment and structural changes in the economy, the definition of priorities in the sectoral structure of investment.

The metallurgical industry is one of the most attractive sectors of the economy for understanding the need and possibility of restoring the strategic guidelines for the domestic economy development in modern conditions. The development and strengthening of the position of the metallurgical industry affects both the micro and macro levels of state development. The priority task for the formation and development of the metallurgical sector of Ukraine should be the urgent implementation of an innovative model of development, development of the mechanism of energy saving and strengthening the position of metallurgical products in foreign and domestic markets. Increasing the production and investment potential of the metallurgical industry should occur through improving the investment climate in relevant sectors of the economy and regions that need domestic products, intensifying investment demand, capitalization of savings by expanding access to economic resources, creating comfortable conditions for business activities. The main purpose of the metallurgical industry is to ensure the growing demand for metal products in the required range, quality and volume of supplies.

For example, the following measures have been implemented:

– ensuring the free entry of foreign inverters into the economy of Ukraine;

– foreign investment, when crossing the border of Ukraine, is exempt from customs duties;

– the foreign investor is provided with the state guarantees of protection of the investment against any compulsory withdrawals determined by the international law;

– the free use of profits, income and other funds received in connection with the investment is guaranteed.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ОСНОВОПОЛОЖНІ СКЛАДОВІ ФОРМУВАННЯ ІНВЕСТИЦІЙНОГО КЛІМАТУ В ЕКОНОМІЦІ УКРАЇНИ В СУЧАСНИХ УМОВАХ ГЛОБАЛІЗАЦІЙНИХ ТРАНСФОРМАЦІЙ

Анотація. Виклики, які постають перед економікою держав світу у XXI столітті, формують необхідність адаптування до змін факторів впливу, умов конкурентоспроможності, політико-правового середовища при здійсненні міжнародних економічних відносин. У глобальному масштабі зміни відбуваються постійно, проте швидкість таких економічних змін зумовлює потенційну необхідність запровадження інноваційних механізмів, пошуку стратегічних пріоритетів та формування умов для створення інвестиційного клімату держави, пріоритетного залучення вільних економічних коштів у стратегічно важливі сектори економіки, забезпечення дієвої моделі динамічного розвитку економіки держави. Першочерговим завданням, у контексті глобалізаційних трансформацій, є потреба забезпечення дії механізму управління інвестиційним кліматом економіки держави через формування привабливості у стратегічно важливих, пріоритетних секторах національної економіки. Однак, процес управління ускладнюється в зв'язку з відсутністю чіткого розуміння його сутності.

Незважаючи на значну кількість досліджень, наукових праць та публікацій вітчизняних та зарубіжних учених, питання з проблем реалізації системного підходу до управління інвестиційним кліматом через пріоритетно важливі сектори економіки України, – актуальне і не розкрите у повній мірі. Існує необхідність подальших практичних досліджень у цьому напрямку.

Ключові слова: *глобалізація, економіка, інвестиційний клімат, оцінка, сектор, складова, управління*

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DEVELOPMENT OF P2P LENDING IN TERM OF CRISIS

Abstract. The article is devoted to definition content, disadvantages, advantages and features of P2P (person to person) lending under ordinary circumstances and in times of crisis. The main problem of P2P lending in the period of significant changes in environmental factors is a high risk of non-repayment of credit. Recommendations to reduce the risk of investors through the use of technology in neural models of individual credit risk assessment (scoring) an individual borrower. In actual credit history defined performance using qualitative and quantitative indicators to determine the level of solvency of borrowers individual. Interrelation researched the credit risk of the borrower-class individual, the interest rate (price) and maximum size P2P loan. Recommended consider the impact of environmental factors in the decision to grant consumer loans to individuals P2P.

Keywords: *P2P lending, risk assessment, crisis, the probability of default, investors*

Introduction. Under increasing economic volatility, investors face the challenge of safe and efficient placement of financial resources. Especially, this issue arises in providing consumer loans to individuals, which have a significant repayment risk under ordinary circumstances (during a relatively stable environment), and in times of crisis become generally high-risky product. For this reason, a relevant task is to assess the solvency of an individual borrower under ordinary circumstances and in a crisis efficiently.

Banking institutions use different techniques and approaches to assess the

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credit risk of borrowers that help determine its class and create some reserves. During the crisis financial institutions are mostly trying to reduce the amount of active transactions. In order to reduce the credit risk and liquidity risk they cut credit portfolios or significantly raise the interest rate. On the other hand, the social distrust of financial stability of banks grows, affecting deposit volatility and increasing the credit cost.

One of the solutions to the problem of lack of public broad access to bank loans is the development of P2P lending (person to person), which is carried out via the Internet and has a number of advantages compared with traditional lending, namely:

– contacts between investors and borrowers are established faster as fully implemented on a specialized Internet platform;

– members of a credit agreement (investors and borrowers) are equal parties that are not linked to each other with business ties;

– an investor places resources at the higher interest rate than bank deposits;

– lack of extra commission fees (members need to pay a commission fee for the online platform to use its services only);

– a borrower receives a consumer credit at a relatively low interest rate because of a lack of traditional intermediaries (banks);

– an investor determines a borrower and the loan amount independently.

First P2P loan was granted in Britain by ZOPA (Zone of Possible Agreement), where the amount loans in 2016 was more than 930 million euros. Subsequently, it was joined by other companies, namely: Avant, SoFi, Funding Circle, Trustbuddy and Thincats. Currently, platforms for P2P lending can be found in Australia, Germany, China, India, Norway, Sweden and Finland.

Analysts at Morgan Stanley in 2015 rated the global volume of such lending in the amount of 112 billion euros, and according to forecasts, the value of P2P loans could reach 177 billion euros, 214 billion euros in 2018, 265 billion euros in 2019, and 278 billion euros in 2020. Estimated total annual global growth rate during 2014-2020 amount to 51% (Stanly, 2015).

Some banks in Ukraine have also started using the P2P lending instrument offering higher yields (in average +5% per annum on the base rates on deposits). This enabled to get interested a significant number of customers and P2P lending volume amounted to 0.05 billion euros as of April 1, 2016 (National Bank of Ukraine, 2016).

But meanwhile, experts reveal the underlying problems of the development of P2P lending, namely, the lack of collateral and reserves formed for credit risks; complexity of the procedure of debt collection; no liability of intermediaries; a low level of public awareness about potential risks; high probability of loan default.

Main countering action against «bad» debtors is to provide information on bank loan default to the credit record bank and denial of further loans.

But it is possible to reduce the risk of consumer credit default at the stage of applying for a loan, when the Internet platform launches an algorithm for determining the solvency of a borrower, who should to be effective both under ordinary circumstances and amid crisis.

Analysis of recent research and publications. The problem of determining the individual credit risk in P2P lending at a scientific level was started to be thoroughly explored together with the development of the theory of risk management. Such modern scientists as Yanhong Guo, Wenjun Zhou, Chunyu Luo, Chuanren Liu and Hui Xiong argue that the traditional (statistical) models of credit risk assessment cannot meet the needs of individual investors in P2P lending because they do not provide a clear mechanism for asset allocation (Guo et al., 2016). Lixin Cui1, Lu Bai1, Yue Wang1, Xiao Bai, Zhihong Zhang, Edwin R. Hancock agree herewith and claim that the use of statistical methods is difficult because of the problem of defining relationships between various factors that affect the final value of the credit risk (the probability of the borrower default) (Cui1 et al., 2016). Other researchers (I-Cheng Yeh, Che-hui Lien) suggest using the approaches based on

artificial intelligence (e.g., classifier tree) in scoring models (I-Cheng & Lien, 2009). But the initial data for these techniques are multidimensional and unstable, which adversely affects the efficiency of determining the solvency of a borrower.

Unlike previous studies that seek to determine the probability of default, Carlos Serrano-Cinca and Begoña Gutiérrez-Nieto offer to evaluate the estimated returns of P2P loans (the higher the risk of loan default is, the more profitable it should be). In this case, the factors that determine the profitability of a P2P loan are different from the factors that determine the probability of default (Serrano-Cinca & Gutiérrez-Nieto, 2016). These authors found that the use of evaluation system of estimated profit in scoring models by means of a multivariate regression approach is more efficient than using a traditional credit scoring system based on a logistic regression. In addition to profitability, scoring systems, according to S.Arya, C.Eckel and C.Wichman, should be correlated with indicators of impulsivity, temporary benefits and reliability (Arya et al., 2013).

In the work by Carlos Serrano-Cinca, Begoña Gutiérrez-Nieto and Nydia M. Reyes it is offered to use not only financial figures, but also take into account the social and environmental consequences of P2P lending in the scoring models (Serrano-Cinca et al., 2016). Assessment of creditworthiness of a borrower shall be aligned with the social mission of lending that is the use of a multi-criteria approach in the assessment is suggested. Herewith, Yuejin Zhang, Hengyue Jia, Yunfei Diao, Mo Hai and Haifeng Li believe that the assessment of social and environmental consequences of P2P lending may take place through both social media and social information of mass media (Zhang et al., 2016).

An analysis of sources of literature allows us to come to a conclusion that the modern development of P2P lending is connected with the problem of formation of an effective model of credit risk assessment of an individual borrower. In this case, not only financial and non-financial indicators of borrower's solvency assessment, but also environmental factors during such an assessment are important. Assessment of individual credit risk under ordinary circumstances is typologically different from similar assessment amid crisis. The theoretical basis in terms of the development of P2P lending amid crisis is not enough developed at the present time. There are also issues such as the definition of qualitative and quantitative indicators of credit risk assessment, characteristics of the classes of borrowers and the impact of environmental factors on the level of borrower's default are not sufficiently elaborated.

The purpose of our article is to develop models for determining the individual credit risk of a borrower in P2P lending amid crisis.

To achieve this objective, the following tasks were set:

– To identify the financial (quantitative) and non-financial (qualitative) indicators for assessing the credit risk of an individual borrower who applies for a P2P loan;

– To explore the interrelation of a credit risk level with a class of an individual borrower and the cost of P2P loan;

– To determine the impact of environmental factors on the level of the borrower's default.

Formulation of the main material. Under IFRS, credit risk is determined as a risk that one party to a financial instrument contract will not meet its obligations, and it will cause a financial loss of the other party. However, any contract that gives rise to a financial asset of one business entity and a financial liability or capital instrument of another business entity shall mean a financial instrument.

Banks use in the evaluation of individual credit risk of a borrower both their techniques and techniques of the national regulator, which has the right to control the impact of this assessment. A credit risk level is directly connected with an amount of the reserves to be formed by a bank for a certain lending transaction. Online P2P lending platforms, just like banks, also have the right to develop and use different scoring models.

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The procedure for determining the credit risk of an individual borrower begins immediately after completing a certain form by an applicant for a loan and undergoing the identification phase. Then, the Internet platform invites information on a borrower from the credit record office. After the scoring, a borrower is assigned with a class (ranking), on which the interest rate (cost) of a loan and the maximum possible loan amount depend (Fig. No.1).

As Figure 1 shows, the choice made by an Internet platform in terms of quantitative and qualitative indicators to be used in the scoring model is important in the assessment of P2P lending quality category. In order not to complicate the information processing, the number of indicators should be limited and data which are used in their calculations should be open for verification.

For this purpose, for credit scoring of an individual borrower (other than an individual who is a business entity) we suggest using the following quantitative and qualitative indicators:

1. Quantitative indicators: K1 shall mean the ratio of net income of an individual borrower to consumer loan payments (the higher the indicator, the easier for a borrower to get a loan); K2 shall mean the ratio of a debt amount under a loan to the market or appraised value of a credit facility (the lower the indicator value, the more likely it is that in case of collection from a borrower, sales revenue from a credit facility, which serves as collateral, will allow an investor to compensate a loan).

2. Qualitative indicators: K3 shall mean the age of a borrower; K4 shall mean the availability of a regular job; K5 shall mean the common employment experience; K6 shall mean repaid or outstanding loans in the past.

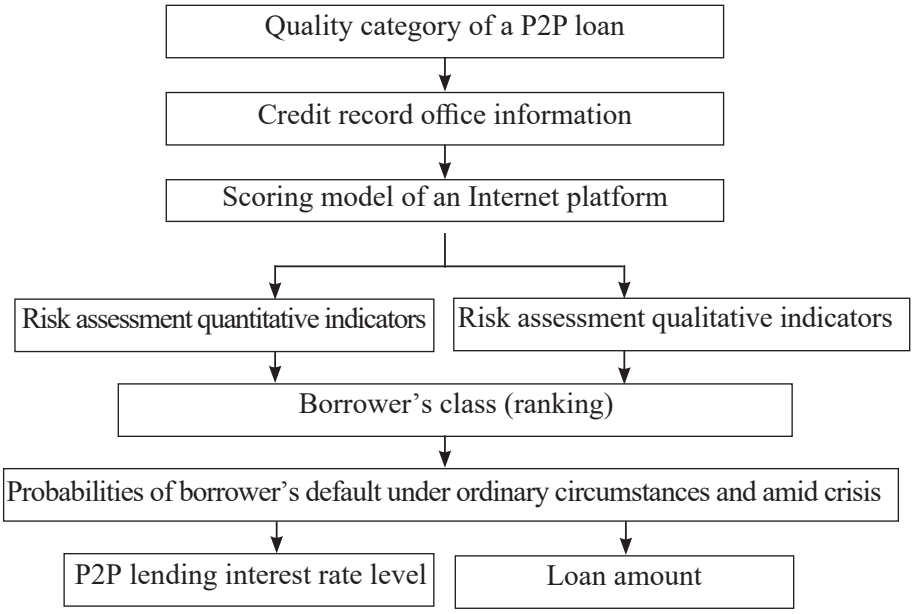

Figure 1 – Algorithm for Determining Credit Risk, Amount and Interest Rate of P2P Lending
Source: Prepared by authors

Assessments of individual credit risk of an individual borrower are done by the formula 1: (1)

$$y=f(K1, K2, K3, K4, K5, K6)$$

To determine the effectiveness of the suggested assessment model of individual borrower's credit risk, let us take 20 real credit records of PJSC CB ZEMELNY KAPITAL and calculate the above qualitative and quantitative indicators therewith. We would like to note that 10 loans out of 20 have been granted by the bank during the crisis period (Table. 1).

Table 1

Initial Data for Individual Borrower's Credit Risk Assessment

Borrower's Number	Qualitative and Quantitative Indicators to Assess Individual Borrower's Credit Risk						Y*
	Quantitative Indicators		Qualitative Indicators				
	K1	K2	K3	K4	K5	K6	
Under Ordinary Circumstances							
1	1,30	0,71	54	Job available	30	No past loans	1
2	1,23	0,75	36	Job available	15	Repaid in time	1
3	1,25	0,81	55	Job available	20	No past loans	1
4	1,35	0,73	47	No job	15	Repaid in time	1
5	1,44	0,70	41	Job available	20	No past loans	1
6	1,18	0,72	33	Job available	15	No past loans	0
7	1,16	0,74	23	Job available	5	Breaches	0
8	1,13	0,80	55	Job available	37	Repaid in time	0
9	0,93	0,70	34	No job	10	No past loans	0
10	1,1	0,83	21	Job available	7	Breaches	0
Amid Crisis							
1	1,30	0,70	37	No job	15	Repaid in time	1
2	1,32	0,65	27	Job available	8	No past loans	1
3	1,31	0,68	31	Job available	16	Repaid in time	1
4	1,30	0,60	38	Job available	18	No past loans	1
5	1,33	0,64	42	Job available	20	No past loans	1
6	1,25	0,71	34	Job available	7	No past loans	0
7	1,18	0,75	22	Job available	5	No past loans	0
8	1,25	0,70	58	No job	31	Breaches	0
9	1, 28	0,72	28	No job	8	No past loans	0
10	1,25	0,75	45	Job available	28	Breaches	0

** y is 0, if terms and conditions of a loan agreement between a borrower and the bank have been implemented in full; and y is 1, terms and conditions of a loan agreement have not been implemented in full or partially.*

Source: Prepared by authors

Built terms (under ordinary circumstances and amid crisis) for quantitative variables (K1, K2, K3, K4, K5, K6) of a model are shown in Table 2.

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Table 2

Terms (Linguistic Assessment) for Indicators K1, K2, K3, K4, K5, K6

Term	Qualitative and Quantitative Indicators					
	K1	K2	K3	K4	K5	K6
Under Ordinary Circumstances						
Term1 (H) low	[0.90,1.0]	[1.0,0.90)	[18, 25)	No job	[0, 5)	Outstanding loan in the past
Term 2 (C) medium	[1.1,1.25)	[0.90,0.80)	[25, 50)	-	[5, 10)	No loans in the past
Term 3 (B) High	>= 1.25	[0.80,0.70]	>= 50	Job available	>= 10	Timely loan repayment in the past
Amid Crisis						
Term1 (H) low	[1.1,1.25)	[0.90,0.80)	[18, 30]	No job	[0, 10)	Outstanding loan in the past
Term 2 (C) medium	[1.25,1.30)	[0.80,0.70]	[31, 40)	-	[10, 15)	No loans in the past
Term 3 (B) High	>= 1,30	< 70	>= 40	Job available	>= 15	Timely loan repayment in the past

Source: Prepared by authors

Let us apply detached terms to real credit records of PJSC CB ZEMELNY KAPITAL (Bank) (see Table 3).

From Table 3 it is obvious that the value of individual borrower's credit risk is minimal if the ratio of net income of an individual borrower to consumer loan payments is «high» (the ratio value under ordinary circumstances equals to or exceeds 1.25, and to 1.30 amid crisis), and a borrower did not take any loans in the past or repaid previous loans timely and in full. The level of individual credit risk increases significantly when the ratio of loan repayment in the past is «low» (previously, an individual repaid loans in violation of the agreement), and K1 indicator is «medium» (its parameters are within the range of 1.1 to 1 25 under ordinary circumstances, and 1.25, 1.30 amid crisis) or «low» (its value is within the range of 0.90 to 1.0 under ordinary circumstances, and of 1.25 to 1.30 amid crisis).

Moreover, in times of crisis, when assets value begins to depreciate, the ratio of loan debt to the market or appraised value of a credit facility (K2 indicator) is of special importance. It is desirable that the K2 indicator is lower than 0.7 in times of financial instability.

Table 3

The Compact View of the Knowledge Database
by Individual Borrower's Credit Risk Assessment

y	№	Qualitative and Quantitative Indicators					
		K1	K2	K3	K4	K5	K6
Under Ordinary Circumstances							
1	1	B	B	B	B	B	C
	2	C	B	C	B	B	B
	3	B	C	B	B	B	C
	4	B	B	C	H	B	B
	5	B	B	C	B	B	C
0	6	C	B	C	B	B	C
	7	C	B	C	B	H	H
	8	C	B	B	B	B	B
	9	H	B	C	H	C	C
	10	C	C	H	B	C	H
Amid Crisis							
y	1	B	B	C	H	C	B
	2	B	B	H	B	H	C
	3	B	B	C	B	B	B
	4	B	B	C	B	B	C
	5	B	B	B	B	B	C
0	6	C	C	C	B	H	C
	7	H	C	H	B	H	C
	8	C	B	B	H	B	H
	9	C	C	H	H	H	C
	10	C	C	B	B	B	H

Source: Prepared by authors

The above indicators assist in assigning a certain ranking (class) to an individual borrower, which determines the maximum amount of P2P loan and the interest rate. Characteristics of classes of individual borrowers are given in Table 4.

As Table 4 shows, individual borrowers, who have the higher probability of default according to the results of scoring assessment are assigned with higher interest rates, and in some cases it is advisable to deny P2P loan at all (for example, in case of borrowers of Class 4, who have the highest level of individual credit risk).

We would like to note that the probability of default of an individual borrower increases significantly amid crisis through significant change of environmental factors. In this connection, we recommend to consider the state of the environment in the process of decision-making on P2P lending (the probability of default of an individual borrower under ordinary circumstances and amid crisis is shown in Table 5).

The investor's risk could be reduced by means of insurance companies, which in case of problems with the solvency of a borrower will repay deposits together with interest (an investor will not even notice the delay in P2P loan). But deposit insurance, in turn, increases the cost of P2P loan that can also affect an investor's

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decision regarding allocation of financial resources.

Thus, P2P lending is a new financial instrument in the lending market that does not require involving any intermediaries (banks) and is carried out by using the Internet. The advantages of P2P lending are as follows: savings on transaction costs and variable nature of determining the loan cost and its maximum amount. The main disadvantages of P2P lending include the high probability of a deposit default (especially amid crisis).

Table 4

Characteristics of Classes of Individual Borrowers under P2P Lending

Class of an Individual Borrower	Characteristics	Credit Risk Level	Interest Rate Level
1 (high)	The financial status is high: qualitative and quantitative indicators that characterize the current solvency of an individual borrower and his/her financial capacity to fulfil the loan obligations are not lower than their optimal values or exceed these optimal values. A borrower has a job and «good» credit records on the date of application submitted for P2P loan.	Low	Below the average market bank level
2 (medium)	The financial status is good: qualitative and quantitative indicators that characterize the current solvency of an individual borrower and his/her financial capacity to fulfil the loan obligations correspond to the optimal values, but there are some negative trends: changing the job with worsening conditions, growth of liabilities of an individual borrower. A borrower has a job and «good» credit records (or did not take loans in the past) on the date of application submitted for P2P loan.	Medium	At the level of the middle market bank or higher level
3 (low)	The financial status is satisfactory: qualitative and quantitative indicators that characterize the current solvency of an individual borrower and his/her financial capacity to fulfil the loan obligations do not always correspond to the optimal values. A borrower has a job and did not take loans in the past on the date of application submitted for P2P loan.	High	Significantly higher than the average market bank level
4 (critical)	The financial status is poor: qualitative and quantitative indicators that characterize the current solvency of an individual borrower and his/her financial capacity to fulfil the loan obligations are significantly below the optimal values. A borrower is unemployed and has «bad» credit records on the date of application submitted for P2P loan.	Maximum	Denial of granting a loan

Source: Prepared by authors

Table 5

Probability of Default of an Individual Borrower under Ordinary Circumstances and amid Crisis

Class of an Individual Borrower	Probability of Default	
	Under Ordinary Circumstances	Amid Crisis
1	0.10 – 0.30	0.15 – 0.35
2	0.31 – 0.60	0.36 – 0.70
3	0.60 – 0.99	0.71 – 0.99
4	1.0	1.0

Source: Prepared by authors

Conclusions. 1. Due to the high volatility of financial markets, the assessment of credit risk in P2P lending is a relevant issue for both domestic and foreign financial institutions.

2. The suggested technique of assessment of individual credit risk of an individual borrower is based on neural technology. It is recommended to use certain quantitativ e and qualitative indicators for credit scoring.

3. Depending on the level of individual credit risk of an individual borrower, a class of a debtor, which in turn affects the amount of the P2P loan and the interest rate, is determined.

4. The probability of default of an individual borrower increases amid crisis significantly. It is recommended to consider the impact of environmental factors in the P2P lending decision-making process.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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Камерон Батмангліч, Володимир Бобиль, Лариса Марценюк

РОЗВИТОК P2P КРЕДИТУВАННЯ В УМОВАХ КРИЗИ

Анотація. Сучасний розвиток P2P кредитування пов'язаний з проблемою формування результативної моделі оцінки кредитного ризику позичальника фізичної особи. При цьому важливе значення мають не тільки фінансові та нефінансові показники оцінки платоспроможності позичальника, а й чинники зовнішнього середовища під час здійснення цієї оцінки. В ординарних умовах оцінка індивідуального кредитного ризику типологічно відрізняється від аналогічної оцінки в період кризи. В роботі запропоновано підхід до вирішення проблеми результативного визначення індивідуального кредитного ризику позичальника-фізичної особи у процесі надання P2P кредиту. Автори відзначають, що P2P – кредитування має ряд переваг у порівнянні з традиційним кредитуванням, а саме: контакти між інвесторами та позичальниками проходять швидше, оскільки повністю здійснюються на спеціалізованій Інтернет платформі; учасники кредитної угоди (інвестори та позичальники) є рівноправними сторонами, які не пов'язані між собою іншими господарськими зв'язками; інвестор розміщує ресурси під більшу відсоткову ставку, ніж за банківськими депозитами; відсутність додаткових комісійних платежів (учасники повинні тільки заплатити певну комісію онлайн-платформі за можливість використовувати її сервіс); через відсутність традиційних посередників (банків) позичальник отримує споживчий кредит за відносно низькою відсотковою ставкою; інвестор самостійно визначає позичальника та суму кредиту.

Авторами розроблено алгоритм визначення кредитного ризику, суми та відсоткової ставки за P2P кредитуванням.

Для кредитного скорингу позичальника – фізичної особи (крім фізичної особи, яка є суб'єктом господарювання) запропоновано використання певних кількісних та якісних показників.

Надано характеристику класів позичальників – фізичних осіб за P2P кредитуванням.

Викладений підхід спрямований на зменшенні ризику інвестора та стабільний розвиток P2P кредитування у період економічної нестабільності (кризи). Цей підхід засновано на теоретико-методологічному інструментарії теорій ігор та нейронечіткого моделювання.

Ключові слова: *P2P кредитування, ризики, оцінка, криза, ймовірність дефолту, інвестори*

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WORLD EXPERIENCE OF THE LAND SALE MARKET REFORM: A TEMPORAL LEGAL MEASURE

Abstract. The article is devoted to the practical analysis of reforming the land market in foreign countries from the temporal and legal aspect in the context of explaining the possibility and expediency of its application in Ukraine.

The article deals with the problem of reforming of the land sale market in the context of foreign countries, taking into account of the temporal legal aspect, which is reflected in the chronological, systematic improvement of the scientific and legal positions, depending on the national peculiarities of the economy, politics and legislation of the countries.

The article focused on the analysis of successful land reforms in the developed democratic countries. We analyzed the structure of land management and the system of land auctioning, which are the part of state regulation in most countries.

Firstly, the article focuses on the realization of a stable economic and legal foundation for a free land market, which is variable in the context of economic liberalization. The free land market has a very wide «chain of consequences», which indicates hard direct proportional dependence on the current situation in the country's economy. Therefore, a «must have» logical step before implementing the reform is a desire to stabilize the economy. In the article we analyzed other external factors that may adversely affect the land market in Ukraine.

The important form of regulation of the land market is to limit the maximum and minimum area of a land that can be purchased by one owner. The territorial interconnection between the maximum area for sale and the territory of the states has been expanded, as well as the political and economic course of development of agricultural production, which, taken together, are the most common factors for establishing such restrictions.

We paid attention to the fact: when countries choose scenarios for land market reform, they should focus on long-term territorial development strategies that exclude economic planning for agricultural land leases.

As a result, it is noted that the repeal of the moratorium on the sale of agricultural land is economically feasible and theoretically justified. Accordingly, we fully support the existing legislative initiative in Ukraine to open up the agricultural land market.

Keywords: *land market, moratorium, land purpose, agroholding, land reform*

Introduction. The problem formulation is based on the enactment of a Law of Ukraine «On Amendments to Certain Legislative Acts of Ukraine on the Circulation of Agricultural Lands» by Verkhovna Rada of Ukraine on March 31, 2020. It should be noted that it was an active debate in society on the expediency of opening the agricultural land sale market since enactment of this law in the first reading. The terms

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of land ownership were also discussed. This situation seems quite logical considering that Ukraine has prolongated a moratorium on agricultural land sales for many years.

Fundamental decisions about opening or closing markets usually are subjects of careful estimation because those decisions can affect financial and economic social relationships at the state level. The process of estimation includes estimation through the prism of the experience of other countries that have already successfully implemented such reforms. The land sale market is no an exception. This process necessitates the development of an appropriate scientific basis for the land sale market implementation.

Analysis of recent research and publications. In the process of research a large number of works of scientists have been analyzed, such as: L. Vranken, M. Hartwigsen, Z. Lerman, B. Gemeda, B. Girma Abebe, F. Eckardt, L. Mjøs, S. Goytia, G. Dieterich, A. Vasile, B. Haerlin, S. Fuchloch, and others.

The purpose of our article is to analyze the experience of reforming the land sale market in different countries in terms of temporal legal aspect in the context of explaining the possibility and expediency of its implementation in Ukraine.

Formulation of the main material. On the basis of data obtained from the analysis of the scientist's achievements, we can make a conclusion that the beginning of agricultural land reforms in the developed countries of the West began in the late 1950's. It is associated with the liberalization of the economy and foreign markets. The United Kingdom has the longest history of the agricultural land market. In the U. K. acts of purchase and sale of this type of land have been making for over 200 years. Most scientists believe that land market reform is being lobbied by the governments of the countries as a result of the urgent need to take out existing agricultural farm ownership from the shadow and the need to expand the existing agricultural land cadastre.

Except these reasons, it is also necessary to refer to the primary sources of legal initiatives for opening the agricultural land market in Ukraine. Decisions of The European Court of Human Rights are the important precedents for Ukraine. Enforcement of the Decisions of The European Court of Human Rights is mandatory for Ukraine.

On May 22, 2018, The European Court of Human Rights (ECHR) made a decision in case «Zelenchuk & Tsytsyura v. Ukraine» (2018). This Decision established that the Ukrainian legislation which establishing a moratorium on the sale of agricultural land contradicts to Article 1 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. This Decision of the ECHR could be called resonant. According to the court's decision, Ukraine has the choice: the moratorium has to be abolished and interference into property rights will be canceled, or the moratorium will be maintained or replaced by alternative measures, with mandatory removal of the contradiction of the Convention. It causes importance of evaluating of existing models of successfully implemented land sale markets for systematically adaption of existing Ukrainian legislation to new conditions.

L. Vranken emphasizes that members of European Union have differences in the regulation of land exchanges (Swinnen et al., 2016). There are several categories of land sale market rules.

1. Measures to protect a renter.
2. Measures to protect the owner-cultivator.
3. Networks for the protection owner of the non-agricultural farm ownership.
4. Avoiding of fragmentation of agricultural land.

Scientist also gives a classification of the systems of regulation of agricultural land markets in different countries.

1. Countries with a strongly regulated land sale market, such as Slovakia, Hungary, Poland and France.
2. Countries with moderately regulated land sale markets, such as Austria,

Belgium, Italy, Portugal, Slovenia, Lithuania, Latvia, the Netherlands and Sweden. These countries usually have one type of regulation.

3. Countries with less regulated land sale markets, such as Germany, Romania, Finland, the United Kingdom, Greece and Ireland.

Some researchers (Kvartiuk & Herzfeld, 2019) note that the Land Code of Ukraine contained liberal positions on the land sale market at the time of enactment, but establishing of moratorium on land sales became a barrier to the implementation and providing of land ownership for citizens. It is a violation of their constitutional rights and freedoms. Another aspect noted by the authors was that the Ukrainian economy was also affected by the fact that the rules of market relations stopped function properly. It means situation when land as capital moves to more efficient land users.

M. Hartvigsen (Hartvigsen, 2015) notes that majority of Central European countries have implemented land law reforms and land markets opening since 1989. At the same time countries provide a land consolidation by embodiment of small landowners. It is stated that the program and mechanism of land consolidation is directly proportional to the legal land market.

At the same time, some authors (Kuns et al., 2016) argue that the land consolidation in the post-Soviet area is not an option to solve the problem. Real conditions of agricultural production should have a long-term perspective and not exist in the context of short-term leases and cooperation agreements. Therefore, unless the conditions change, large-scale stock market funded agricultural companies would not play an important role in the future of food production in the Commonwealth of Independent States members.

At the same time, Z. Lerman (2017) notes that the most striking feature of land reform in the post-Soviet area was the overall transition from collective to individual land ownership in agriculture, which was accompanied by the privatization of legal land ownership. Nowadays, the pace of agriculture and the achieved level of recovery are higher in countries that pursued a strong individualization policy (Caucasus, Central Asia), whereas in countries with less thorough individualization reforms (European CIS), recovery happened slowly. For ensuring continuous improvement of families' incomes and overcoming poverty, politic measures have to be applied for promoting of increment of very small family farms and encouraging access by small farms to market channels and services.

Many researchers also pay attention to other aspects of the land sale market. For example, B. Gemeda, B. Girma Abebe, F. Eckardt (2019) emphasize on studying of the nature of urban expansion and development in terms of land speculation and urban lengthening. Urban territory extends to neighboring peripheral areas, speculators keep their land off the current market, so land and building developers have to skip it and homebuyers must go further distances to buy new land and homes. This extra distance causes wasting additional costs by increasing the cost of development, exploitation and fare.

L. Mjøs, (2019) notes that cadastral systems provide important information for the public and private sectors. For better understanding of the functions and consequences of a cadastral system, we have to understand its development.

According to S. Goytia (2019), in the majority of developing countries, rapid urbanization has forced a large portion of the urban population to turn to informal land markets of real estate. Informal developments are usually built without construction or regulatory requirements. Owners don't get any rights to property because of lack of basic infrastructure services. This phenomenon is widespread in areas where not enough of serviced land at affordable prices.

Poverty is often blamed for the development of informal markets. But too strict land-use rules also play a central role in land prices rising in the formal sector. High land prices make the substitution effects and force lower-income households to move to the informal sector.

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G. Dieterich (2018) finds that the price paid for land is dependent on many factors, including the current economic and social situation, national and regional urban and legal policy, especially at the municipality level. Municipalities initiate the development and creation of constructional land by zoning within their land use plans. Municipalities and the Church maintained their land during the development process.

A. Vasile (2017), B. Haerlin and S. Fuschlos (2016) suppose that the accumulation of land in the hands of several owners (concentration of land or capture of land) can be considered as dangerous and at the same time widespread phenomenon in Central and Eastern Europe. Favorable conditions for land concentration and capture of land may be due to existing rules or to deficiencies in existing rules. Researches show that these processes have intensified in recent years in the European Union in general and in the new Member States in particular (Kay et al., 2015).

Analysis of European experience found that about 3% of large agricultural land (over 100 hectares) belongs to owners who own 52% of the total agricultural area. At the same time 75% of small agricultural owners (less than 10 ha) own only 11% of existing agricultural land (TNI, 2016).

However, despite existing scientific researches, this issue still needs further study and rethinking. In particular, scientists have not investigated the question of the experience of reforming the land sale market in foreign countries in terms of temporal-legal aspect in the context of explaining the possibility and expediency of its application in Ukraine.

Agricultural lands are an important foundation for building a market economy. This is especially striking when the state positions itself on the world market as an agricultural country. As a result of a review of scientific sources, it was found that opening of the land sale market significantly revitalizes the country's economy and also allows it to receive additional budgetary revenues annually. At the same time, each individual country made its own adaptive and balanced scheme of realization of agricultural land markets. In the author's opinion, positive experience for Ukraine is establishment of special control bodies to carry out price control and administrative control of agricultural land markets. For example, the state-owned company «Bodenververwertungs- und verwaltungs GmbH» (BVVG) was established in Germany. In France land markets have been controlled by the Society for Land Development and Rural Settlement since 1960 (3, p. 16). There are many reasons for creating such a market intermediary. First of all, it provides free and equal market conditions and accelerates the process of implementation of land purchase plans.

However, there is no reason to believe that there will be a quick solution to the issue of implementation of a real and legal agricultural land market. In Mexico, the process of allocating and purchasing of 100 million hectares of agricultural land has taken almost 100 years. In Brazil, the solution to this problem has been taken 30 years. The experience of land privatization in the countries of the former USSR, before the moratorium was established, was completely unpredictable. 145 million hectares have been privatized here over 10 years (1991-2001) (Lerman, 2017). This process is easily explained by the fact that the few CIS members (Ukraine, Russia, Latvia and Lithuania), which have chosen the way to dismantle collective farms and liberalize markets, have created the conditions for purchase of land at a reduced price. That is the reason why the Verkhovna Rada of Ukraine has adopted a moratorium on the sale of agricultural land. This was aimed at stopping the irreversible processes of mass alienation of land.

The moratorium in Ukraine has ended on January 1, 2020. In the interstrice before the adoption and signature by the President of the law «On Amendments to Certain Legislative Acts of Ukraine on the Circulation of Agricultural Lands» on March 31, 2020 (according to the law № 2178-10) there is a legal vacuum and uncertainty of the procedure for alienation of agricultural lands. However, even after the adoption of the law, remain many controversial aspects.

First of all, there is a lack of a fundamental and consistent land market strategy in Ukraine. Earlier we noted that majority of European countries concentrate their efforts on the development of farms and small businesses. This politic is reasonable. When country has a quit small zoning area for agricultural land, it is easier to formulate and control agricultural product pricing in the presence of large numbers of separated farms. However, if there are specialized agroholdings, it makes the conditions for the displacement of small farms and for forming of monopoly segments of markets. Those conditions should not arise in equal market relations. Therefore, the infusion of capital of international companies in the form of the formation of structural units of non-resident agricultural holdings in countries with limited resource of agricultural land is irrational and unprofitable in the long run. Such a strategy is effective in countries with hundreds of millions of hectares of agricultural land (USA, Russia, Mexico, Brazil, China, India). These countries are major exporters of agricultural products because they have high yields. At the same time, territorially smaller countries need to have a support program for their own producer, and if there is an import of a certain volume of products, they must form a united national pricing policy.

It is impossible to avoid the danger of monopolization of the agricultural market by agricultural holdings, as well as the significant danger to the environment, soil depletion, destruction of the natural ecosystem, deterioration of product quality due to the use of genetically modified technologies etc.

In the author's opinion, saling of agricultural land with an area of up to 10 thousand hectares to one owner for individuals and legal entities (according to the law № 2178-10), since 2024, this legislative approach would be illogical approach. This is evidenced by the experience of European countries and existing government and budget support programs for farms, which have been adopted annually since the reporting year of the introduction of the moratorium.

However, it should be noted that the opening of the land market is an extremely important step for Ukraine in terms of filling the state budget and ensuring the realization of land ownership rights by citizens of Ukraine. We argue that the adoption of the moratorium on the sale of agricultural land does not comply with the Constitution of Ukraine. It was noted above that the adoption of the moratorium also did not comply with the Convention for the Protection of Human Rights and Fundamental Freedoms. The moratorium restricts the inalienable right of a citizen and interferes into making of private-law relationships between citizens, which should be institutionally outside of public law (Zelenchuk and Tsytsyura v. Ukraine, 2018). The existence of the moratorium is contrary to the rules of national and international law, which are fundamental in most countries of the world. At the same time, in the temporal-legal dimension and in the context of existing legal reality in Ukraine, the moratorium was critically necessary to preserve national security at the time of its adoption.

Ehereby, the moratorium was a temporary measure aimed at certain restrictions on citizens' rights. The main task for Ukraine during existing of the moratorium was to create all the necessary conditions for the implementation of a free and transparent market for agricultural land. However, we noticed that by 2020 the government had not proposed a proper long-term agricultural land market development program, which led to a consistent extension of the moratorium. Some authors have noted (Kvartiuk & Herzfeld, 2019, p.14) that a long-term restriction of ownership leads to the malfunctioning of the agro-industrial complex. This situation occurred in the Republic of Kazakhstan, in which less than 1% of agricultural land was sold de facto. Accordingly, this situation leads to the inert display of the crop market, where dominate short-term agrarian projects, such as oilseed or grain crops. Such a restriction may also be reflected in the mind of the landowner. The user does not have a responsible attitude to the allotment area, and this stops the creation of institutions of a responsible owner, which are extremely important in the post-Soviet countries.

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It should be noted that most European countries today have a land market open to foreigners (Hartvigsen, 2015). For example, in Bulgary land for agriculture could be bought by a legal or private person who has been in the country for more than five years, a company from the country with which Bulgaria has concluded an international agreement, as well as from EU countries.

In Estonia, foreigners were almost immediately allowed to participate in the purchase of land for agricultural use. At the same time, in Poland partial restrictions on the participation of foreign capital in the purchase of agricultural land existed until May 1, 2016, afterwards it was only eventually abolished for EU citizens. In Romania, after the country's accession to the EU in 2007, a seven-year moratorium on the sale of land to non-residents was introduced. The moratorium was lifted in 2014. In Croatia, foreigners do not have access to agricultural land. In Ireland, non-EU legal entities have to get the approval of a Land Commission. In Spain, there are no restrictions for the purchase and sale of land for foreigners. In the context of our research, the experience of Germany is interesting. There the process of land market formation was carried out in several stages. In the first stage of land reform land was not sold but only leased for 12 years. In the second stage the state land was sold at preferential value, first of all, to those who lost their lands in 1945 or were already involved in agricultural production. In the third stage lands, which was still in the state fund, were sold on market terms through auctions. There are no land restrictions for German nationals and foreigners.

In Switzerland, the conditions for the purchase of land include the citizenship of the EU, one of the countries of the European Free Trade Association or Switzerland residence permit (Kuns et al., 2016). Therefore, we can say that in the first stage many European countries had restrictions on the nationality of land purchasers. At the same time, today almost all EU countries allow the purchase of agricultural land by citizens of other EU countries.

This information allows us to conclude that restricting the purchase of land by foreigners is not only the Ukrainian practice. However, in most countries this measure was positioned as a temporary necessity for a certain period. In Ukraine this provision is enshrined as a permanent (not temporary) rule. Even the new proposals, that give hope for foreign investors to enter the market after the referendum, do not look convincing. Despite all the risks posed by the purchase of agricultural land by foreigners, banning such operations on a permanent basis in the face of severe foreign investment deficits is a short-sighted position. We consider it necessary to note that in some countries the alienation of agricultural land is permissible. It means that land use restrictions are based on the fact that the permit for the purchase of agricultural land is issued only to persons who have a professional qualification in the field of agriculture, who are agree to reside in the designated territory and to carry out agricultural activities by their own forces.

In particular, in Italy, France and Germany land-usage control consist of that landowners must obtain permission from the competent public authorities to implement land agreements. Public authorities are empowered to prohibit the conclusion of an agreement due to lack of special education or experience, as well as to modify the terms of the agreement in part of its validity, land prices, etc. (Babchenko, 2016).

It follows from the above that most scholars emphasize the need of introducing the open market for agricultural land for any market economy. The doctrine suggests that the land lease strategy is ineffective because it does not lead to long-term economic design and this significantly impedes foreign investment. We note that developed countries governments are trying to create the conditions for long-term investment plans, which requires an open land market, including for foreign investors. In such a situation, maintaining the status quo and the moratorium on the sale of agricultural land can lead to consistent negative consequences not only for the economy and the environment, but, above all, for the realization of the land ownership rights of individuals.

In terms of foreign economic policy, the weakened position of large agricultural producers who are forced to use large portions of leased land is an

advantageous in the short-term perspective and creates the illusion of security and regulation of the market. Probable liberalization of the land sale market and, consequently, the rise of land prices encourages these enterprises to reconsider their land access strategies. These businesses may even be reorienting from short-term business models of production that are geared toward exporting grain crops and oilseeds, to the production of long-cycle products, including the opening of ancillary producs, such as livestock or fisheries. The liberal land sale market will probably encourage all interested producers to move to long-term business models and invest in land and technology. Maintenance of large areas of operating land on the basis of lease agreements with land part owners requires considerable administrative effort and expenditure from large agricultural enterprises. Many of them would optimize existing land holdings with certain parts of the purchased land, gradually reducing the uncertainty of rent.

When we speak about Ukraine, the main debates focus on the reform scenarios that lie between the status quo and full liberalization and represent a balanced interaction between policy objectives and the economic efficiency of agriculture. Considering what is written above, the most rational initiative seems to be the phased implementation of the reform against the backdrop of existing public sentiment. In the first stage it is necessary to restrict the land market to foreigners only. Contrary this policy of «full liberalization» scenario, renters would probably pay rent before the land rent is completely reduced.

It is possible to predict that the state will have losses as a result of lowering the market price for land in the process of gradual liberalization (which is de facto enshrined in the draft law № 2178-10). Part landowners may forego some rental income and farmers will have to deal with less privatization, rental and tax revenue. As a result, aggregate economic returns are expected to be lower than in case of full liberalization.

The phased scenario with elements of restrictive agricultural land market politic may partially redistribute the welfare of large agricultural producers, because not all of these entities have the proper amount of administrative resources to provide mixed ownership of the tenant-ownership formula. Accordingly, those owners who receive the maximum amount of land ownership will be able to move to more flexible types of farming. At the same time, producers who will not be able to obtain land to ownership for any reason will have to stay in the positions of short-term projects (oil plants, grain crops). It is obvious that the rights of tenant land users are limited, because in case of landlord's refuse to sell the land or in case of the land being sold to another landlord, the tenant may incur significant losses related to land reclamation, irrigation, soil enrichment etc.

In addition, any policy that imposes permanent restrictions, or excludes certain entities, causes unforeseen side effects associated with the constant search for rent, which will be significantly complicated by the right of redemption of the land by tenants (this principle is enshrined in the draft law № 2178-10).

We can conclude that the phased scenario is a compromise for Ukraine, but by 2024 it will not be able to activate the land market to a sufficient level to attract investment. However, for today, this approach is non-alternative. We have emphasized that countries such as Germany, Poland, France and Brazil have also been opening the land market in stages and the land reform has been going on for a total of 10 to 30 years. Therefore, despite the attractiveness of the full liberalization market, it is risky for Ukraine for the following reasons:

- high probability of lack of competition due to the launch of multinational companies;
- high probability that the population will absolutely not accept the reform and this can lead to protests and riots. The sale of agricultural land is an unpopular issue in society amid the populist slogans of individual political leaders;
- it is impossible to rationally evaluate the land market because military

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aggression is currently taking place in the East of Ukraine. In case of aggravate of conflict and territorial losses, the normal functioning of the land market may be in jeopardy by the lack of a mechanism for securing property rights in temporarily occupied territories. In the case of presence of foreign capital, the situation is very complicated because the dispute will fall within the legal field of international law, which will negatively affect the prestige of Ukraine in the eyes of international institutions and other states;

• the absence of an administrative market intermediary (such an intermediary exists in Germany and France) will inevitably lead to the emergence of formation of a shadow land market. Presence of land shadow market is a disadvantage for replenishing the state treasury;

• from the position of political economy theory, for opening the free land market it is necessary to ensure fully the functioning of a free and transparent agrarian market in the country. Effective and understandable market laws must operate in Ukraine. Unfortunately, no proper legislative framework has been formed in Ukraine so far;

• against the backdrop of the worldwide COVID-19 epidemic and the attendant global economic crisis, the value of tangible assets (which include agricultural land, oil, gas, real estate) will be inevitably diminished. At the same time will also increase the value of working capital due to its over-holding (gold, silver, world currency, bank assets). Accordingly, there is a danger of a gradual setback in the price of agricultural land. However, this factor is absolute; it will also affect the rental relationship;

• lack of effective legal instruments for regulating the market already at the stage of land allocation. From a formal and legal point of view, it is necessary to align a number of normative-legal acts, as well as by-laws, for the making of the agricultural land market. Those rules for unspecified reasons were not mentioned in the draft law № 2178-10. First of all, it is necessary to change the formula for calculating the value of land in order to reach the market price level. Those changes should be amended by the resolution of the Cabinet of Ministers of Ukraine «On Approval of the Methodology for Regulatory Monetary Land Valuation». Equally important are the amendments to the Law of Ukraine «About the State Land Cadastre» and to a number of by-laws of keeping the cadastre, in terms of control adherence by landowners to land boundaries and areas of lands which are obtained in ownership, as well as the mechanism of imposing administrative sanctions for their violation.

Conclusions. We have analyzed the experience of reforming the land sale market in foreign countries in the context of finding out the possibility and feasibility of its application in Ukraine.

According to the results of the study, we conclude that, on the one hand, the idea of introducing a land market is quite successful in terms of economic development of the country. On the other hand, the proposed concept has numerous risks and disadvantages. One of the disadvantages are excessively large land for sale (73% of the country).

The sale of large territory will probably have a significant negative impact on Ukraine's national security, with all its consequences, despite the current situation in the territories of Donetsk and Luhansk regions due to Russia's aggression. The position regarding the sale of land to foreign citizens is doubtful and unsuccessful in terms of ensuring the territorial integrity of Ukraine, at least in the near future.

According to the results of the study, it is necessary:

1. To reduce the maximum area of ownership of agricultural land to one thousand hectares (instead of 10 thousand hectares defined by the draft law № 2178-10). The project involves the amount of land for sale which will make conditions for mass speculation in the land sale market and will build a shadow scheme in the form of a speculative land market. Hence the need to develop and adopt a separate law to establish a mechanism for controlling land tenure and land usage within territorial communities.

2. It is imperative to create a mechanism for long-term lending to farms for the acquisition of preferential agricultural land at the same time as the land market opens. To do this, it is necessary to make the legislative changes to the agricultural development program until 2030, which was approved by the Cabinet of Ministers of Ukraine.

3. It is necessary to establish legal liability for speculative trade in the land sale market by introducing appropriate amendments to the Code of Administrative Offenses and the Criminal Code of Ukraine (in cases where unfair competition and speculation resulted large losses for the state and third persons).

4. It is necessary to create a mechanism of state control over the observance for adherence by landowners to land boundaries and areas of lands which are obtained in ownership, as well as a mechanism of imposing administrative sanctions for their violation.

5. Review the concept of land sale market introduction in Ukraine.

Finally, it should be noted that the issue of land market reform requires further scientific research in order to identify successful experiences and miscalculations of foreign countries in this area, as well as the problematic aspects of the newly adopted law of Ukraine and to make recommendations for their elimination.

Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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Кристина Резворович

СВІТОВИЙ ДОСВІД РЕФОРМУВАННЯ РИНКУ ЗЕМЛІ: ТЕМПОРАЛЬНО-ПРАВОВИЙ ВИМІР

Анотація. Статтю присвячено аналізу досвіду реформування ринку землі в зарубіжних країнах з погляду темпорально-правового аспекту у контексті з'ясування можливості та доцільності його застосування в Україні. Основний акцент зосереджений на аналізі успішних земельних реформ розвинених демократичних країн. Було проаналізовано як структуру земельного управління, так і систему здійснення земельних торгів, які в більшості країн є частиною державного регулювання. В статті зосереджено увагу на необхідності побудови стійкого економіко-правового фундаменту для вільного ринку землі, який за своєю сутністю є явищем змінним і варіативним в умовах лібералізації економіки. Вільний ринок землі має дуже розширену інертність, що вказує на його прямопропорційну залежність від наявної ситуації в економіці країни. Тому логічним кроком перед здійсненням реформи є стабілізація економіки. Автор підкреслює, що не зважаючи на привабливість ринку повної лібералізації, його слід визначати ризикованим в Україні з наступних причин: висока ймовірність відсутності здорової конкуренції у зв'язку з виходом на ринок транснаціональних компаній; висока ймовірність абсолютного несприйняття реформи населенням, що може призвести до протестів та заворушень; в період військової агресії на сході України неможливо раціонально оцінювати ринок землі і у випадку загострення конфлікту та територіальних втрат нормальне функціонування ринку землі може бути під загрозою у зв'язку із відсутністю механізму забезпечення права власності на тимчасово окупованих територіях; відсутність адміністративного ринкового посередника, такого який існує в Німеччині чи Франції, невідворотно призведе до появи тіньового ринку землі, що є невигідним для поповнення державної скарбниці; для відкриття вільного ринку землі необхідно повністю забезпечити функціонування вільного і прозорого аграрного ринку в державі загалом, досі в Україні не сформовано належної законодавчої бази з цього питання; на фоні всесвітньої епідемії COVID-19 та пов'язаної з нею прогресуючої кризи світової економіки буде невідворотно занижуватися цінність матеріальних активів, відповідно є небезпека поетапного регресу ціни на землі сільськогосподарського призначення; відсутність ефективних юридичних інструментів регулювання ринку вже на етапі розподілення земель.

Ключові слова: *ринок землі, мораторій, цільове призначення земель, агрохолдинг, земельна реформа*

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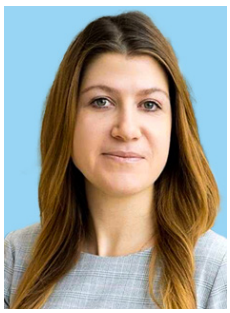

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FEATURES OF PUBLIC ADMINISTRATION IN THE FIELD OF ROAD INFRASTRUCTURE IN UKRAINE AND TAKING INTO ACCOUNT OF EU STANDARDS FOR ITS IMPROVEMENT

Abstract. The article proposes scientifically substantiated mechanisms of complex solution of problems of public administration in the field of road infrastructure in Ukraine, which must be solved considering the international, first of all European experience of effective public management in this field, which is the subject of research. It was found that public administration (management) in the field of road infrastructure includes the following components: the state of legal support for the functioning of road infrastructure in Ukraine and determining the prospects for its improvement; legal grounds, procedure and conditions for financing road infrastructure in Ukraine and abroad; efficiency of the system of public administration bodies in the field of road infrastructure and identification of ways to improve it.

It is proposed to adopt the Law «On Road Infrastructure» which defines the legal, economic, organizational and social principles of ensuring the functioning of road infrastructure, areas of its development, reconstruction, repair and maintenance with a clear jurisdiction of specific public authorities responsible for its maintenance and financing. Measures to improve public administration in the field of road infrastructure in Ukraine are proposed, considering the experience of the EU.

Keywords: *public administration, road infrastructure, legal support, subjects of administration, financing of road infrastructure*

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Introduction. Road transport is one of the most important branches of social production and is designed to meet the needs of the population and social production in spatial movement. The purpose of public administration in the field of road transport is timely, complete and high-quality satisfaction of these transportation needs and the of state defense needs, protection of rights during transport services, safe operation of transport, compliance with the required pace and proportions and more.

Analysis of recent research and publications. Proper functioning of road transport is not possible without the existence of a developed and high-quality road infrastructure, which is just beginning to develop according to global, including European standards despite 30 years of independence (ie creation) of our country, and therefore requires both adequate funding and quality public administration. So to assess the place of highways in the national transport system, a number of factors that represent public information should be cited. Thus, the length of state roads in Ukraine is 169.5 thousand km. The network of main routes is spread throughout the country and connects all major cities of Ukraine, as well as provides cross-border routes with neighboring countries, of which with a hard surface – 165.8 thousand km; there are still 250,000 km of city streets, the condition of which is the responsibility of local authorities (Sobkevych, et al., 2013, p. 21). It should be noted that the general network of highways in Ukraine was actually built by the end of the 80s and to this day is in a state of mostly reconstruction, with the small exception of new construction. It is obvious that today the development of public roads lags behind the pace of motorization of the country at least five times, so the number of cars compared to the 1980s today has increased 7 times, while the growth of roads has increased by 1, 5 times. During 1990-2010, their length did not increase. It should also be noted that the density of roads in Ukraine is 6.6 times lower than in France (respectively 0.28 and 1.84 kilometers of roads per 1 square kilometer of the country). The length of highways in Ukraine is 0.28 thousand kilometers (in Germany – 12.5 thousand kilometers, in France – 7.1 thousand kilometers), and the level of funding for one kilometer of roads in Ukraine, respectively, 5.5-6 times less than in these countries. Not surprisingly, in 2017, Ukraine ranked 133rd out of 148 countries in the ranking of American researchers who asked drivers of one and a half hundred countries whether they are satisfied with their roads (N. Antoshchishina, 2013). Thus, the problem of complex administration in the field of road infrastructure in Ukraine is urgent, which must be solved considering the international, primarily European experience of effective public management in this area, which is the subject of research within this scientific article.

The purpose of our article is to determine that public administration (management) in the field of road infrastructure includes the following components: the state of legal support for the functioning of road infrastructure in Ukraine and identify prospects for its improvement; legal grounds, procedure and conditions for financing road infrastructure in Ukraine and abroad; efficiency of the system of public administration bodies in the field of road infrastructure and identification of ways to improve it.

Formulation of the main material.

1. The state of legal support for the functioning of the road infrastructure in Ukraine and the definition of prospects for its improvement. Thus, the Constitution of Ukraine, in Article 116 (1996) of the management of state property according to the law (in relation to road infrastructure) is referred to the powers of the Cabinet of Ministers of Ukraine. The Law of Ukraine «On Motor Roads» (2005), defines the legal, economic, organizational and social principles of ensuring the functioning of roads, their construction, reconstruction, repair and maintenance in the interests of the state and road users. In particular, it defines the concepts of «highway», «street», «road surface», defines the types of roads and their components, road management authorities and their powers. The novelty of this law is the definition of the legal status of roads in Ukraine, the classification and procedure for transferring public

roads to the category of high and general principles of financing the construction, reconstruction, repair and maintenance of roads.

Concerning normative acts in the field of road infrastructure of Ukraine are the Laws of Ukraine «On Transport» and «On Road Transport» (2001, p.105), which define the legal, economic, organizational and social bases of transport (including road transport and road infrastructure), define the concept and content of the transport system of Ukraine, governing bodies in the field of road transport and road infrastructure, types of road transport, general principles of road transport safety, etc.

Laws that determine the sources of financing the construction, reconstruction, repair and maintenance of public roads are the Tax Code of Ukraine (2011), the Laws of Ukraine «On sources of financing the road industry of Ukraine» (1991, p. 648), «On concessions» (2019, p. 235). Thus, the Law of Ukraine «On Sources of Financing of the Road Economy of Ukraine» defines the legal basis for financing the costs associated with the construction, reconstruction, repair and maintenance of public roads and rural roads of Ukraine.

At the by-law level, the issues of public administration of road infrastructure in Ukraine are regulated by a number of acts. Thus, the Resolution of the Cabinet of Ministers of Ukraine (hereinafter – the Cabinet of Ministers) of September 16, 2015 № 712 (p. 278), defines an exhaustive list of public roads of state importance. The Resolution of the Cabinet of Ministers of December 20, 2017 № 1085 (p. 138) defines the mechanism for directing funds from the state road fund, which is created as part of a special fund of the state budget and calculations of budget funding for construction, reconstruction, repair and maintenance of roads in Ukraine.

Some normative acts of the Government of Ukraine define strategic (short-term and long-term) plans for reforming the road infrastructure sector of Ukraine. In particular, in the National Transport Strategy of Ukraine for the period up to 2030, approved by the Order of the Cabinet of Ministers of May 30, 2018 № 430-r. (p.533) provides for the development of a priority network of highways, namely: providing short-, medium- and long-term planning for the development of highways; identification of key indicators of road management efficiency and monitoring system for their implementation; introduction of European standards of design, development and maintenance of roads, improving the quality of road surface and the validity of the choice of its type, in particular by gradually restoring the operational characteristics of the road network; improving the quality and durability of roads on the basis of design and estimate documentation and conclusions of the feasibility study; increasing the share of paved public roads; development of a network of road service points to ensure verification of compliance with the requirements of work and rest regimes of drivers in accordance with the European Agreement on the Work of Crews of Vehicles Performing International Road Transport (EUTR); introduction of long-term contracts for the maintenance of roads based on their work and final results; increasing the number of mobile dimensional and weight complexes and ensuring effective control over exceeding the dimensional and weight parameters of vehicles; creation of a competitive environment and a favorable business climate in the market of transport services, in particular, expansion of the list of services provided by enterprises of the transport industry, etc.

The order of the Cabinet of Ministers of March 28, 2018 № 231-r «On approval of the action plan to implement the Strategy improving road safety in Ukraine until 2020» (p. 115) provides for a number of measures aimed at developing road infrastructure of Ukraine, in particular: arrangement of unregulated intersections protected turns, and on highways, streets, in places of turn – brake lanes; increasing the informativeness of highways and their infrastructure; equipping sections of the road network with a transport fence, in particular one that separates oncoming traffic directions; application of the newest technical means of the organization of road traffic with the improved characteristics of perception by participants of movement and the raised characteristics of wear resistance (a marking, lighting); modernization

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of traffic light facilities; ensuring the safety of roadsides, their strengthening and cleaning; construction of ring intersections of small radius, etc.; bringing the requirements for the placement of outdoor advertising on international highways in line with the European Agreement on International Motorways; strengthening road safety at railway crossings and approaches to them; lighting of streets and roads with the use of energy-saving technologies, especially on sections of category I roads passing through settlements (Report of the State Agency of Motor Roads of Ukraine on the implementation of the state budget of Ukraine for 2017-2019, 2021).

The Strategic Plan for the Development of Road Transport and Roads for the period up to 2020, developed by Ukravtodor and approved by the Resolution of the Cabinet of Ministers of December 21, 2015 provides for the achievement of the following key goals: modernization of the existing road management system; reconstruction and / or technical maintenance of the road network; effective management of the use of the car network; improving the quality and safety of services for the carriage of passengers and goods, etc. (https://mtu.gov.ua/).

It should also be noted that the share of international legal acts that regulate the relations of public administration of road infrastructure in Ukraine are agreements to attract foreign investment in this area. In particular, it should be noted that on July 9, 2018 between Ukraine and the European Investment Bank signed a Financing Agreement for the Project «Improving road safety in the cities of Ukraine» (2020, p. 35). According to this project, the Ministry of Infrastructure has been appointed the responsible executor of the Project, which is provided by the order of the Ministry of Finance dated 03.07.2018 № 596 «On the expediency of preparing a joint reconstruction with the European Investment Bank. The estimated cost of the Project (according to EIB experts) is EUR 177 million (excluding VAT), of which loans: EIB – EUR 75 million; EBRD – 75 million euros; the rest – own funds of cities, technical assistance. The main task of the Project is to reduce the number of fatalities and serious injuries in road accidents in urban areas, with special attention to the two categories of victims – pedestrians and cyclists, improving urban road infrastructure to reduce road accidents; improving the infrastructure of road intersections; street renovations: improving infrastructure for pedestrians, cyclists and public transport and utilities; preparation of itinerary action plans or programs of wide zones (speed reduction in settlements or near schools); support for the legal and monitoring framework for the implementation of such measures. The Project is planned to be implemented in the following cities: Lviv, Odesa, Dnipro, Kharkiv, Kyiv and Kamyanets-Podilsky (Infrastructure projects in the field of transport safety. Project «Improving road safety in the cities of Ukraine», 2021).

Given the analysis of regulations that in one way or another regulate the principles of public administration in the field of road infrastructure and based on strategic development plans in this area in Ukraine, it is advisable to make the following legislative changes: adopt the Law «On Road Infrastructure» to define legal, economic, organizational and social principles of ensuring the functioning of road infrastructure, directions of its development, reconstruction, repair and maintenance with definition of clear jurisdiction of specific public authorities responsible for its maintenance and financing, or supplement the Law of Ukraine «On Road Traffic» with a separate section such legal bases; to adopt the Resolution of the Cabinet of Ministers of Ukraine «On the procedure for maintenance of roads and road infrastructure of Ukraine», which determines on the basis of the Law «On Roads» types of roads and their infrastructure, and determine the jurisdiction of each public authority for their maintenance, including jurisdiction: Ukravtodor, road services of local authorities, local governments.

2. Legal bases, order and conditions of financing of road infrastructure in Ukraine. At the present, the main source of funding for the development of the network of public roads is the funds of the state and local budgets (Table 1). The state budget finances the repair and maintenance of long-distance roads, and local

budgets are responsible for similar work in cities and towns.

Below are key indicators of planning and spending of public funds to finance the development of road infrastructure.

Table 1

Financing of the road industry of Ukraine from the state and local budgets in 2017-2019, UAH million (Report of the State Agency of Motor Roads of Ukraine on the implementation of the state budget of Ukraine for 2017-2019, 2021).

Budget year	***Amounts (billion UAH) spent from the state budget***	***Amounts (billion UAH) spent from local budgets***
2017	26, 2	2,1
2018	29,3	3,3
2019	44,2	6,2

As can be seen from table 1, the financing of the road sector in Ukraine from the state budget since 2017 has been increasing proportionally annually by more than 30%, while the increase in funding from local budgets has been insignificant. According to Ukravtodor, economic losses due to the unsatisfactory condition of roads reach UAH 55,000 million per year, ie about 3.7% of GDP. At the same time, the state budget provided for the repair and development of road infrastructure by 2019 a little more than 1% of GDP.

However, the planned budget funding for this area in 2020 reached the highest figure of UAH 69.7 billion, of which only UAH 4.7 billion. It is planned to attract funds from international donors, which is 38% more than in 2019.

In addition, the Cabinet of Ministers approved amendments to the State Targeted Economic Program for the Development of Public Roads of State Importance for 2018-2022, according to which the projected amount of funding for this program is 322.15 billion hryvnias, including from the state road fund – in the amount of 193.15 billion hryvnias, of which 32.76 billion hryvnias are provided for repayment of loan liabilities, 7.96 billion hryvnias at the expense of the general fund of the state budget, 20.26 billion hryvnias at the expense of international financial organizations, at the expense of investors' funds – UAH 100.78 billion (On approval of amendments to the State target economic program for the development of public roads of state importance for 2018-2022: Resolution of the Cabinet of Ministers of Ukraine № 36. Art. 552, 2020, p. 20).

All this indicates that today we are reaching economically sound indicators of financing the development of road infrastructure in Ukraine, which will bring this area closer to European standards and increase the level of investment attractiveness of Ukraine, which will boost the country's economy.

Below it is expedient to give economic and legal means of formation of financing of road infrastructure in Ukraine. For the purposes of financing works related to the construction, reconstruction, repair and maintenance of public roads, a state road fund is created within the special fund of the State Budget of Ukraine. The income part of this fund is formed at the expense of: 1) excise tax on fuel and vehicles produced in Ukraine; 2) excise tax on fuel and vehicles imported into the customs territory of Ukraine; 3) import duty on petroleum products and vehicles and tires for them; 4) tolls for motor vehicles and other self-propelled machines and mechanisms, the weight or dimensions of which exceed the normative; 5) funds of the special fund of the State Budget of Ukraine, obtained by the state attracting credits (loans) from banks, foreign states and international financial organizations for the development of the network and maintenance of public roads; 6) tolls on toll public roads of state importance, the maximum amount and procedure for which

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are set by the Cabinet of Ministers of Ukraine; 7) concession payments – in the case of construction and operation of roads on the terms of the concession; 8) other revenues provided for by the State Budget of Ukraine, in the amounts determined by the law on the State Budget of Ukraine for the relevant year; 9) tolls for the passage of vehicles and other self-propelled machines and mechanisms, the weight or dimensions of which exceed the normative; 10) administrative and economic fines for violation of the legislation on road transport and administrative fines for offenses provided for in part one of Article 122-2 and part two of Article 132-1 of the Code of Ukraine on Administrative Offenses.

In turn, the funds of the State Road Fund of Ukraine are directed to:

1. For financial support of construction, reconstruction, repair and maintenance of public roads of state importance, as well as the implementation of design and survey and research work, the creation and operation of information and analytical system of road management, ensuring the development of production facilities of road organizations; maintenance of branch medical establishments for rehabilitation of participants of liquidation of consequences of catastrophe at the Chernobyl nuclear power plant; conducting tenders and preparation of contracts for construction, reconstruction, repair and maintenance of public roads at the expense of international financial organizations, other creditors and investors, co-financing of these works in accordance with the relevant agreements, monitoring their implementation and commissioning of roads, road management.

The main administrator of the state road fund, which is directed to the financial support of construction, reconstruction, repair and maintenance of public roads of state importance is the central executive body that implements state policy in the field of road management – State Agency of Motor Roads of Ukraine (hereinafter – Ukravtdor).

2. A subvention from the State Budget of Ukraine to local budgets to finance the construction, reconstruction, repair and maintenance of public roads of local importance, as well as streets and roads of communal property in settlements, which is distributed among local budgets depending on the length of public roads of local importance the value of the relevant administrative-territorial unit. This subvention may be used for construction, reconstruction, repair and maintenance of streets and roads of communal property in settlements in the amount of not more than 20 percent of the amount of such subvention approved by the law on the State Budget of Ukraine for the relevant local budget.

The main administrators of these funds, which are directed to the territorial road funds, are the Council of Ministers of the Autonomous Republic of Crimea, the relevant regional, Kyiv and Sevastopol city state administrations (Local executive bodies).

3. For financial support of measures to ensure road safety in accordance with state programs.

The main administrator of the state road fund, which is used to finance road safety measures in accordance with state programs, is the central executive body that ensures the formation and implementation of state policy in the field of transport (Ministry of Infrastructure of Ukraine).

Expenditures to finance works related to the construction, reconstruction, repair and maintenance of public roads of local importance, streets and roads of communal property in settlements are provided annually in local budgets (ie, in the budget of the Autonomous Republic of Crimea, regional, urban, rural and village budgets for the current year).

Funds of territorial road funds are directed to the construction, reconstruction, repair and maintenance of public roads of local importance, streets and roads in settlements belonging to communal property, as well as to the needs of road management in areas determined by the Verkhovna Rada of the Autonomous Republic of Crimea, regional, city, settlement and village councils.

According to the Procedure for directing funds of the state road fund,

approved by the Resolution of the Cabinet of Ministers of Ukraine of December 20, 2017 № 1085 (2015, p. 82) financial support for construction, reconstruction, repair and maintenance of public roads of state importance is carried out through the following payments:

$$P = (A+B+C+D+E) \times \frac{60}{100} - Z_{dz}$$

A – excise tax on fuel and vehicles produced in Ukraine, which is credited to the special fund of the state budget in the planning year; B – excise tax on fuel and vehicles imported into the customs territory of Ukraine, which is credited to the special fund of the state budget in the planning year; C – import duty on petroleum products and vehicles and tires to them, which is credited to the special fund of the state budget in the planning year; D – tolls for vehicles and other self-propelled machines and mechanisms, the weight or dimensions of which exceed the normative; E – toll for toll public roads of state importance; Z_{dz} – the amount of payments required in the relevant year for the fulfillment of debt obligations on borrowings received by the state or under state guarantees for the development of the network and maintenance of public roads.

The amount of budget funds for the financial support of construction, reconstruction, repair and maintenance of public roads of local importance, streets and roads of communal property in settlements, including the arrangement of parking spaces, stops, parking of vehicles is calculated as a subvention from the state budget to local budgets (hereinafter – the subvention) between the budget of the Autonomous Republic of Crimea, regional budgets and budgets of mm. Kyiv and Sevastopol, depending on the length of public roads of local importance in the relevant administrative-territorial unit as of January 1 of the year preceding the planned, with at least 80 percent spent on construction, reconstruction, repair and maintenance of public roads of local importance, and not more than 20 percent – for the construction, reconstruction, repair and maintenance of streets and roads of communal property in settlements.

Thus, the peculiarity of financing road infrastructure in Ukraine is as follows:

1) expenditures on financing works related to construction, reconstruction, repair and maintenance of public roads are carried out at the expense of the state road fund, as a component of the State Budget of Ukraine, formed by the Cabinet of Ministers of Ukraine (Government), adopted by the Verkhovna Rada of Ukraine. Parliament of the country), signed by the President of Ukraine (head of state) in December of the current budget year;

2) expenditures on financing works related to construction, reconstruction, repair and maintenance of public roads of local significance, as well as streets and roads of communal property in settlements are carried out at the expense of territorial (local) road funds as a component of city budgets, villages, settlements and united territorial communities, which are formed and adopted by local councils (regions, cities, villages, settlements) and signed by their chairmen.

This distribution of financing of road infrastructure of Ukraine is logical because public roads are state property, and therefore their financing is carried out from the state budget, and public administration is carried out by public authorities in the manner prescribed by the Government of Ukraine; accordingly, local roads (ie those used mainly by residents of relevant cities, villages, settlements) are municipal property, and therefore their funding is provided mainly from local budgets, and public administration is carried out by local authorities in the manner prescribed by the relevant councils.

However, the main problem of proper administration of road infrastructure in Ukraine, and consequently funding for construction, reconstruction and maintenance of roads is primarily the lack of a national classifier of roads in Ukraine (road map of road ownership), which would contain a complete classification of roads by dividing them. the following categories: 1) public roads of state importance; 2) public roads of local significance; 3) highways of settlements; 4) private roads; 5) highways of state enterprises of closed type, on the territory of which the internal

movement of transport is carried out.

It should be noted that the first two categories of public roads of state and local significance acquired their normative definition in the Law of Ukraine «On Motor Roads» of September 8, 2005 № 2862-IV, but this did not solve the problem of their proper public administration. At the legislative level, only general features of classifying highways to a certain category are defined, without their classification and delimitation of areas of jurisdiction (powers of a certain subject of public administration) for construction, reconstruction and maintenance, which is one of the significant shortcomings of Ukraine. European integration, investment and tourist attractiveness, proper use of the country's transit capacity, improving the living standards of its citizens.

3. The system of public administration bodies in the field of road infrastructure in Ukraine. The central executive body in this area is the Ministry of Infrastructure of Ukraine (Ministry of Infrastructure of Ukraine). The Ministry of Infrastructure of Ukraine operates on the basis of the Regulation approved by the Resolution of the Cabinet of Ministers of Ukraine of June 30, 2015 № 460 (2014, p. 23).

The main tasks of the Ministry of Infrastructure of Ukraine in the field of transport are: formation and implementation of state policy in the field of transport, use of roads; formation and implementation of state policy in the field of traffic safety.

The State Administration of Motor Roads of Ukraine and the State Inspectorate for Land Transport Safety are among the public administration bodies with authority over the functioning of road infrastructure. The State Agency of Motor Roads of Ukraine (hereinafter – Ukravtodor) is the central executive body, which operates on the basis of the Regulation approved by the Decree of the President of Ukraine of April 13, 2011 № 456/2011 (2014, p. 228). The main tasks of Ukravtodor are: implementation of state policy, as well as making proposals for its formation in the field of road management; management of public roads; informing and providing explanations on the implementation of state policy in the relevant field; organization of reconstruction, repair and maintenance of highways, appropriate engineering equipment, placement of road service facilities and other structures; providing technical regulation in the field of reconstruction and overhaul of roads; management of state property; exercise of other powers determined by the laws of Ukraine and assigned to him by the President of Ukraine.

The State Inspectorate of Ukraine for Land Transport Safety (hereinafter – Ukrtransinspektsiya) is the central executive body that in the field of road transport ensures the implementation of state policy on safety in public transport, for the transportation of which issued a license and operation of public roads (2021). Ukrtransinspektsiya in the field of road transport performs the following functions: approves the network of international and intercity and suburban public bus routes that extend beyond the territory of the region (interregional routes), and maintains a register of such routes; issues permits for international transportation of passengers and goods; carries out the state control and supervision over observance of requirements of regulatory legal acts concerning maintenance of safety on motor transport; issues certificates on the establishment of the bus class according to the parameters of comfort; issues certificates on attestation of bus stations and maintains a list of certified bus stations; carries out dispatching control over the work of road carriers that carry passengers on interregional public routes; issues license cards for vehicles of the business entity; carries out dimensional and weight control of vehicles at checkpoints across the state border and on public roads, etc.

4. Directions for improving public administration in the field of road infrastructure in Ukraine, taking into account the experience of the EU.

In 2018, the Ministry of Infrastructure of Ukraine developed a mechanism for implementing the project «Safe and high-quality roads», which provides, first, the introduction of safety audits for long-distance roads by creating an independent

safety audit and quality control of public roads, banning advertising media within the right-of-way roads, proper information of road users; secondly, the introduction of a new model of road infrastructure financing by reforming and filling the State Road Fund; timely and high-quality repair of roads by giving preference not to pit repairs of a significant part of the road, but to overhauls by gradually laying a new pavement (Vdovenko, 2007).

Additional measures to improve public administration in the field of road infrastructure in Ukraine, taking into account the experience of the EU could be: 1) introduction of the procedure for acceptance of the rebuilt road into operation with the responsibility of the contractor who won the tender for construction, reconstruction or repair of the road. years and then for 10 years, which is fully consistent with the established world practice of road construction and maintenance; 2) determination of the responsible representative of the owner for a separate category of roads, highway, part of the road, which is possible only with the full-scale completion of the draft cadastral map of roads of Ukraine; 3) introduction of the procedure of public control over the expenditure of budget funds for construction, reconstruction of roads, in particular introduction of reporting to Ukravtodor, local governments, as well as contractors who won the tender for construction (repair) of the road to the public, including introduction of public audit procedure and road repairs.

Also in Ukraine, given the experience of most European countries, it is necessary to introduce the practice of building highways on the basis of concessions during their construction and operation. Thus, in France, Italy, and Spain, for more than 30 years, the road sector has been financed mainly by concession investments; France has 5,830 km of roads built and operated on concession terms; the total length of Spanish highways built by concessionaires is about 1000 km.; the United Kingdom has adopted a program to improve the network of highways, focused on attracting private funds with the transfer of design and construction rights to private firms; Germany is expanding the practice of attracting private capital for the construction and maintenance of roads; many expressways there have already paid off during the concession, have been transferred to the state and are free; Eastern European countries (Hungary, the Czech Republic, Slovakia, Poland, Lithuania) have created a legal framework for granting concessions to foreign investors for the construction and operation of roads (A network of expressways is being developed in Ukraine, 2020).

Conclusions. To intensify this process and implement the world experience in the construction and operation of roads on the principles of public-private partnership on October 3, 2019 adopted the Law «On Concession» (2019, p. 325), which defines the legal basis for the concessionaire (state) in financing the construction and operation of roads, which is confirmed by the conclusion of a special agreement. This form of public-private partnership in the construction of roads is effective in the construction of highways, which according to Ukravtodor are planned to build 7075 km with a total cost of about 300 billion UAH. Partial implementation of these ambitious plans is carried out within the government project «Large Construction», in particular, according to which the construction of 4 thousand km. roads (2021), also developed a separate draft Law of Ukraine «On highways», which is currently being agreed (A network of expressways is being developed in Ukraine, https://ukravtodor.gov.ua/).

At the same time, in Ukraine the process of construction of roads on the basis of concession is not becoming widespread. In our opinion, the main deterrent for investors is the low economic efficiency of infrastructure projects and the lack of practical mechanisms for providing guarantees from the state to return investment and compliance with road conditions. Yes, to really move this inviolable stone, we mean the construction of toll roads is possible in our opinion under the following

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conditions: 1) approval of a long-term concession program for roads in Ukraine; 2) identification, together with international experts, of Ukraine's road corridors that require construction and for which tolls will be paid (here preference should be given to international motorways that provide a transit road corridor, provided that these highways should be the shortest, with minimal distortion on the horizon and should not pass through populated areas; 3) creating appropriate conditions and guarantees for investors; 4) mandatory design and construction of alternative roads to bypass tolls, or bringing existing ones in proper condition; 5) invention of the procedure for exemption of motor vehicle owners who use toll roads from paying additional excise duty on fuel; 6) introduction of insurance contracts for road infrastructure facilities, etc.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ВДОСКОНАЛЕННЯ ПУБЛІЧНОГО АДМІНІСТРУВАННЯ У СФЕРІ ДОРОЖНЬОЇ ІНФРАСТРУКТУРИ В УКРАЇНІ З УРАХУВАННЯМ СТАНДАРТІВ ЄС

Анотація. В межах наукової статті досліджено складові публічного адміністрування в сфері дорожньої інфраструктури, а саме: стан правового забезпечення функціонування сфери дорожньої інфраструктури в Україні та визначення перспектив його удосконалення; правові підстави, порядок та умови фінансування дорожньої інфраструктури в Україні та за кордоном; ефективність діяльності системи органів публічного адміністрування в сфері дорожньої інфраструктури та виокремлення шляхів її удосконалення.

На виконання завдань дослідження обґрунтовано необхідність:

– удосконалення правового забезпечення публічного адміністрування у сфері дорожньої інфраструктури шляхом: прийняття Закону «Про дорожню інфраструктуру» в якому визначити правові, економічні, організаційні та соціальні засади забезпечення функціонування дорожньої інфраструктури, напрямків її розбудови, реконструкції, ремонту та утримання з визначенням чіткої юрисдикції конкретних органів публічної влади, відповідальних за її утримання та фінансування; прийняття Постанови КМУ «Про порядок утримання автомобільних доріг та дорожньої інфраструктури України», в якій визначити на основі Закону «Про автомобільні дороги» види (типи) автомобільних доріг та їх інфраструктуру та визначити юрисдикцію кожного органу публічної влади щодо їх утримання; прийняття Постанови КМУ «Про порядок відшкодування шкоди завданої власнику транспортного засобу в результаті недотримання норм та стандартів у сфері автомобільних доріг та дорожньої інфраструктури»; розробку положення про «Автодорожний страховий фонд» з метою відшкодування шкоди завданої життю та здоров'ю власника транспортного засобу та його майну в результаті їх настання внаслідок порушення норм та стандартів у сфері автомобільних доріг та дорожньої інфраструктури;

– запровадження організаційних заходів, спрямованих на удосконалення публічного адміністрування у сфері дорожньої інфраструктури, а саме: введення процедури прийняття відбудованої автодороги в експлуатацію з встановленням відповідальності підрядної організації, яка виграла тендер на будівництво, реконструкцію або ремонт дороги з її обслуговування спочатку на 5 років, а далі на 10 років; визначення відповідального представника власника за окремою категорією доріг, магістраллю, частиною дороги, що можливе лише при повномасштабному завершенню проекту кадастрової карти автомобільних доріг України; запровадження процедури громадського контролю за витратою бюджетних коштів на будівництво, реконструкцію автодоріг, в тому числі запровадження процедури громадського аудиту будівництва та ремонту автодоріг; затвердження довгострокової програми концесії автомобільних доріг в Україні; визначення разом з міжнародними експертами автомобільних коридорів України, які

потребують будівництва та за рух через які буде сплачуватись плата; розробка процедури звільнення власників автотранспорту, які використовують платні дороги від сплати додаткового акцизу на паливо; запровадження договорів страхування об'єктів дорожньої інфраструктури та ін.

Ключові слова: *дорожня інфраструктура, автомобільні дороги, публічне адміністрування, форми публічного адміністрування, зарубіжний досвід*

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DECODING OF LEGAL FORMULAS OF THE FIRST CONSTITUTION OF THE RSFSR OF JULY 10, 1918: «ANTI-LEGAL» NATURE OF CONSTITUTIONAL NORMS

Abstract. Law is an achievement of human civilization, it is based on the system of natural human rights, the structural components of which are being deployed, detailed, supplemented by laws and other acts of state power. Therefore, the law does not pursue the goal of alienation of fundamental rights and freedoms through the laws of the country. The article considers the illegal provisions of the Constitution of the RSFSR of July 10, 1918.

The author substantiates the natural nature of property rights on the basis of historical examples, documents, actions and their consequences. An illustration of the violations of the laws of materialist dialectics and the realization of the scholastic ideas of the Bolshevik movement, which became the foundation for the construction of a despotic, totalitarian political system, is given.

Keywords: *Constitution; natural human rights; private property; political repression; illegal law*

Introduction. Legislative risks are one of the key problems of law, because a person or group of persons in whose hands the powers of the legislator are able to formally give legal effect to anti-legal norms created to ensure their personal interests that run counter to natural human rights and freedoms. Such norms are toxic, they are dangerous for society and cause indelible harm, entailing tragic consequences. However, the greatest threat is posed by anti-legal norms enshrined in the constitution, endowed with supreme legal force, and, consequently, like a virus capable of reproducing within each cell (norm) of tissue (institution), organ (industry) and thus affect the whole body of the law.

That is why the constitutional norms reflect the basic ideas, the initial provisions of law. By their nature, constitutional norms are irrational, they are invariant and are subject to decoding by means of subordinate legal acts: codes, laws, by-laws

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and acts of law enforcement. Thus, constitutions that consolidate irrational (eternal) ideas of law are not subject to change (French Declaration of the Rights of Man and of the Citizen; US Constitution), while subordinate legal acts are dynamic and depend on unique life situations, constantly changing objective reality, evolutionary transformation of cultural, political , economic formation of society.

The Constitution is the core of the national legal system, around which the other components are structurally integrated: industries, institutions, norms. The Constitution is the potential of the legal system, the vector of law-making and law enforcement activities of the state. Constitutional norms occupy a dominant position in the hierarchy of legal acts, in other words: no norm of a code, law, by-law or law enforcement act should contradict constitutional provisions. The Constitution determines the legal and political regime of the state, establishes the legal status of the individual. That is why lawyers, decoding constitutional formulas, assess states as «legal» or «non-legal».

Analysis of recent research and publications. When discussing the legal / non-legal nature of the first Constitution of the RSFSR of July 10, 1918, it is necessary to pay attention to the contradiction of its norms due to the binary opposition of legal and anti-legal provisions. Thus, along with the hyperbolization of the idea of «the destruction of all human exploitation by man», «universal labor duty is introduced», and «the elimination of the division of society into classes», equality, does not agree with the deprivation of «individuals and groups». This condition is due to the closure of the institution of private property, which created favorable conditions for the development of the virus in the body of law, affecting other cells, tissues and organs that ensure a healthy human life.

Property law is a natural right, it stimulates a person to work, allows you to realize your creative potential, meet physical and individual needs, makes a person free and independent. For example, in the diachronic aspect of law, the existence of property is identified with the recognition of legal personality, because a person without property becomes a slave, an inanimate object, a thing of his master.

With this aim, the Romans imposed excessively high taxes on the conquered territories in order to subsequently confiscate property for non-payment of taxes and thus turn free people into slaves (a law requiring the impossible). Lack of property rights excludes the right to extract income, benefit from the results of personal creativity, which is the main stimulus for effective labor, and, therefore, the stimulation of slave labor is always violence, coercive measures, repression (hunger, torture, deprivation of life).

Thus, the institution of private property allows a person to remain free and independent, to make decisions independently and be responsible for him, to own, use and dispose of the results of their own production, to improve the quality of their lives. Therefore, from the point of view of law, a natural consequence of the curtailment of property rights is the existence of conflicts in the form of «destruction of all human exploitation by man» and universal forced labor, the ideas of equality and social discrimination.

The formula: «lack of property = forced labor + low quality of production» is an axiom even for a child who assessed the events in the school essay, which became the property of a report by the head of the Alma-Ata regional Department of the People's Commissariat of Internal Affairs. In it (report note), as one of the examples, the essay of a 9th grade student of the 37th school Komarov Gennady is given, who wrote: «Dispossession took place in front of my eyes. I looked at it this way: a person lives, strives for the best, fights for a better life. This is the basis of his life. But a person is ruined, even taken thousands of kilometers to an unfamiliar area, where a person feels lonely, feels injustice. In addition, he is forced to work, to cut down the forest, which he does not know how to do at all» (L. Degitayeva, exec. ed., 1998, p. 1).

Pupil Komarov Gennady does not yet have life experience, an immature, naive, open child with a pure consciousness, intuitively arranging the natural order of human life. In the essay, as he develops, he discusses the natural, natural desire of a person to improve the quality of life, while he focuses on the fact

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that a particular person was not looking for easy money, did not acquire, did not appropriate property in an illegal, criminal way, but erected her hard, painstaking work. This work is compared by a schoolboy literally with a struggle for the basis of human life, which is cut down on the vine and severely punished by the state. Komarov Gennady makes an attempt to reflect the feeling of a person punished for his diligence, striving for better living conditions, feeling loneliness, outcast, injustice. The student appeals to the absence of objective reasons for the labeling of «kulaks» on a particular individual, to some extent he considers the actions of state bodies to be criminal, using the theses «ruin», «taken away a thousand kilometers to an unfamiliar area», «forced to work». A naive worldview allows the student to express on paper, in a school essay, a sense of injustice towards hardworking people, bewilderment why, instead of developing skills and professionalism that bring economic benefits to the state and society, such people, on the contrary, are ruined and forcibly forced to do what they are not able to.

In fact, the expropriation of private property proclaimed by the Constitution, which engulfed the industrial industry, mining and processing plants, the banking sector, mineral resources, land resources and others, led to an economic collapse. The «factories, factories, steamships» expropriated by the Soviet government, having lost their owner, quickly fell into decay and the Soviets had no choice but to declare a New Economic Policy (NEP). However, as soon as private capital reached the appropriate level («bulls gained a slaughter mass»), sufficient to start another confiscation campaign, «New October» immediately followed. This alternation of incentives for the development of private capital and confiscations continued until the «right of private ownership of the factors and conditions of production» passed into the exclusive «monopoly of the state», and a person who had lost his property turned into a «slave» (Zh. Abylkhozhyn, 1997).

This pattern is due to the fact that in addition to expropriation, in the process of usurpation of the structure of property relations, the experience of the Roman slave system was used. Thus, the encouragement of the development of private capital was accompanied by tax pressure (reminiscent of the institution of a quitrent), which led to popular resistance, since for a simple worker, not just property was at stake, but the means that could simply save his life. After all, the remainder of the tax payment, not only did not allow the development of production, but also ensure the minimum conditions for human survival (the law requiring the impossible). Accordingly, the policy of «abolition of all exploitation of man by man» and «universal equality» was accompanied by «proletarian coercion in all its forms, from executions to labor service», which created a «new form of» concentrated violence «(repression), transforming the «economic structure society» (N. Bukharin, 1989).

Already in 1937, a pupil of the same 37th school, but 10th grade Gorban asked the question in school conversations: «When will these shootings end? These will be shot, and then the right-wingers will be revealed and so there will be no end to the shootings» (L. Degitayeva, exec. ed., 1998, p. 40). The lasting «concentrated violence» does not fit into the rational thinking of the student, he cannot understand why the revolution that took place not only dragged on for such a long period, but also turned into an internal confrontation of like-minded people. His young age, lack of life experience and limited theoretical knowledge do not allow him to come to the understanding that each property always has a specific owner, and, therefore, the elimination of contradictions between the owner and the expropriator entails contradictions between those who usurped this property. That is why N. Bukharin, who promoted violent forms of proletarian coercion, was shot on March 15, 1938 (a universal property of law).

But unlike the schoolchildren, the expropriators themselves were well aware that the implementation of the speculative Leninist idea of «ration loyalty» (Decree «On the introduction of labor food rations» of April 30, 1920. Http://www.libussr.ru), in a practical way, would require more stringent measures forcing the working

class and peasants to «slave» labor service. It was for these purposes that L. Trotsky (1990) – an army was created and repressions were applied, and since the source of the food ration was the means of production of the peasant, he was imposed «a tax in kind in the form of bread on pain of merciless reprisal», which, according to L. Trotsky, developed the reflex of the peasant to alienate the ownership of the means of his production in favor of his older comrades, who were authorized to dispose of and distribute «common» property.

Thus, the class struggle does not form a cunning historical formula, where the labor of the worker is paid for by the labor of the peasant (plebeians), and their «revolutionary consciousness» is ensured by the army and repression, while the «privileged comrades» (patricians) embody the idea of «abolishing all exploitation man by man «and» universal equality». And here, based on the diachronic canons of law, the question involuntarily arises: did the Bolshevik elite classify the workers and peasants deprived of their property rights, which entailed a de facto ban on the appropriation of the means of their own production, whose labor was stimulated by poor food and means of coercion (by the army and repression), the Bolshevik elite to the category «human»? Was the idea of «abolishing all exploitation of man by man» concerned with this category of citizens or was their constitutional niche «universal labor service»? We believe that everyone will find the answers to these questions in his own conscience. Although, in fact, the idea of full / inferior citizens was clearly reflected in the constitutional norms of the country of the Soviets.

Supporters of the materialist dialectic could not help but realize that the abolition of property rights, gradual, widespread expropriations would lead the country to economic collapse, food shortages, and hunger. They should have fully understood that their activities contradicted the dialectical law of the transition of quantitative changes into qualitative ones (from the standpoint of economic development). In particular, large Bai farms allowed small producers to develop and remain in abundance. The surplus of tools and means of production made it possible for the big bays to give them for the use of other communities, which appropriated the results of their own labor. For example, for grazing Bai cattle, obtained for use to maintain the technological optimum, the communities retained such means of production as wool and milk, from which they could create other types of products. The big buys retained the ownership of his livestock and offspring. Such relationships were not charity and the interests of the big bai dominated them, but they were beneficial for communities with a low concentration of livestock. Accordingly, the ruin of the big buy led to the ruin of the rest of the cattle-breeding societies. The same applies to the distribution of land resources among the poor, the absurdity of this idea lies in the fact that the poor do not have elementary instruments and means of production, and therefore: what should he do with this land and how to pay tax on it? And on the contrary, referring to the experience of the capitalist countries, the dialectical law of the transition of quantitative changes into qualitative ones transformed the «bourgeois» «into a» plowman «in the field of management and marketing», and the «proletarian» – «into the owner of a capitalist enterprise through the acquisition of its shares» (Zh. Abylkhozhyn, 1997, p. 86).

So, the natural character of the human right to property is immanently interdependent with the inalienable rights to life, legal personality, personal freedom and inviolability, the satisfaction of natural needs and human needs. In this regard, arguing about the legal / non-legal nature of constitutional provisions and acts of their implementation, aimed at stopping property rights, expropriation, social and other discrimination, these provisions should be compared with natural, fundamental, humanitarian human rights. After all, law as a living organism, which is in the binary opposition of the pathogen and the immune system, including brought to immunological tolerance, is capable of regenerating, restoring its tissues with the help of genetic markers – the system of natural human rights.

In particular, the inalienable nature of property rights is hidden in the norms

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of criminal law. The first Criminal Code of the RSFSR dated June 1, 1922, provides for criminal liability for violation of the order of property relations. The criminal law protects private, public and state property, recognizes secret (theft) and open forms of theft (robbery, robbery) as criminal. At the same time, a qualifying sign of open forms of theft is the use of violence that is not dangerous to the life and health of the victim (robbery), or, on the contrary, threatening death or injury (robbery). However, any crime becomes more dangerous if it is committed by an organized and group of persons. The criminal law provides for the strictest liability for the commission of a robbery by a gang, i.e. by an armed group of persons (banditry).

Consequently, if we consider constitutional expropriation from the standpoint of criminal law, then the line between criminal and legal violation of the natural structure of property relations becomes a law that gives the disposition of the corpus delicti of a kind of blanket character, excluding the signs of a crime by a constitutional norm, if it is committed by an appropriate (legalized) armed group. In other words, there is a modeling of a specific state monopoly on the commission of crimes, the property of the generally binding nature of law is alienated, and with this the very legal nature of constitutional provisions.

The purpose of our article is to decode the legal formulas of the first Constitution of the RSFSR of July 10, 1918.

Formulation of the main material. The modern process of verification of the legal/non-legal nature of legislative norms is greatly simplified due to the development of a culture of legal technology, the consolidation of markers, objective criteria of the irrational component of law at the international conventional level. Due to the fact that the generally recognized system of natural human rights received its material expression at the level of international legal documents, speculative reasoning that «law is the will of the ruling class elevated to law» have lost any meaning. Thus, the constitutional provisions on the termination of private property, general labor service (reminiscent of the institution of corvee), social discrimination contradict the provisions: Forced or Compulsory Labor Convention of June 28, 1930; Universal Declaration of Human Rights of December 10, 1948; International Covenant on Economic, Social and Cultural Rights of December 16, 1966; International Covenant on Civil and Political Rights of December 16, 1966.

Based on the content of these legal documents of international law, the constitutional provision on universal labor service falls under the characteristics of the concept of slavery. The natural state of a person's personal freedom presupposes a ban on his maintenance in servitude, forcing him to forced or compulsory labor (Universal Declaration of Human Rights. Https://www.un.org; International Covenant on Civil and Political Rights), since this concept («forced or compulsory labor») includes any type of work or service performed under the threat of punishment, excluding the possibility of voluntary provision of their services (Conventions concerning forced or compulsory labor, 1989). At the same time, the concept of «forced or compulsory labor» does not apply to individual, private situations, for example, those associated with emergencies (fires, floods, famines, etc.). In this regard, in relation to the historical period of the formation of the Soviet state, compulsory cultivation of the land could take place in order to prevent hunger or lack of food products. However, a prerequisite for such coercion is the guarantee of the inviolability of the sacred right of ownership of the producer to the results of his own labor, agricultural products, food (Conventions concerning forced or compulsory labor, 1989, p. 16).

Thus, the right to property and the institution of slavery from the standpoint of the historical world experience, which has found its consolidation in the conventional norms of public international law, are markers of the dichotomy of freedom and servitude. It must be assumed that this is one of the reasons why the inalienable nature of property rights is established by Article 17 of the Universal Declaration of Human Rights, which forms the general system of natural human rights.

One of the forms of eliminating the contradiction between the right of

ownership and the institution of slavery is the right to work, which is expressed in the provision of an opportunity for each person to «earn his living by work that he freely chooses or to which he freely agrees» (International Covenant on Economic, Social and Cultural Rights). In this regard, everyone has the right to receive fair remuneration for work sufficient to meet the vital needs of the employee and his family members, including payment for holidays and periodic vacations. Working conditions must be safe and meet the requirements of hygiene, and working hours are reasonably limited, with the provision of time for the restoration of spent energy resources of a person, rest and leisure, and cultural development. It should be noted that the natural right of every person to an adequate standard of living, including family members, is not limited to the appropriate rationing of food, clothing and housing, but also implies continuous improvement of conditions and quality of life (International Covenant on Economic, Social and Cultural Rights).

The systemic component of these provisions is the immanent property of law – «equality», the prohibition on the manifestation of any discrimination in all forms of manifestation of social interaction. The prohibition of discrimination must be explicit, rational and constitutional. No person should be subject to restrictions in economic, political, civil, cultural, social and other rights, based on any distinctive features: race, color, sex, language, religion, political or other beliefs, national or social origin, property, class or other status, birth or other circumstance (Universal Declaration of Human Rights. Https://www.un.org; International Covenant on Civil and Political Rights, p. 53, 55; International Covenant on Economic, Social and Cultural Rights, p. 49-50).

Conclusions. So, law is an achievement of human civilization, it is based on the system of natural human rights, the structural components of which are deployed, detailed, supplemented by laws and other acts of state power. Consequently, the law does not pursue the goal of alienation through the laws of the country of fundamental human rights and freedoms, arresting certain elements of the system of natural human rights, deterioration of the quality, conditions of his life, therefore such laws are categorized as «illegal».

Decoding the legal formulas of the first Constitution of the RSFSR of July 10, 1918 allows us to come to the conclusion about the non-legal nature of its provisions, due to violations of the system of natural human rights and the inherent properties of positive (dogmatism) law (Constitution (Basic Law) of the RSFSR). Demonstration of the implementation of such provisions, using the example of specific historical experiences, proves that the arrest of private property and the introduction of universal labor service leads to similar actions (reactions) and consequences that took place during the period of the slave system. Accordingly, in the historical period we examined, there were tendencies of a sharp decline in the economy, food shortages, interconnected with the violation of the structure of free labor relations, disinterest in labor and the use of qualified personnel for types of work that are not typical for them.

The markers of legal law are the system of natural human rights, the components of which are in constant interaction with each other. The emasculation of any element of the system leads to a violation of its integrative properties, the integrity of a harmonious structure, and, therefore, depending on the amount of damage caused, such actions lead to the destruction of the system, its functional purpose. For this reason, the cupping of at least one element of the system of natural human rights determines domination, the dominance of anti-legal norms and laws.

The anti-legal provisions established by the first Constitution of the RSFSR and enshrined in practical activities will become the fundamental ideology of an unshakable totalitarian society that alienates the right to inviolability of private property and practices a reactionary, penal, repressive policy in the field of criminal justice (which will be discussed in the next paragraph).

Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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Віталій Хан

ДЕКОДУВАННЯ ЮРИДИЧНИХ ФОРМУЛ ПЕРШОЇ КОНСТИТУЦІЇ РСФСР ВІД 10 ЛИПНЯ 1918 РОКУ: «АНТИПРАВОВИЙ» ХАРАКТЕР КОНСТИТУЦІЙНИХ НОРМ

Анотація. Право є досягненням людської цивілізації, воно ґрунтується на системі природних прав людини, структурні компоненти якої розгортаються, деталізується, доповнюються законами та іншими актами державної влади. Отже, право не має на меті відчуження через закони країни фундаментальних прав і свобод людини, купірування окремих елементів системи природних прав людини, погіршення якості, умов його життя, тому подібні закони відносяться до категорії – «неправові». У статті розглядаються антиправові положення Конституції РСФСР від 10 липня 1918 р. На історичних прикладах та документах автором обґрунтовується природний характер права власності. Наводиться ілюстрація порушень законів матеріалістичної діалектики та реалізації схоластичних ідей більшовицького руху, що стала фундаментом для будівництва деспотичної, тоталітарної політичної системи.

Розшифровка юридичних формул першої Конституції РСФСР від 10 липня 1918 р. дозволяє прийти до висновку про неюридичну природу її положень, обумовленої порушенням системи природних прав людини. Демонстрація реалізації таких положень на прикладі конкретного історичного досвіду доводить, що подібні наслідки мали місце в період рабовласницького ладу. Відповідно, у досліджений автором історичний період, спостерігалися тенденції різкого занепаду економіки, дефіциту продовольства, що взаємопов'язано з порушенням структури вільних трудових відносин, незацікавленістю до праці та використанням кваліфікованих кадрів для тих видів робіт, які не характерні для них. Маркерами юридичного права є система природних прав людини, складові якої перебувають у постійній взаємодії. Виокремлення будь-якого елементу системи призводить до порушення його інтегративних властивостей, цілісності гармонійної структури, а отже, залежно від розміру заподіяної шкоди, такі дії призводять до руйнування системи.

Ключові слова: *Конституція; природні права; приватна власність; політичні репресії; неправовий закон*

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ORGANIZED CRIME AS A SOCIAL SYSTEM: CHARACTERISTICS AND TRENDS

Abstract. In this article organized crime and organized criminal groups are considered as purposeful social systems with certain parameters. The article's objective is to give a general description and determine the most typical trends in their activities.

The actors of organized crime (criminal groups) in this paper are understood as stable hierarchical associations of several persons created in order to obtain personal and general profit illegally, while for managers of different levels this type of activity is the main form of employment. Organized crime is understood as the totality of criminal groups interacting among themselves, having a similar worldview, goals, tool, and ways to achieve them.

Being part of the social system and self-compensating at the expense of members of society, organized crime is in a certain environment. The «environment» means a society as a whole, a set of individuals, social groups and actors of influence who have the ability to come into contact with each other directly or indirectly, exercising mutual influence. The actors of influence include: the state (government), interstate and international organizations, the church, corporations, the media, non-government public organizations.

The features of organized crime are: 1) conspiracy, strict rules, hierarchical structure, which limits the behavior of individuals who form this system; 2) the lack of the concept of «ideal» in the category of results, whereupon strategic planning is not typical for it; 3) the worldview is focused on the seizure and forced exploitation of resources, technologies and non-entities and systems, violence, separation and opposition are supported; 4) the interaction of individuals within the system has the character of opposition and rivalry, a high probability of the emergence of an internal underground; 5) interaction with other main actors of influence is in the nature of opposition and rivalry; 6) the desire to discredit the government and create conflicts between governments and organizations or within them.

Keywords: *organized crime, purposeful system, interaction, worldview, actors of influence*

Introduction. Organized crime is the subject of study in various branches of legal science. Criminology, legal psychology, forensic science, operative investigation activity investigate different aspects of the behavior of organized criminal groups, methods for their identification and neutralization. Organized crime as a social phenomenon has existed for a very long time, but they began to perceive it as a threat to the state system and world stability relatively recently. In legal science, it has been repeatedly pointed out a long, unjustified denial of the existence of organized crime and the need to recognize this phenomenon: «Sooner or later, the moment would come when one would have to face the truth and admit the existence of not only professional, but also professional organized crime» (R. Belkin, (ed.) at al, 2006, p. 900). Similar conclusions were made by J. Dickie in the work «Cosa Nostra: a history of the Sicilian Mafia» regarding Sicilian organized crime, which had not been recognized for a long time, which, in his convictions, the mafia itself made efforts (2020).

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Modern legal science and law enforcement agencies recognize not only the existence of highly organized crime, but also the threats it poses to the world community, including in the form of mafia states (M. Naím, 2012, & V. Ovchinskiy, 2016), quasi-states (N. Chebykina, & V. Molodavkin, 2018) or «fragile» states (Website Fragile States Index. Https://fragilestatesindex.org). This is confirmed by the United Nations Convention against Transnational Organized Crime (United Nations Convention against transnational organized crime and the protocols thereto. Https://www.unodc.org), Europol reports (European Union serious and organized crime threat assessment 2017. Https://www.europol.europa.eu), publications of the United Nations Office on Drugs and Crime (Transnational organized crime: the globalized illegal economy. Https://www.unodc.org), scientific articles (V. Terziev, M. Petkov, & D. Krastev, 2018, J. Schneider, 2018) and mass-media publications (M. Naím, 2012, P. Andreas, & M. Naím, 2012, Mafia today: how the Italian clans work, Website BBC Russian. Https://www.bbc.com).

Rob Wainwright, director of Europol, in foreword of report «European Union serious and organised crime threat assessment 2017» said: «In 2013, Europol reported the presence of at least 3,600 internationally operating Organised Crime Groups (OCGs) in the EU. In the SOCTA 2017, we identify approximately 5,000 international OCGs currently under investigation in the EU» (European Union serious and organized crime threat assessment 2017. Https://www.europol.europa.eu).

In Ukraine the quantitative indicators of identified criminal groups and organizations range from 136 in 2016 to 293 in 2019. In the period from 2015 to 2019, on average, slightly more than 10% from the recorded materials of criminal proceedings on the creation of a criminal organization were sent to the court with an indictment. In total, such criminal proceedings were registered in 2015 – 18, in 2016 – 33, in 2017 – 88, in 2018 – 84, in 2019 – 68 (Website Prosecutor General's office of Ukraine. Https://old.gp.gov.ua).

The threats of organized crime lie not only in the scale, forms or areas of criminal groups' activities, but also in the fact that the younger generation is increasingly becoming involved in their activities, who are learning to «transform coordinates from Google maps into real coordinates of goals» (The Secret Life of Young Militants of ISIS / Website BBC Russian. Https://www.bbc.com). Also can be noted that an organized crime have an influence on the political processes. For example, A. Alesina, S. Piccolo, P. Pinotti pay attention to the strategic use by criminal organizations of pre-election violence as a way to influence the election results and the behavior of politicians (2019). In addition, according to the World Health Organization, one in nine residents of areas where armed conflicts take place suffers from «moderate or severe mental disorders» (Mental health / Website World Health Organization. Https://www.who.int). These facts and trends force us to reconsider approaches to understanding the manifestations of organized crime and its impact on social processes.

Analysis of recent research and publications. The research will use existing publicly available scientific and applied research on this issue in various fields of science, as well as sources of secondary information. Among the main authors who researched this topic can be cited A. Alesina, M. Balint, A. Gurov, J. Dickie, A. Dolzhenkov, V. Korzh, M. Korniyenko, V. Ovchinskiy, S. Piccolo, P. Pinotti.

The basis for understanding organized crime as a social system will be the results of studies of the behavior of social systems, as well as some issues of corporate governance. The conceptual apparatus for applying the systems approach will be taken from the work of R. Ackoff and F. Emery «On Purposeful Systems» (1974), as well as from some other books of R. Ackoff. This is due to the fact that in the specialized literature some similarities were indicated in terms of goals, the management regime and the organization of organized criminal groups with corporations. In this regard, the conclusions drawn from the study of governance in such social systems can also be used to understand organized crime.

The purpose of our article is to give a general description of organized crime as a purposeful social system, as well as to identify typical trends in its activities. The use of new approaches in the study of this issue will make conditions for a comprehensive understanding of this social phenomenon and ways to influence it. The results obtained in the course of the study will allow us to consider organized crime as an integral system, striving in certain ways to achieve goals in a certain environment.

The study of organized crime as a social phenomenon is fraught with some difficulties. They are manifested primarily in the absence of sufficient objective information, which is associated not only with the high latency of this phenomenon. On the one hand, this is due to limited access, since such information relates to national security issues. On the other hand, the existing open information is subject to distortions, both by the actors of this activity and public opinion, formed most often on the basis of artistic images.

Formulation of the main material. Organized crime is a complex phenomenon, the emergence and development of which is influenced by a large number of variables. The main concepts that we will operate in the article include: «organized crime», «actors of organized crime», «environment of the system», «actors of influence», «purposeful individuals and systems», «results», «ways for achieving results».

Most of the sciences consider organized crime from an extremely negative point of view, but, as it has been successfully noted, «logic is usually absent in the observer's reasoning, and not in the behavior of the observed» (R. Akoff, p. 38). Recognizing the negative consequences of this social phenomenon, it should also be recognized that the emergence of any social system is a response to expectations and a way to satisfy some of the needs of society itself or part of it. In fact, any human-made social system is a tool for achieving well-defined results.

Today, there are various classifications of organized criminal groups depending on the degree of organization, scope or scale of activity. In criminology, the common features of organized criminal groups include: selfish goals; participation in groups of a significant number of persons; stability, cohesion; internal discipline; scale of criminal activity; the presence of a functional hierarchical structure; creation of own protection system, corruption ties; investing part of the income in legal economic structures (money laundering); armament and technical equipment; the presence of interregional, interstate ties with similar criminal organizations; high criminal professionalism of participants, the predominance of criminal subculture in their behavior (V. Malkov, (ed.), 2006, 405-406).

In forensics these signs include: stability of personnel; norms of behavior and value orientation; the presence of a leader and, sometimes, an oppositionist; role differentiation; strict discipline; conspiracy; coordination; orientation to committing crimes; «criminal experience and experience of communication with law enforcement agencies»; development and assimilation of ways to conceal crimes; creation of protection and cover units; corrupt ties (R. Belkin, (ed.) at al, 2006, p. 900-902).

In the operative investigation activity, the levels of activity of criminal groups – individual, group, corporate (K. Goryainov, (ed.) et al, 2007, 723) are also distinguished.

Today there is no single definition for the concept of «organized crime». On the UN website in the series of university modules «Organized crime», it is understood as «a continuing criminal enterprise that rationally works to profit from illicit activities that are often in great public demand. Its continuing existence is maintained through corruption of public officials and the use of intimidation, threats or force to protect its operations» (Website of the United Nations Office on Drugs and Crime. Https://www.unodc.org).

The United Nations Convention against Transnational Organized Crime uses the concept of «organized crime group», which means «a structured group of three

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or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit» (United Nations Convention against transnational organized crime and the protocols thereto. Https://www.unodc.org).

In this article the actors of organized crime (criminal groups) will be understood as stable hierarchical associations of several persons created with the aim of obtaining personal and general profit illegally, while for supervisors of different levels this type of activity is the main form of employment. Under organized crime, we understand the totality of criminal groups interacting among themselves, having a similar worldview, goals, tools, and ways to achieve them.

This definition corresponds to the definition of the system, which had been proposed by R. Ackoff and F. Emery. They understand the system as «a set of interconnected elements, each of which is connected directly or indirectly with each other element, and any two subsets of this set cannot be independent» (R. Akoff, & F. Emeri, 1974, p. 27). Since each isolated criminal community forms its own social system, so the totality of related communities can be called a criminal system, the purpose of which is to enrich through the unlawful exploitation of resources, technologies and other entities.

Today, the culture of criminal groups is often called «subculture», but this concept does not reflect the real situation. Crime has its own symbolic recognition system (language, gestures, tattoos), rituals and rules («codes of honor», «concepts»), most often a clearly defined territory or area of activity, a social trajectory (social elevator) within the system, authorities and images for personal orientations, identification of one's belonging to a group, well-established patterns of behavior to resolve current situations and problems. This makes it possible to talk about the formation of a criminal worldview, which could potentially spread to the whole society. At the center of this worldview is the opposition to legitimate power and personal enrichment at the expense of others. The basis for such a worldview can be any ideology or religion that is interpreted and adapted to the criminal group's goals.

According to studies by J. Dickie, criminologists and specialists in the field of operational-search activity, the reasons for the occurrence of organized crime can be attributed to following ones:

1. Shadow economy, errors in the economic relations regulation.
2. The property stratification of society, low employment, unemployment, loss of job security by citizens.
3. Low intellectual and moral level of society, social instability and lack of social control.
4. The weakening government's role.
5. Low quality of criminal and criminal-procedural legislation.
6. The loyal society's attitude towards unlawful behavior.
7. A significant share in the society of persons who have committed crimes and offenses.

Such causes are characteristic of organized crime on all continents (R. Akoff, & F. Emeri, 1974).

Experts in operational-search activity indicate that «the criminal environment is organized for the sole purpose of quickly accumulating large criminal incomes and legalizing them for circulation. A emphasis on business, even if criminal, puts organized criminal groups in the position of economic organizations» (K. Goryainov, (ed.) et al, 2007, 491).

In their work R. Ackoff & F. Emery (1974) examine behavior in organizations such as a prison, where «a strict daily routine and numerous orders lead to the behavior of prisoners and staff becoming unidirectional». Regarding features of such systems, they come to the conclusion: «The most obvious of them is that prisoners are trying to create an informal underground system. A less obvious

consequence is the tendency of staff to make isolation around the main person in charge. He/she is kept in the dark about the true state of things, telling him/her all sorts of nonsense. If the stability of the system is dearer to him/her than other goals, he/she is reconciled with this» (p. 218).

Analyzing the work and publications on the existence of organized crime, we can indicate that it plays the role of a «union» for those whose employment is exclusively related to the commitment of crimes. It can be a form of reaction or protest against excessive and unjust pressure, for example, the current government. It can also be concluded that organized crime seeks to gain administration and control over those areas that are not covered or are poorly covered by the government, but are in demand by the society or its part.

Being part of the social system and self-compensating at the expense of society's members, organized crime is in a specific environment. R. Ackoff & F. Emery (1974) understood the environment as «a lot of elements and their essential properties that are not parts of the system, but a change in any of them can cause or produce a change in the state of the system» (p. 27). In this article we will understand «environment» as society as a whole, as a set of individuals, social groups and actors of influence who have the ability to come into contact with each other directly or indirectly, exercising mutual influence. Today, due to the development of information and communication technologies, direct contact between participants in a relationship is not necessary for influence.

Taking organized crime as a social system, it should also keep in mind that it is part of a broader level – the global social system. In this regard, it will be admissible to recognize the presence of entities that are part of the global social system. In addition to organized crime, these include well-established stable social groups (systems, independent actors of legal relations) That have significant resources to influence social processes, both at the state level and internationally. This is the state (government), interstate and international organizations, the church, corporations (including transnational ones), the media, non-government public organizations (NGOs). In fact, these same entities, with the exception of the church, international organizations, and organized crime, are studied to determine trust ratings (2019 Edelman trust barometer. Global Report. Https://www.edelman.com). All these entities, except for isolation and structure, have a request from society, the goals of their establishing and existence, as well as tools and means of influencing social processes. Today we can talk about the emergence of terrorist organizations as a special type of social systems that use criminal tool. As indicated in some works by the example of the Islamic state, such formations combine «elements of a network terrorist organization, a large illegal armed group, an organized criminal group, a mafia network, a radical revolutionary movement, and, of course, a totalitarian network» (R. Muhametov, 2014). In this article we will refer them to organized crime.

These actors, due to the limited environment and modern information technologies, are in an interaction that can be described by several concepts: opposition, cooperation, rivalry and independence.

Opposition (confrontation, conflict) is a state of interaction in which the achievement of the result by one excludes the effectiveness of the other or the others («zero-sum game»). Winning provides for the forced exploitation of the loser or its destruction.

Cooperation is an interaction in which joint coordinated activity significantly increases the value of the result for all participants in the interaction. Such interaction allows unequal mutual exploitation, which for the participants is obvious, voluntary and variable.

Rivalry (competition) – an interaction in which the achievement of a result by one reduces the value of the result to another or others, but does not exclude it. Perhaps ranking the value of the result and the hierarchy of winners. Operation is predominantly veiled.

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Independence is the absence of a mutual influence on the effectiveness (value of results) of the activities of other participants in the relationship.

Each of the forms of interaction can go into any other. A distinctive feature of cooperation is the coordination and unequivocal acceptance by the parties of risks and consequences, as well as the desired results and ways to achieve them. In other forms of interaction there is no consistency, actions are carried out by default or by mutual interpretation.

Exploitation is an increase in the value of the result for one subject of interaction through the use of efforts or resources of another or others.

To characterize the results depending on the time of their achievement, R. Ackoff and F. Emery (1974) used the terms «total», «task», «goal» and «ideal». The result is the closest result in time to which the individual aspires in a certain environment and at a certain moment, and the ideal is an unattainable result that can only be infinitely close (pp. 65-66).

Ways to achieve results are patterns of behavior (actions or inaction) performed by an individual or a system to achieve a desired future.

Considering social systems in terms of the relationship of the system and its elements, R. Ackoff and F. Emery (1974) point out the following: «Since individual elements serve as tools for the entire system, this system will reduce diversity; the range of purposeful behavior will be limited, and more and more behavior will come down to low levels: multidirectional and unidirectional. Insofar as the system serves as a tool for its constituent elements, it will tend to increase diversity: the range of purposeful behavior will expand, and the level of behavior will gradually rise to the pursuit of the ideal» (p. 205).

They also note: «A social group will increase diversity only when its organization allows its members to behave as systems striving for the ideal. In special cases, when social systems degrade to the level of unidirectional behavior, an increase in diversity will occur if the system is not able to interfere with the purposeful behavior of its elements. A decrease in diversity will occur in those cases when the organization will be able to prevent the its participants' purposeful behavior» (R. Ackoff & F. Emery, 1974, p. 206-207).

In his work «Creating the Corporate Future» R. Ackoff points out that in social systems relationships can be built differently between those who administer and those who are administered. Depending on the freedom of choice of goals and means of achieving them, they can be formed according to the type of «autocracy of goals, autocracy of means», i.e. and goals and means are chosen by one who has power. In his opinion, this happens when «society is ruled by an absolute monarch or dictator,» while absolute power «is concentrated more in the hands of a small group than one person, such as the junta.» He refers to such organizations prisons, military organizations, churches and some societies and corporations (1977, p. 76).

Analyzing criminal groups in terms of results and ways to achieve them, several conclusions can be drawn. First, it is difficult for such communities to have such a concept as an «ideal» in the category of results. This is due to the fact that the activity, as a rule, is fleeting and is determined by the goal, which is the expansion and exploitation of resources to obtain own profit, as well as the retention of positions. In this sense, taking into account all the subjects of influence, the state has the most distinguishable concept of ideal, since its ultimate goal is the benefit of everyone. The main ways to achieve results for criminal groups are – extortion (threats and violence), networking (influence, support and mobilization groups), corruption (bribery to protect or access resources), misinformation (distraction), and provocation (identifying weaknesses or exhaustion of the enemy).

Secondly, the choice of goals and methods for achieving them is predetermined by the system, and will limit the freedom of action of its individuals both on a conceptual (intellectual) and physical level. We must keep in mind that each individual of the system is a constantly changing subject. He/she has his/her own idea of the

results of his/her activities and is inherent in the concept of ideal, regardless the social system in which he/she is. In this regard, the conclusion suggests itself that as the individual is in this system, he/she will feel discomfort and growing confrontation with the system itself. A way to eliminate this can only be an absolute identification of oneself with this system, especially with its leadership. Perhaps this explains the «family» or «fraternity» of criminal groups, which is described in the works by M. Balint (2016) & J. Dickie (2020) and in the law enforcement practice. The rituals that J. Dickie describes are necessary for recruits to also identify with the community. A ritual is a way to create the illusion of identity with the system, create a psychic connection and another barrier to the individual in order to prevent leaving its limits. Despite the fact that the family creates the illusion of identity and additionally obliges, this cannot stop the gradually increasing restriction in the freedom of choice of the community members' own behavior, especially as they satisfy their basic needs and achieve their own goals. In his work, R. Ackoff (1977) also points out that personality development «is not a condition or state determined by what a person possesses». He defines this concept as «a process in which the individual's capabilities and desire increase to satisfy his/her desires and desires of other people», «the growth of abilities and potential, rather than acquired», «the matter of motivation, knowledge, understanding and wisdom than wealth». He also substantiates the assumption that «that an increase of living standard is not necessarily accompanied by an increase in its quality» (p. 63).

In addition, even despite the high position in the hierarchy of the criminal world, its leaders are forced to live in conditions of conspiracy, secrecy, which sometimes forces them to live part of their lives in bunkers (Ndrangheta: life in the dungeons of the Calabrian mafia / Website BBC Russian. Https://www.bbc.com). It can also provoke conflict and tension in relationships within such systems. It is almost impossible to remove such tension without changing the basic forming parameters of such a system, and this, in turn, will change the essence of the system itself. Thus, it is quite possible to conclude that organized communities will strive for a minimal variety of behavior, which is not consistent with the nature of man, as an aspiring and versatile individual. The latter is confirmed in the scholars' works of from other sciences, for example, K. Jung (2001), who drew attention to the presence of at least eight types of personality or G. Gardner (Website Howard Gardner. Https://howardgardner.com), who justifies the multiplicity of intelligence. It is also possible to conclude that it is no reason for organized criminal groups to invest in complex and long-term projects. This is due to short-term goals and behavior striving to be simplified.

Having an idea of the desired results of the system and how to achieve them, it becomes possible to suggest the nature of the interaction between the main participants in social relations. Without going into particular, it should be noted that, based on the nature and goals of other actors of influence, the presence of organized crime is not advisable or beneficial for anyone, but rather the opposite. The only one whose relationship may be close to independence is the church, and even with certain reservations. Analyzing the possibilities of some actors to influence society, it should be noted that according to the studies of Daniel J. Edelman Holdings Inc., the global level of trust in non-government public organizations and in business is significantly higher than in the government and the media. The confidence level in the latter is less than 50% (2019 Edelman trust barometer. Global Report. Https://www.edelman.com). From this it can be assumed that a low degree of public trust can be used by other actors of influence in their own interests. Today, technologies for influencing people's behavior are becoming widely available and, in fact, there is a struggle for influence. So, at one of the educational sites, it was stated that «education lost the battle for attention: choosing what to spend money on, people prefer cinema and restaurants, rather than online courses» (The main competitor of education – Netflix. Http://www.edutainme.ru). The above gives

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reason to believe that the young generation is the main target audience, for the attention of which all actors of influence will fight, without exception.

Without going into in particular, it should be pointed out that the main goal of the state is «the welfare of the man, his/her moral, material and physical well-being, maximum legal and social security of the individual» (V. Khropanyuk, 2008, p. 155). As T. Hobbes pointed out, the state allows creating a civil status with the help of the government and the law, «without which there is always a war of everyone against all» and this prompted people to agree «about the person who should publish it» (p. 134-135). But the government in any country has not always used the proper means of managing society. During the existence of the country, government officials repeatedly discredited themselves, which, due to the incorrect identification of the government and its officials, led to a decrease in the level of trust compared to other participants in public relations. We must also keep in mind that organized crime is virtually impossible without a state. Organized crime is, on the one hand, the result of inefficient government, and on the other, the actor for which the state is the source of income. With a strong influence on state power, the government can become a tool for enriching crime, and the state as a tool of exploitation of society. Thus, based on the fact that the systematic movement of the state towards the ideal, levels the goals of criminal groups and jeopardizes their existence, we can assume that under natural conditions their relations will have the character of an irreconcilable opposition. The opposition can go into cooperation or neutrality only if a new opponent appears that is equally dangerous for their existence. From this it is also possible to conclude that the absence or weakness of the opposition in relations between them indicates either the weakness of the state, or the strong influence of criminal groups on the government. According to the ratings, one can pay attention to the absence of a direct relationship between the high level of organized crime (The Global Competitiveness Report 2019. Organized crime. Http://reports.weforum.org) and the weakness of states (Fragile States Index 2019 – Annual Report. Https://fragilestatesindex.org/2019). The presence of a stable state power and a high level of organized crime without the presence of opposition between them may be a sign of the coalescence of these social systems. The above does not contradict the facts that in totalitarian countries organized crime actually ceased to exist, since the whole society served the goals of the ruling elite, whose power sought to total control. In addition, as shown by the chronology and composition of the participants in historical events in such countries, the ruling elite came to power precisely in the ways characteristic of criminal groups with further repression. In fact, a totalitarian state is a large-scaled, legitimate criminal association that is unviable in the long run.

The interaction between other actors of influence with organized groups can be built in the range from short-term cooperation to the opposition with the possibility of independence. But the need for the opposition will always be present, since their goals can be similar, but not common, and the ways to achieve them differ significantly. For business, only assistance that increases profit only under certain conditions of legal regulation and the development of market relations will be acceptable. With NGOs and the media, opposition is more likely, since they are referred to as «watchdogs of the society» (The Case of the «Newspaper office «Pravoye Delo» and Stekel v. Ukraine (Application № 33014/05). Https://zakon.rada.gov.ua/laws/show/974_807, The Case of «Newspaper «Ukrayina-Tsenter» v. Ukraine». (Application № 16695/04). Https://zakon.rada.gov.ua/laws/show/974_594), and it is hardly possible to attribute their own forced exploitation to the society's goals. Cooperation can take place subject to general opposition to the government (with a similar goal), or when the goals of NGOs or the media do not correspond to those declared.

Due to the fact that for the existence of criminal organizations it is necessary to legalize and search for ways to shelter and support (K. Goryainov (ed.) et al,

2007, 491), their activities will be aimed at controlling (the possibility of influence) or establishing their own business structures, media and NGOs. The similarity of goals, ways to achieve them and the absence of opposition can testify of the involvement of such entities in lobbying for the organized crime's interests.

In this context, one should take into account the fact that organized crime, despite its scale, has difficulties that are inherent in any other social systems. These include personnel competence, management efficiency, weak coordination and interaction, etc. In addition, organized crime, in comparison with other entities, has difficulties in medium and long-term planning. The area of interests will be objects and branches that are of key importance in the circulation of resources and technologies (V. Ovchinskiy, 2016; 2018).

Although organized crime replenishes its human resources from society, it should be recognized that people who find themselves in a difficult life situation or who have the goal of quick enrichment do not always choose systematic criminal activity, submission, and strict rules. So, some young people try to get rich exclusively on episodic or short-term criminal acts (A kind man without coast: the story of the first murder ordered on the darknet / Website BBC Russian. Https://www.bbc.com).

Issues of propensity and prerequisites for the emergence of criminal behavior are studied by different fields of knowledge. In this sense, the similarity of the prevailing views of society on expected results and ways to achieve them will be important. In other words, the more loyal a society is towards the expansion and forced exploitation of others, the more favorable is the environment for the emergence of organized criminal groups. Accordingly, it is precisely this «life position» or ideology that criminal groups will encourage. For this, different methods and technologies can be used. J. Dickie points out that representatives of organized crime «never fenced off from change, they simply set themselves the goal of guiding them in the right direction» (J. Dickie, 2007, p. 512) The above allows us to make an assumption that in post-totalitarian countires the level of loyalty to criminal behavior will be higher, since such behavior will be familiar on the one hand and, on the other hand, a projection of revenge for excessive unjust pressure and control. Mafia states in the post-communist space are also emphasized in the works by M. Balint (2016).

Using a systematic approach to understanding organized crime does not give an answer to all questions of the existence of this social phenomenon, but allows us to draw tentative conclusions regarding trends in the criminal groups' activities, as well as measures to influence them.

The criminal groups activities will be aimed at their inclusion in social processes and control:

1) information and means of communication between social systems;

2) resources, technologies and their turnover;

3) changes in the socio-economic life of the society, the state and the world as a whole.

A distinctive feature of a criminal worldview will be the justification of expansion and forced exploitation both at the national and international levels, as well as the division and opposition of society and the world as a whole (for example, the division into «friend or foe») and discrediting the government and international organizations. The latter may take the form of humiliating public authorities or provocations that affect international cooperation.

As M. Korzhanskyi (1996) pointed out «combatting crime is not a legal matter, but a political one, not lawyers', but politicians'» (5). G. Mirskiy (2006), analyzing the social processes of our time, saw the way out of their existing crisis phenomena in that «awareness of the depth of moral and social degradation should provoke a reaction of that healthy rational principle that has always allowed humanity to overcome the phenomena that threaten it with degeneration» (Return to the Middle Ages? 2006).

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Accordingly, the fight against this phenomenon at the political level should be of a comprehensive nature of the impact on the existing opposition and conflict, and not their suppression. From the point of view of the impact on the conflict, R. Ackoff & F. Emery (1974) use three terms: «elimination» of the conflict comes down to a change in environment, «resolution» – to change someone else, but not oneself, and «solution» – to change of one's own behavior» (p. 195). Using the developments of A. Rapoport and other experts, they indicate that «a conflict in which physical force is used to eliminate or neutralize one of the participants», which «can eliminate the conflict from the winner's point of view, but not from the defeater's one», fraught with more negative consequences. This is explained by the fact that «the hostile attitude of the loser to the winner, as a rule, does not pass, but only intensifies, so that, when the opportunity arises, he/she tries to unleash a new conflict, often even more intense than the first». This, in turn, «usually leads not to the elimination or destruction of the conflict, but to its temporary suppression, accompanied by subsequent escalation» (p. 196).

The use of a systematic approach and analysis of the behavior of essentially similar social systems (organizations) allows to assume of a high probability of the formation of an underground in criminal groups, which must be taken into account when developing them by law enforcement agencies. The underground within such systems, being the cause of confrontation and tension, can also play the role of a source of self-reproduction. Observation of the nature of the relationship of participants in public relations with the criminal environment, the methods they use to achieve the desired results can give rise to conclusions about their involvement in organized crime and, accordingly, predict possible behavior and ways to neutralize it.

Thus, organized crime can be seen as a social system that is part of a global social system. This system has distinctive features, which are as follows.

1. It has a conspiratorial nature, strict rules, hierarchical construction, which limits the behavior of individuals who form this system. It is also not able to satisfy the individuals' requests regarding the quality of life and their own development in the long run.

2. It does not have the concept of «ideal» in the category of results, as a result of which strategic planning is not characteristic of it. Short-term desired results are difficult to measure. Strive for legalization by establishing their own (or controlled) legal social systems.

3. The worldview of the system is focused on the capture and forced exploitation of resources, technologies and non-entities and systems. Violence, separation, and opposition are supported. For the ideological basis, part of the worldview or ideologies of other social systems with adaptation for their own needs is used.

4. The interaction of individuals within the system will bear the features of opposition and rivalry, a high probability of the emergence of an internal underground.

5. From the point of view of the desired results, interaction with other main actors of influence is in the nature of opposition and rivalry. The absence of real opposition to the government, corporations, NGOs and the media may indicate the falsity of the declared goals by the latter or about their control by criminal groups.

6. It seeks to discredit the state through discrediting the government, making conflicts between countries and organizations or within them. The consolidation of other actors of influence among themselves significantly threatens the existence of criminal groups and organized crime in general.

To minimize the involvement of part of society in criminal activities for public administration, it would be appropriate:

1) to build channels for sustainable communication and information exchange between actors of influence, including organized criminal groups;

2) to make conditions for cooperation between states and international organizations on the identification and neutralization of organized crime;

3) to make conditions for the formation of a worldview based on mutual coexistence, respect and cooperation;

4) to ensure the employment of the population and the involvement of society, especially youth, in scientific and educational long-term projects;

5) to make conditions for the socialization of persons who committed crimes by granting alternative forms of employment;

6) the use of interdisciplinary research to develop tools and methods for the early detection and neutralization of organized criminal groups;

7) to make conditions for management based on cooperation and the creation of alternatives, rather than pressure and suppression.

Conclusions. The worldview of the people or other self-identifying community of people determines the direction of development. That is why issues of managing the worldview, ideology, upbringing and education of the younger generation have always been given close attention of the actors of influence. During intensive circulation of information, the worldview is split into smaller parts, the coordination of which is complicated. The interaction between them becomes complexly predictable. Organized crime today has an impact on social processes of not only limited territories, but also global ones. The emergence of quasi-states, mafia states, transnational organized crime and other social entities, whose goals do not coincide with ideas about civil society and the rule of law, are only prerequisites for spreading the ideas of expansion, violence and self-esteem at the expense of others. Rejected or not recognized as a special form of social structure, organized crime, in the event of an inadequate reaction from other actors of influence, can lead society to conditions in which the development of the individual will be complicated. The aspiration of criminal groups for total control within the system and their environment ultimately jeopardizes social values and progress. The activities of actors of influence, whose goals are different from the goals of organized crime, should take measures to consolidate and cooperate with long-term goals that bring society closer to the ideals of well-being of everyone.

Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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ОРГАНІЗОВАНА ЗЛОЧИННІСТЬ ЯК СОЦІАЛЬНА СИСТЕМА: ХАРАКТЕРИСТИКА ТА ТЕНДЕНЦІЇ

Анотація. У статті організована злочинність й організовані злочинні співтовариства розглядаються як цілеспрямовані соціальні системи, що мають певні параметри. Мета статті – дати загальну характеристику й визначити найбільш типові тенденції їх діяльності.

Під суб'єктами організованої злочинності (злочинними співтовариствами) в роботі розуміються стійкі ієрархічні об'єднання декількох осіб, створені з метою отримання особистого та спільного прибутку протиправним шляхом, при цьому для різного рівня керівників цих об'єднань такий вид діяльності є основною формою зайнятості. Під організованою злочинністю розуміється сукупність взаємодіючих між собою злочинних співтовариств, що мають аналогічні світогляд, цілі, інструменти та способи їх досягнення. Будучи частиною суспільної системи й самовідтворюючись за рахунок членів суспільства, організована злочинність перебуває в певному оточенні. Під «оточенням» у статті мається на увазі суспільство в цілому, як сукупність індивідів, соціальних груп і суб'єктів впливу, які мають можливість стикатися один з одним прямо або опосередковано, здійснюючи взаємний вплив. До суб'єктів впливу відносяться: держава (уряд), міждержавні та міжнародні організації, церква (релігійні організації), корпорації, засоби масової інформації, недержавні громадські організації.

До основних рис організованої злочинності можна віднести наступні: 1) конспіративний характер, суворі правила, ієрархічна побудова, що обмежує поведінку індивідів, які утворюють цю систему; 2) відсутність в категорії результатів діяльності системи поняття «ідеал», внаслідок чого для неї не є характерним стратегічне планування; 3) світогляд членів злочинних співтовариств, орієнтований на захоплення й примусову експлуатацію ресурсів, технологій та інших суб'єктів, що не належать до цього співтовариства, застосовуються та заохочуються з боку такої системи такі заходи, як насильство, поділ і протиставлення; 4) взаємодія індивідів всередині системи має характер опозиції й суперництва, висока ймовірність появи внутрішнього підпілля, яке з одного боку є причиною соціального напруження в системі, а з іншого може відігравати роль джерела самовідтворення; 5) взаємодія з іншими основними суб'єктами впливу має характер опозиції та суперництва; 6) прагнення злочинних співтовариств до дискредитації держави (органів влади) та створення конфліктів між державами й міжнародними організаціями або всередині них.

Ключові слова: *організована злочинність, цілеспрямована система, взаємодія, світогляд, суб'єкти впливу*

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LEGAL BASIS FOR PREVENTING PROFESSIONAL DEFORMATION OF PERSONNEL OF CUSTODIAL SETTINGS

Abstract. The authors identify the most significant personal and functional determinants of professional deformation in the staff of places of detention, namely: lack of proper motivation to perform operational and service tasks; features of the microenvironment in which you have to work; psycho-emotional tension; lack of proper social and legal protection, etc. It is established that the staff emotional burnout in places of imprisonment is a form of professional deformation of the subject of professional activity, acquired by him as a result of protective mechanisms on the traumatic impact of working conditions in places of imprisonment of the Ministry of Justice of Ukraine. Responsibilities that require emotional expenditure, as well as the effort to justify it by devaluing the activity and its subject are disscussed.

Keywords: *personnel of custodial settings, professional deformation, determinants, psychological overload, emotional burnout, extremity, prevention*

Introduction. The criminal-executive activities of the personnel of custodial settings are considered from the point of view of the embodiment of the legal reality, which is saturated with socio-psychological phenomena. This is the psychology of communities and groups, and the psychology of the personality, which lives and operates in a certain group, and the system of its relationship with law. Therefore, most of the problems of penitentiary activity can be solved only considering its legal, psychological, and pedagogical support.

In the process of professionalization, the personnel of custodial settings acquire not only specific skills, but also accepts the values, views, rules of behavior inherent in holders of a certain profession, separating them from the rest of society into a certain corporate group. Professional activity more and more absorbs the personality of the personnel of custodial settings, and therefore over time comes the moment of non-return, when the person is no longer able to separate himself from the profession, the view of the world is carried out exclusively through its prism, and identification with it becomes one of the most important steps in the process of self-determination of the person.

Analysis of recent research and publications. In this regard, one should agree with the opinion of foreign scientist I. Sokolov (2005) that long-term occupation

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of the same activity can be complicated by excessive development of individual qualities, as a result of which the personal content of the profession is reassessed; characteristics such as aggressiveness, suspicion, excessive ambition, apathy, indifference to human distress are developing; unreasonable arrogance and reproach of power, false understanding of a sense of duty; rigid professional installations are formed, etc. (p. 32).

By the way, another foreign scientist A. Stolyarenko (1987) is of the opinion that professional activity is introduced into the system of socio-psychological relationships, and the negative product of the incorrect construction of these relationships by a specific employee may be deviant professional behavior (abuse of power, corruption, etc.) and professional deformation of the personality (p. 22).

At the same time, the domestic scientist V. Medvedev (1992), studying professional deformation among employees of penal institutions, proves that it is clearly manifested in the reproduction and multiplication of social experience. The first way is to psychologically represent yourself in other people with whom the personality is associated with the nature of activity and other constant relationships. The second path concerns the reproduction by the individual of deformed ideas about the ways and means of performing activities (p. 34).

That is why the problem of occupational distortion of personnel of custodial settings should be considered in combination with both psychological and legal support, in connection with which it provides for three components: specific activities; special type of work; socio-psychological character.

Among the most important problems related to the professional deformation of personnel in custodial settings are: inadequate legal regulation of legal status and the procedure for service; overtime psychological burden, due to an increase in crime rates in institutions; the negative impact of the environment of both those serving sentences and other already professionally deformed employees.

The purpose of our article is to formulate the legal basis for preventing professional deformation of personnel of custodial settings, which are reflected in the explanation of its essence, the negative impact on the effectiveness of the prison system in general and its personnel in particular, as well as the identification of the determinants of this negative phenomenon in order to develop appropriate preventive measures.

In order to get an idea of the extent of professional deformation of personnel in custodial settings over the past five years, we analyzed statistics that, unfortunately, are not due to all the canons of statistical generalization, since far from all blocks of information we were able to access. However, thanks to the existing data, we were able to analyze some of the modern reasons for the manifestation of professional deformation among the personnel of custodial settings.

Formulation of the main material. We have established that such reasons include: unfavorable individual psychological features; conflict situations in the service and in the family; improper control over the conduct of the employee in the performance of operational tasks and outside the service; Failure by the authorities of all levels of the Ministry of Justice of Ukraine to take preventive psychological and preventive measures (A. Bohatyryov, & V. Medvedev (ed), 2016, p. 89).

The scientific school «Intelligence» in 2017 conducted an independent survey of convicts in correctional colonies of the Kiev, Odessa, Kherson, Cherkasy and Chernihiv regions about the violation by personnel of custodial settings of their rights and legitimate interests, in particular: torture, violence, humiliation of their honor and dignity. The main reasons, according to respondents, are: (1) impunity and, as a result, permissiveness of the personnel of custodial settings, which use illegal methods in work (58%); 2) low professional and cultural level of personnel of custodial settings (26%); 3) improper selection of candidates for work with convicts, in connection with which persons with a tendency to violence (41%) fall to the personnel of custodial settings (I. Bohatyryov, A. Bohatyryov, & M. Puzyryov, 2017, p. 24).

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It is appropriate to note that the personnel of custodial settings is forced to communicate with all kinds of criminals – persons with anti-social type of deformed consciousness and low morality. Thus, in order to predict the possible convict behavior the employee needs not only to know him perfectly, but to be constantly in the environment of the criminal element for a long time, to feel his condition, partially reproducing his vital activity.

Such a process of living in the role of a convict necessarily imprints the employee himself, his individual development as a person. Indeed, often some correctional colony officers do not psychologically differ from convicts. This phenomenon is mainly observed in colonies remote from cultural centers, due to the lack of psychological recreation through moral and cultural diversity. Therefore, the long Meager communication with people from other spheres of society contributes to the manifestation of signs of professional personality deformation.

Considering research we may combine featres of professional deformation into 2 groups:

1) personal, due to the socio-psychological characteristics of the personnel of custodial settings. By the way, the appropriateness of this group is supported by foreign scientists who believe that the main reason for professional deformation is the discrepancy of individual psychological characteristics of the person with the level of requirements imposed by professional activity (I. Bohatyryov, A. Bohatyryov, & M. Puzyryov, 2017, p. 26), which increases the importance of professional psychological selection (D. Day, & S. Silverman, 1989, p. 111);

2) professional, due to the socio-psychological nature of professional activity, the specifics of personnel work in custodial settings and emotional burnout. This group is also supported by foreign scientists (N. Rizvi, 1985, p. 84; A. Furnham, & T. Miller, 1992, p. 226; R. Lasarus, 1974, p. 326). At the same time, by the specifics of professional activity, scientists understand, as a rule, the negative features of its content, organization and conditions, as well as the repeated repetition of typical service and psychological situations.

We emphasize that it is advisable to consider them in detail in order to expand their essence for a deeper understanding the professional deformation among the personnel of custodial settings.

Thus, the first group is characterized by the normative nature of personality behavior and determines the effectiveness of its social identification, self-actualization and activity. Therefore, in the context of professional activities of personnel of custodial settings, such basic regulatory systems of regulation of behavior as morality and law take on significant importance. The phylogenetic integration of these systems is revealed through their functional cognitive-evaluation, regulatory and value-orientation unity.

Compliance by the personnel with the standards of custodial settings is based not only on the external impact of the performance of their duties, but can also be an internal side of their activities. The possibility of internal assimilation of morality and law as imperatives are due precisely to the fact that they are generally accepted values.

According to the researches of V. Boyko, there are moral defects and disorientation of the person that is a prerequisite for professional deformation. The moral defect is due to the inability to include such moral categories as conscience, virtue, integrity, honesty, respect for the rights and dignity of another person, while the formation of emotional burnout is facilitated. The probability of indifference to the subject of activity and apathy to the performed duties increases (V. Boyko, 1996, p. 107).

Moral and legal consciousness are knowledges about moral and legal norms, principles, practice of moral and legal relations. In the field of morality, knowledge of norms is mandatory, since only in this case they act as a prerequisite for the moral responsibility of the individual both to morality (society) and to their own

conscience. Moreover, conscience is an exponent, a manifestation of moral and psychological self-regulation, self-determination of personality behavior.

So, the personnel of custodial settings in modern society constantly assimilates legal and moral norms through socialization, forms an attitude to legal or moral requirements, accepts or rejects them, passing through their consciousness, that is, evaluates, applying in practice those of them that they consider priority from the point of view of their significance. Therefore, the evaluation function is common to all elements of the legal and moral system.

One of the reasons for the negative changes in the legal awareness of the personnel of custodial settings, which further contributes to the emergence of professional deformation, the domestic scientist-practitioner E. Barash (2011) calls everyday contacts with convicts, as well as the traditions and moods of «other life», which are cultivated in some groups of employees of penal institutions (p. 15). Such circumstances give rise to falsifications and violations of the requirements of the current legislation, hide shortcomings in the performance of official duties. In our opinion, the personnel of custodial settings are the most vulnerable, since the circle of influence of such negative factors on it is wide.

One of the signs of professional deformation in the personnel of custodial settings is his subjective interpretation of law-abiding behavior – the legal legislature, which consists in the fact that the personnel of custodial settings considers it normal to deliberately or unknowingly violate the requirements of the current legislation, excluding criminal intent. Such influence, according to the foreign scientist V. Beschastny (2005), is carried out in psychological, material, physical forms and has a wide range from outright intimidation and threats to elegant, formally convincing admiration and various temptations (p. 342).

It should be noted that violations of the regulatory regulation of performance are quite diverse. One of the characteristic violations in the daily activities of the personnel of custodial settings is legal nihilism, the most dangerous and widespread phenomenon in the legal space. Legal nihilism indicates an extremely negative attitude towards any generally accepted socially important values.

Moral standards seem to be no less important than legal standards in the activities of non-freedom personnel. It can even be argued that the implementation of legal norms necessarily involves the analysis of a legal fact through the appropriate moral system of the constructs of the individual. This is determined by the fact that the right is ethical in essence, and the content of legal norms through universality necessarily implies its moral and value aspect of interpretation.

From the point of view of positive law, if there is a real threat to the life of the personnel of custodial settings, he has the opportunity to use special means (rubber batons, tear substance, handcuffs, etc.) against the attacker. The ethical content of the exercise of this right involves taking measures to avoid the use of special means (with full legal opportunity), is not provided for by law, but is provided for by its own understanding of a certain effectiveness of the situation and the value of someone else's life and health.

Thus, each area of legal practice has specific characteristics of enforcement and accordingly must contain a specific system of ethical standards. We believe that with the help of law and morality, a certain order is maintained among the personnel of custodial settings, guaranteed security of both personnel and convicts is ensured.

Summarizing the group of personal reasons for professional deformation among the personnel of custodial settings, it should be noted that they consist in insufficient education of moral imperatives in the training of personnel; low legal culture; hypertrophy of official authority; The identity of the interpretation of the law by employees, given that they deal mainly with violations of laws, various social anomalies, criminals.

The second group is characterized, first of all, by the working conditions

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of the personnel of custodial settings, associated with the influence of extremely unfavorable factors – excessive tension, stress, extremality, psychological overload. Unfortunately, these factors occur among the personnel of custodial settings constantly and are mainly associated with violation of the established procedure for serving a sentence by convicts.

Their presence among young personnel during the period of adaptation to conditions working in custodial settings significantly affects their physical and mental health. Although this influence decreases with the increase in the length of service, the accumulation of proper experience in relations with convicts, however, this does not reduce the gradual accumulation of mental tension in the personnel member's personality structure, and at some stage leads to more serious consequences than temporary loss of ability to work. Among them, researchers note significant changes in the nature of professional motivation, the level of efficiency, narrowing communication links with others, and the like.

Also, the mental tension of the personnel of custodial settings affects the nature of interpersonal relations among the personnel, and in general the socio-psychological situation in the team. In turn, an unfavorable, conflicting environment increases the stress on employees.

There is an influence on the professional deformation of the psychologically heavy contingent (special contingent). So, a foreign scientist A. Lebedkin (1995), on the basis of a socio-psychological study, found that the increase in the number of violations of the established procedure for serving a sentence by convicts is directly proportional to the number of violations in the personnel of the penitentiary institution (alcohol abuse, violations of disciplinary norms, etc.). At the same time, the officers point to an increase in negative psychological pressure on the part of convicts and individuals who are members of organized criminal groups in the penal institution and beyond (p. 114).

It is appropriate to note that the personnel of custodial settings in the process of their professional activity is forced to communicate with all convicts, that is, persons with anti-social psyche, deformed consciousness and low morality. This process also involves predicting the probable behavior of the convicted person, and therefore the employee often does not have enough knowledge of the identity of the offender alone; in order to carry out his task successfully, he must feel the environment of the criminal element. Accordingly, such processes necessarily put a negative imprint on the employee himself, his individual development as a person.

In addition to these, there are social factors that negatively affect certain elements of the professional competence of employees. Among them, one should first highlight the low assessment of the activities of personnel of custodial settings by society, individual social strata; its inadequate legal protection; The traditionally established social type of personnel member working in the penitentiary system.

Separately, it is worth paying attention to the problem of emotional burnout of the personnel of custodial settings based on the fact that, according to modern ideas, the phenomenon of emotional burnout is inherent in people working in the social sphere, it is produced as a person's reaction to constant stressful stimuli in a situation of professional communication.

Burnout is a syndrome, that is, a collection of individual symptoms. Among them, in addition to emotional disorders, in the personnel of custodial settings, the majority are manifestations of a decrease in self-actualization indicators, leading to deformation, primarily of their personal and professional significance.

Therefore, in a broad sense, emotional burnout is manifested not only as fatigue from professional communication, but rather as a remedy produced by the subject of labor, subjectively allows you to maintain the status of «on the other side of the law» before the convict; not to take a very negative reality; Maintain their own positive personal and professional self-esteem; it is economical to spend your own resources and the like. Moreover, the more the employee is

formed, the less the manifestation of burnout, probably through an understanding of the illusory, fallacy of these effects, awareness of his own responsibility for the events of his life.

Thus, emotional burnout in personnel of custodial settings is a form of professional deformation of a subject of professional activity, acquired by him as a result of the action of protective mechanisms on the psycho-traumatic influence of working conditions in custodial settings of the Ministry of Justice of Ukraine, identified a decrease in emotional return, in an effort to reduce professional responsibilities, which require emotional costs, as well as in an effort to justify this by devaluing activities and their subject matter.

Currently, psychological support for the performance of personnel in custodial settings is becoming more and more relevant. The fact is that the formation of the penal system is accompanied by a number of difficulties. These include: the unstable socio-economic situation in Ukraine, the humanization of the punitive process, the allocation of the State Penitentiary Service of Ukraine as a separate executive body, new criminal procedural legislation based on the application of international standards, a high criminogenic level of crime, specific conditions of service of personnel of custodial settings. These difficult conditions are a constant source of stress on personnel.

Therefore, any extraordinary events regarding the prestige of the penal system cause a negative resonance in society, and this ultimately negatively affects the authority of the entire law enforcement system.

Conclusions. Based on the results of the study of the legal framework for preventing professional deformation of personnel of custodial settings, we propose taking such measures to prevent this negative phenomenon as: improving the system of training, education and advanced training; to create and maintain a sense of security, confidence in the usefulness and fairness of their work; careful selection of personnel, taking into account the personnel member's business and especially moral qualities; Improving management skills in the application of progressive forms and methods of work through scientific management; creation of an effective organization of labor, working hours of employees in order to reduce overload, physical and psychological overwork, as well as improving the personal qualities of employees, creating a friendly atmosphere in the team; To establish interaction with public organizations, the population, convicts and prisoners, taking into account the norms and principles of professional ethics and the like.

At the same time, during the reserch, we found that we have found such a factor of professional deformation as the stay of a young employee who has not yet managed to professionally deform, in the team of already professionally deformed personnel of custodial settings. In our opinion, it is this factor that should be considered in the first place, since in fact it is the other employees of the institution who are the source of creating the negative phenomenon being studied, its stimulation and fixation as an element of the personality of a young employee, in particular, by imposing certain negative traditions and habits (for example, constant alcohol consumption after daily duty). We consider such a vector of research not disclosed and quite promising in the field of preventing professional deformation of personnel of custodial settings.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ПРАВОВІ ЗАСАДИ ЗАПОБІГАННЯ ПРОФЕСІЙНІЙ ДЕФОРМАЦІЇ СЕРЕД ПЕРСОНАЛУ МІСЦЬ НЕСВОБОДИ

Анотація. У статті визначено найбільш значущі особистісні та функціональні детермінанти професійної деформації у персоналу місць несвободи, а саме: відсутність належної мотивації до виконання оперативно-службових завдань; особливості мікросередовища, в якому доводиться працювати; психоемоційну напруженість; відсутність належного соціально-правового захисту та ін.

Обґрунтовується важливість правосвідомості та моральності для виконання оперативно-службової діяльності, виправлення та ресоціалізації засуджених. Доведено, що професійно деформований співробітник знає правові та моральні норми, але суб'єктивно та довільно виконує їх, виправдовуючи свої дії різними обставинами, пов'язаними зі специфікою психології та поведінки засуджених.

Виокремлено групу особистісних детермінант, пов'язаних із соціально-психологічним характером професійної діяльності та специфікою роботи у місцях несвободи. Зазначено, що умови роботи персоналу місць несвободи пов'язані із впливом вкрай несприятливих чинників, а саме: неадекватні професійні установки; випереджаюче формування трудових умінь і навичок щодо професійно значущих якостей особистості; психологічне перевантаження; постійний негативний вплив з боку засуджених; екстремальність; стале емоційне напруження; брак позитивного підкріплення; невелика престижність професії та нерозуміння важливості роботи з боку суспільства тощо. Доведено, що психоемоційна напруженість суттєво впливає на виникнення професійної деформації у персоналу місць несвободи.

Окреслено, що персонал місць несвободи в сучасному соціумі постійно засвоює правові та моральні норми шляхом соціалізації, формує ставлення до правових або моральних вимог, приймає або відкидає їх, пропускаючи через свою свідомість, тобто оцінює, застосовуючи на практиці ті з них, які вважає пріоритетними з огляду на їх значущість.

Встановлено, що емоційне вигорання у персоналу місць несвободи – це форма професійної деформації суб'єкту професійної діяльності, набута ним у результаті дії захисних механізмів на психотравмуючий вплив умов роботи у місцях несвободи Міністерства юстиції України, виявлених у собі зниження емоційної віддачі, у прагненні скоротити професійні

обов'язки, які вимагають емоційних витрат, а також у прагненні виправдати це шляхом знецінення діяльності та її предмета.

Ключові слова: *персонал місць несвободи, професійна деформація, детермінанти, психологічне перевантаження, емоційне вигорання, екстремальність, запобігання*

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MONITORING OF EMPLOYEES' WORK EMAILS AS A MEANS OF INFORMATION SECURITY OF A POLISH ENTERPRISE

Abstract. In the given article, the problem information security of Polish enterprises is researched. One of the directives of the given information security is the control over the employees' work emails. In the article, the legal obligations of the enterprises as for the work email monitoring and the right for personal life respect are analyzed. The issue of sanctions for confidentiality correspondence violation and the right to respect for the private life are dealt with.

Keywords: *information security, privacy, sanctions, European Court, law, Labor Code*

Introduction. Relevance for studying different aspects of information security is connected to the process of globalization, when the significance of information is constantly increasing. Information poses as an important element for the state functioning, democratic development of the society, the relationship between the state, citizens and society. The human information rights are considered an integral part of civil rights.

Therefore, the enterprises face the problem of ensuring information security. Every employer is obliged to develop and implement a set of measures which aims at securing information from an unauthorized access, ensuring its confidentiality, accessibility and integrity.

Nowadays, almost every enterprise either creates or demands from its employees to create a so-called work email. As a rule, it is an email connected with the domain of the enterprise, which can help to identify the employees with the company when working with other enterprises. Unfortunately, this email address may be used not only for performing the company's activity but also for other private purposes, which may lead to the negative repercussions for the company.

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To avoid the employee using the work email for personal purposes, the employer has to own the set of tools, with the help of which he can check the use of the work email. It has to be done correctly so that the right to the private life and confidentiality of correspondence is not violated. The enterprises' decision-making actions have to be characterized by the proportionality principle which is important in checking correspondence of employees. In case of neglecting such measures, the enterprise may have financial losses or face the negative consequences as a result of informational security violation.

Analysis of recent research and publications. According to Polish law, the employee has the right to check the employee's correspondence made from work email. It natural for the employer to have the right to know the content of such correspondence as it is done on the company's behalf.

Thus, work emails control is the right of the employer. It is possible according to the Article 223 part 1 of the Labour Code of the Republic of Poland (1974), which states that it is possible in case of necessity to provide the organization of work that ensures the full use of working time and the proper use of labor tools provided to the employee. The employer may introduce control over the employee's work email (email monitoring).

Thus, the work email control is possible, but it needs to have a strictly determined aim of increase in employees' work efficiency and the ability to check whether or not they use the tools provided by the employer (K. Jaskowski, https://sip.lex.pl).

The regulation providing enterprise with the right to control the employees' work emails was included in the Labour Code of the Republic of Poland. Before the given regulation, there were no norms that gave the employer the ability to control the employees' correspondence. Therefore, this issue has been the subject of discussions. The email checks were one of the most controversial forms of monitoring. It is connected to the fact that the secrecy of correspondence is protected by the Polish Constitution. According to the Article 49 of the Constitution of the Republic of Poland, the freedom and protection of the secrecy of correspondence is guaranteed, and its limitation may occur only in cases, stated by the Law and in the manner specified by it. That is why the legislator pays significant attention to the secrecy of correspondence. It has to be taken into account that the exercise of constitutional rights and freedoms may be restricted if it is necessary in a democratic state for its security, public order, environmental protection, protection of health and moral, freedoms and rights of others, provided that these restrictions do not violate the essence of these freedoms and rights (Article 31 part 3 of the Constitution of the Republic of Poland). Therefore, the freedom of correspondence secrecy can be neglected only if it is stated by the Law. The legislator has to determine directly the necessity of correspondence secrecy violation, stating the circumstances and modes of such violation. Only this way the violation of correspondence secrecy right is treated as acceptable (1997).

The dubious issue was the monitoring of work emails. There were no principled doubts that the personal correspondence of the employee is above the employer's control (M. Kuba, https://sip.lex.pl). On the one side, when talking about work correspondence, it was hard to determine the scope of the correspondence secrecy. It was particularly difficult to decide, who, except of the people taking part in correspondence, is authorized to control the given correspondence. It is stated that as long as the employee leads correspondence on behalf and in favor of the employer, the latter can be treated as a person authorized to access this information (M. Kuba, https://sip.lex.pl).

On the other side, the secrecy of correspondence sphere covers only the communication participants, namely the employee and his interlocutor. It is important as the secrecy of correspondence is also provided by the criminal legislation. According to the Article 267 paragraph 1 of the Criminal Code of the

Republic of Poland (A. Bojanczyk, 2003), a crime against the secrecy of information is committed by those who gain access to information not intended for him without permission, by opening a closed letter, connecting to a telecommunications network or e-mail (G. Bogatyrev, A. Bogatyrev, & M. Puzyrev, 2017, 40 p.). Criminal liability also applies to those who illegally gain access to all or part of the IT system (paragraph 2 of the Article 267 of the Criminal Code of the Republic of Poland), as well as to those who receive or use listening devices, visual devices or other software to obtain information to which he has no right of access (paragraph 3 of Article 267 of the Criminal Code) (1997).

Therefore, without doubt, the solution of the further mentioned dilemma demanded the legislators' intervention. The changes had to be introduced for the enterprises not to be subjected to criminal responsibility for actions aimed at creating the conditions for its safe functioning and inspecting the activities of people working for this enterprise (M. Kuba, 2016).

The purpose of our article is to study the problem of information security of Polish enterprises.

Formulation of the main material. The fact that the absence of the legal grounds for the employee's email check is unacceptable is proven by the legislation experience in other countries. For example, the law of Great Britain makes clear exceptions for the employer regarding to the fact of wiretapping and reading employees' emails (without permission from both sender and receiver). The employer has the right to control and record the messages in certain circumstances, among them for assuring the employees keep to the standards of the company, prevent or detect the crime, investigate or detect the unauthorized use of the telecommunications system or ensure the security of the system and its effective functioning (2000). In its turn, Finnish law on protection of confidentiality in professional life regulates the rules controlling the employer regarding the employees' email, namely the namely, the restoration and opening of messages sent to the email address of the employee and messages sent by the employee from this email address (2004).

Consequently, there are no doubts that the access of the employer to the employee's correspondence sent on behalf of the company was dubious despite the business nature of this message and the fact that it is created with the tools provided by the employer (V. Medvedev, 1992, pp. 33–40).

Therefore, it is necessary to positively evaluate the establishment of the regulation, which lawfully authorizes the employer to control the employee's work email. They legitimize the enterprise to take care of its safety in the field of activities done by its employees (A. Bogatyrev, 2016, 198 p.).

The legislator refers to the proportionality rule by allowing the control over the employee's email. Taking into account the further mentioned regulation, the employer can introduce the control over the employee's work email if it is necessary for work organization. It should also ensure the fully fledged use of working time and the proper use of work tools provided by the employee. While choosing the conditions for subordinating the employee to control in this regard, two tasks were identified for the labour organization, which allow the full use of working time by employees and the proper use of business tools. In the given case, the legislator uses the particle «and» underlining the connection between the further mentioned aims of the employer's controlling activity. As a result, it means that the corresponding conditions have to be kept to simultaneously (M. Kuba, 2016).

Thereupon, the monitoring of the employee's work email is acceptable if it is necessary for ensuring the proper work organization (which allows the full-fledged use of working time) and the proper use of work tools provided by the employee.

These conditions do not always come together. The employee can use the tools in a way not corresponding to their purpose in the working time (for, example, during the break). However, it has to be mentioned that the necessity to keep to

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both obligations, stated in regulation commented, increases the protection of the employees from the excessive control of the employer, but it can also be the source of abuses done by the employee (M. Kuba, 2016).

In the analyzed sources it is stressed that while controlling the work employee's work email, the employer has to comply with the following principles:

necessity principle;

employee's dignity and personal rights protection principle

trade unions liberty and independence principle

According to the necessity principle, the monitoring of the employee's email is acceptable when it is necessary for the work organization which allows for the full-fledged use of time and working tools allowable for the employees (have to be performed together) (M. Kuba, 2020).

The necessity principle means that the employer has to state that the above mentioned aims cannot be achieved otherwise than by the way of employee's monitoring. The circumstances which have significance for the assessment are the type of work, its nature and the position of the employee. The necessity principle is additionally marginalized by the employee's dignity and personal rights protection principle. Using the accordance monitoring is acceptable only if the personal property of the employee, as well as the secrecy of correspondence, (Article 22^3 paragraph 2 and 4 of the Labour Code of the Republic of Poland) is not violated.

According to the trade unions liberty and independence principle, the monitoring cannot include, without any exceptions, rooms (an analogy to the email address) used by the trade union.

Besides, the Article 22^2 § 6-10 and Article 22^3 §4 of the Labour Code of the Republic of Poland makes it visible that any form of employees' monitoring is legit if it was made by the principles stated there.

These principles comply with the transparency in processing personal data principle (M. Kuba, 2020). Such requirements serve the basis of this principle:

a) the aims, scope and mode of using monitoring are defined in collective labour agreement, labour regulations or in message if the employer does not make collective labour agreements (part 6 of Article 22^2 of the Labour Code of the Republic of Poland);

b) the employer informs the employees about the monitoring in the mode acceptable for the employees not later than 2 weeks before the start of its implementation (part 7 Article 22^2 of the Labour Code of the Republic of Poland);

c) before allowing the employee to start working, the employer provides him with the written information on the aims, scope and mode of conducting monitoring (part 8 Article 22^2 of the Labour Code of the Republic of Poland) (M. Kuba, 2020).

The compliance with the transparency principle, while controlling the correspondence, is of a principal importance for respecting the employee's personal rights. The employee has to be informed about the monitoring of his work email. The employee who has not been informed about by the employer about the monitoring has the lawful right to hope that his private life and communication are protected (K. Jaskowski, https://sip.lex.pl).

By implementing this form of control the employer is obliged to inform the employees in a mode, defined by the given company in two weeks before the start of the monitoring (Article 22 §7 in line with Article 22 §3 of the Labour Code of the Republic of Poland). Upon hiring a new employee and the company has to provide him with the written information on the aims, scope and mode of email monitoring before allowing him to do the job (Article 22 §8 in line with Article 22 §3 of the Labour Code of the Republic of Poland). Besides that, the employer has to mark accordingly the emails, stating clearly that the given email is controlled by the company. Marking computer or another device used for email service is not considered sufficient if the marking does not include the information that the email is controlled too (M. Kuba, 2020).

In addition, according to Article 222 §3 of the Labour Code of the Republic of Poland, the aims, scope and mode of the above mentioned form of monitoring have to be stated in the collective labour agreement or labour regulations or in message if the employer does not make collective labour agreements or is not obliged to set up the rules. Consequently, the employer has to define the aims of the monitoring, stating clearly the scope of controlling activity in the discussed area. Besides, the scale of monitoring and the data collected have to be defined. The scale of data has to be compliant with the aims of monitoring. Therefore, if getting information on the sender and receiver, date and time of sending and receiving and the topic of the message is enough, the company does not have to analyze the content of correspondence. However, the employee has to be informed that this specific data will be collected while making the controlling activity. The mode of monitoring as well as defining the ways of email controlling and its rules have to be the subject of agreement too. Particularly, the circumstances and the frequency of controlling have to be defined (M. Kuba, 2020).

According to the Article 22 §2 of the Labour Code (1974) the email monitoring cannot violate the secrecy of correspondence or the right for privacy of life (I. Sokolov, A. Sysoyev, & S. Gornostayev, 2005, 206 p.).

Although the term «correspondence» is associated with communication through letters, according to the decision of the European Court, the secrecy of correspondence covers all means of communication. A similar view is expressed by the European Court of Human Rights, pointing out that the term «correspondence» also applies to communication by electronic means, such as email (1997).

Without doubt, the employee's right to the secrecy of correspondence can be violated while using email for monitoring. Despite the fact that the law allows to control only work messages, there is a risk of finding private messages in the employee's work email.

As is underlined in the research, even though the employer forbids using work email for private conversations, when he finds the private correspondence of the employee who neglected that prohibition, the employer is not allowed to read the whole conversation (M. Kuba, 2016).

Therefore, as is shown in the legal literature, the law which forbids violation of the secrecy of correspondence is considered fully justified. From the point of view of business, such a prohibition bears a possible risk for the employer of being held responsible for the measures taken to ensure the company's safety. In order to avoid the non-deliberate violation of the employees' personal space it is advised to make the definition of the employees' private messages. However, the prohibition of using work email for private purposes is not an easy matter (1997).

A lot of polish laws impose sanctions for violation of the right for privacy and the secrecy of correspondence.

The sanctions for violation of the regulations on authorized monitoring of the employee, monitoring procedures and other requirements for the processing of personal data of the employee are specified primarily in the regulations of the Law on Personal Data Protection from 2018 (M. Kuba, 2016).

Besides, if the employee recognizes his personal rights violation or suffers from its consequences, he has the right to demand protection on the basis of the regulations of the Civil Code of the Republic of Poland (1974).

In general, the employee may also use his right to immediately quit the labour relations as for the serious violation of main obligations by the employer according to Article 55 part 1 of The Labour Code of the Republic of Poland (1974).

As was mentioned above, the secrecy of correspondence violation may even lead to the criminal responsibility as well as to violation of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, in case of the given violation, the case will be viewed by the European Court of Human Rights and instead of the employer the responsible side will be the state.

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Let us look at the employee's work monitoring and intrusion in their right for the respect for private life. The usage of Law regulations which allow conducting monitoring, has to be done with regard to the necessity to balance these contradictory values and interests of both sides of labour relations. It means that monitoring as means of controlling employee has to include the need to respect the employee's personal rights, among them the right for personal life. The connected standards are set by the European Court of Human Rights in the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which is a guarantee of the above mentioned right to respect for private life (in particular, judgments of 9 January 2018, 1874/13 and 8567/13, Lopez Ribalda and Others vs. Spain, LEX № 2418052 from 11.28.2017 p., 70838/13 Antović and Mirković vs. Montenegro; LEX №2398411; Grand Chamber judgment 05.09.2017 g., 61496/08 Bărbulescu vs. Romania, LEX №2347233; 03.04.2007 g., 62617/00 Copland vs. Great Britain, LEX № 527588 of 2 August 1984, 8691/79 Malone vs. Great Britain, LEX № 80974) (M. Kuba, 2016).

In this context, the judgment in Bărbulescu vs. Romania (Grand Chamber judgment of 5 September 2017, statement № 61496/08) deserves special attention.

Bohdan Bărbulescu, the citizen of Romania, on request of his employer created an account in a public messenger, which had to be used for communication with clients. While conducting monitoring on the content of messages, received by the employee, it was noticed that this messenger account is also used for the employee's private conversations. The employer broke the labour contract with Mr. Bărbulescu. The employee, in his turn, accused the employer of the unreasonable termination and the excessive intrusion in private life. Later, he handed the case to the court. The court agreed with the employer. In 2008 Bohdan Bărbulescu handed the case to the European Court of Human Rights stating that the Art.8 of Convention for the Protection of Human Rights and Fundamental Freedoms had been violated. The given article refers to the right to respect for family life, home and correspondence (1974).

The European Court of Human Rights made a claim that the employee's correspondence at work is covered by the concepts of «privacy» and «correspondence» and therefore the Article 8 of the Convention has to be applied.

The Court's idea was that the potential violation has to be looked at from the point of view of the state positive obligations. In the sphere of labour law, it had to be evaluated if the state was required to create the legal basis for the protection of employees' rights to the private life and correspondence in the context of their relations with the employer. The relations between the employee and employer are based on their mutual agreement. They include specific rights and obligations of both sides, which differ significantly from the generally accepted ones in the relations between individuals. From a legal point of view, labour legislation leaves space for the negotiations between both sides of a labour agreement. To conclude, the sides determine most part of their relations (2017).

The Court noted that regulating relations in this area could not be subjected to the unlimited freedom. National authorities must ensure that the measures implemented by the employer to monitor correspondence and other means of communication, regardless of their scope and duration, are accompanied by adequate and sufficient guarantees against abuse.

The Court stated that in the given context the following factors have to be taken into consideration:

– whether the employee was notified of the employer's ability to control correspondence and conduct monitoring. However, in practice employees can be notified in different ways depending on case circumstances. The Court recognizes that the implementation of such measures that meet the requirements of Art. 8 of the Convention, as a rule, requires that the notification clearly indicate the nature of the monitoring and is given to the employee prior to its conduct;

– the scope of monitoring and the degree of interference in the employees' private lives. In this regard, a distinction should be made between monitoring the flow of correspondence and its content. It should also be taken into account whether all correspondence was monitored, as well as whether monitoring was limited in time and how many people had access to its results;

– if the company has provided the justified reasons that excuse the monitoring of correspondence and knowledge of its actual content. In a situation where correspondence monitoring is an inherently more invasive method, it needs more serious justification;

– whether it was possible to create a monitoring system based on methods and measures that are less stringent than direct access to the content of employees' correspondence. It is necessary, given the special circumstances, to assess whether the goal of the enterprise can be achieved without direct access to the full content of the employee's correspondence;

– the consequences of monitoring for the employee and the way the company used the results of monitoring, in particular, whether or not it served to achieve its stated purpose;

– whether the employee used appropriate guarantees, especially when the employer's monitoring was strict. In particular, it should prevent access to the actual content of the correspondence in question, except in cases where the employee has not been notified of of monitoring before its conduction (2017).

The government has to ensure that the employee whose correspondence was tracked receives access to court under whose jurisdiction is possible to check to what extent the above mentioned criteria are kept to.

The European Court of Human Rights has to evaluate the method which the national courts applied when dealing with the employee's case about the violation of his right to private life and correspondence by the employer (2017).

In the given case, the Romanian courts paid attention only to the fact whether or not the employer revealed the content of correspondence to the employee's colleagues. The court stated that this argument is not sufficiently justified in the case materials and that the complainant did not provide any other proofs. Therefore, it considered that the application was related to the employee's dismissal as a result of monitoring conducted by the employer.

The European Court of Human Rights stated that in this case the Romanian court had to be more precise about whether or not the company used monitoring according to the Article 8 of the Convention and the complainant's right to the respect of his private life and correspondence was not violated.

Thereby, the task of the European Court of Human Rights is to establish, in all circumstances, the competent authorities. The courts have a good balance of competing interests in the event if monitoring is applied to the complainant. He acknowledged that the employer has a legitimate interest in the effective operation of the company, which can be done through the verification mechanism done to check that employees perform their professional duties properly and with due diligence (2017).

For this reason the Court made a decision to check how the national courts established the facts relevant to the given case. By studying this case, the Court had to determine if the national courts acted according to the regulations of the Convention.

The Court reminded that, regarding the factual findings, it was aware of the ancillary nature of its task and its obligation to exercise caution, assuming the role of the actual court, unless this was unavoidable. The court cannot replace the assessment of the facts set out by the national courts, as they must establish the facts on the basis of the provided evidence. However, while examining the case, the Court is not bound by the decisions of the national courts and is free to assess them in the light of all the materials submitted. Despite this, the convincing arguments are needed for the Court to depart from the factual findings of the national courts (2017).

The proof provided for the Court show that the employee was informed by

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the employer about the in-house regulations, which do not allow using company resources for personal needs. It confirmed reading the corresponding document and signing its copy on December 20, 2006. In addition, the employer sent a notice dated 26 June 2007 to all employees, reminding that the use of the company's resources for personal purposes was prohibited, and one employee was fired for violating this prohibition. The complainant read the notice and signed a copy on an unspecified date between 3 and 13 July 2007. The court also noted that on 13 July 2007 the employer twice requested a clarification for the use of official mail for personal purposes. Initially, when the employer showed him a list of his correspondence, the employee stated that he used the Yahoo Messenger account only in connection with work. Fifteen minutes later, when the employer showed him a 45-page correspondence with his brother and his fiancée, the employee accused the employer of violating the confidentiality of the correspondence (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

According to the Court, the national courts correctly identified the parties to the dispute, clearly stating the applicant's right to respect for his private life, as well as the legal principles applied. In particular, the Court of Appeal referred directly to the principles of necessity, purpose, transparency, proportionality and security, and stressed that the monitoring of correspondence falls under these principles. The courts also examined whether disciplinary proceedings had taken place in an adversarial manner and whether the applicant could present his arguments.

It is left to decide how the national courts took into account the above criteria in determining the extent of the applicant's right to respect for his private life and correspondence against the employer's right to do monitoring, including his disciplinary rights, in order to ensure the effective functioning of the company.

As considering the fact if the applicant was previously informed by the employer, the Court stated that he claimed that he might not be informed about the scale and type of monitoring or about the fact that the employer might have had access to the content of his correspondence. The Court stated that, regarding to the possibility of conducting monitoring, the national court simply noted that «the employees noticed that one of their coworkers was fired before the reprimand of the applicant», and deduced that the applicant was warned against using company's resources for his personal purposes. National courts have not defined whether the applicant was previously informed about the fact that employer might conduct monitoring, its sphere and character. The Court agrees that for the message being viewed as a previous notice it has to be made before the monitoring, especially when it covers the access to the employees' correspondence. The international and European standards are developing in this direction, demanding from the employer to inform the subject of monitoring beforehand.

With regard to the scope and extent of the violation of applicant's privacy, the Court noted that this issue had not been considered by the court, although the employer seemed to have registered the whole applicant's correspondence during the monitoring period, had access to it and copied its content (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

It also appears that the courts did not sufficiently assess the legitimate reasons that justify the monitoring of the applicant's correspondence. No specific goal that could justify such strict monitoring is mentioned. It is only stated that there is the need to ensure that the company's IT systems are not damaged, its responsibility in the event of illegal activities in cyberspace and the disclosure of trade secrets of the company. However, the Court considers that these examples can only be viewed as theoretical, as there is no indication that the applicant actually exposed the company to this type of risk (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

Moreover, the national courts did not determine whether the employer's aim could be reached the measures less heavy than the access to the employee's correspondence. In addition, none of the courts viewed the consequences of

monitoring on further disciplinary proceedings. The Court stated that the applicant was given the strictest punishment which was his dismissal (Ombudsman. Monitoring the employee's communications... , https://www.rpo.gov.pl).

The courts did not define if the employer had a real access to the employee's correspondence when he urged the applicant to explain the use of company's resources. The courts did not define where exactly when in the disciplinary proceeding the employer reached the content of correspondence. Accepting the possibility of access to the content of correspondence at any stage of disciplinary proceedings was against the principle of transparency. For these reasons, the finding of the national courts to maintain the right balance of interests was controversial. This statement seems to be an expression of a purely formal and theoretical approach. The national courts did not explain, given the circumstances, the specific reasons concerning the applicant and his employer which led him to such a conclusion.

Therefore, it appears that the courts were unable to establish whether the applicant had been notified in advance by the employer of the possibility of monitoring his correspondence with Yahoo Messenger; they also did not take into account that he was not informed of the extent of the intrusion into his private life and the secrecy of the correspondence. In addition, they did not identify specific reasons that justified the monitoring; whether the employer could have used means less restrictive of the applicant's privacy and correspondence, and whether the applicant's correspondence could be accessed without his awareness.

For all these reasons and despite the freedom of assessment of the facts by the national courts, the Court considered that the applicant had not been adequately protected by his right to respect for private life and correspondence and had not struck the right balance between the parties' interests. Thus, the Article 8 of the Convention was violated (2017).

Conclusions. Although the regulations discussed in the given article have to prevent the violation of the right to privacy and confidentiality of correspondence, they are mostly reduced to the fact that employers do not read private correspondence sent by an employee from a business email address. However, practically, it is not that simple. The employer may accidentally open the private correspondence. The other thing is that the work email has to be used only for correspondence connected with work. The employees have to remember not only about the guaranteed confidentiality of correspondence and the right to respect for private life, but also the fact that the company has the right to protect the secrecy of the company, which the employee is prohibited to disclose. Employees should be aware of this, as well as of the fact that the employer will take measures to ensure the company's information security, which requires control and monitoring of employees.

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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Аліна Варяниченко, Світлана Тютченко

КОНТРОЛЬ СЛУЖБОВОЇ ЕЛЕКТРОННОЇ ПОШТИ ПЕРСОНАЛУ ЯК ЗАСІБ ІНФОРМАЦІЙНОЇ БЕЗПЕКИ ПОЛЬСЬКОГО ПІДПРИЄМСТВА

Анотація. Інформаційне право − це відносно молода галузь права, предметом якої є інформаційні відносини, що виникають у процесі обігу інформації. За останні роки сформувався великий обсяг законодавчих актів, що регулюють інформаційну сферу, зокрема сферу інформаційної безпеки та захисту інформації. Права людини в інформаційному суспільстві забезпечуються міжнародними правовими актами, що стосуються інформаційних прав особистості. Важливим аспектом інформаційної діяльності держави є ієрархія пріоритетів, серед яких на першому місці стоїть міжнародне право, на другому – національне законодавство, а вже далі − підзаконні акти, які не повинні суперечити міжнародному та національному законодавству. У статті досліджується проблема забезпечення інформаційної безпеки підприємств Польщі, одним з напрямків якої є контроль службової електронної пошти персоналу підприємств. В статті проаналізовані правові зобов'язання підприємств щодо контролю службової пошти своїх працівників та право на повагу до приватного життя. Розкрито питання санкцій за порушення конфіденційності кореспонденції та права на повагу до приватного життя. Авторами проаналізовано наукові праці з питань правового забезпечення інформаційної безпеки підприємств та констатовано, що в разі контролю службової електронної пошти персоналу роботодавець повинен керуватися такими принципами: принципом необхідності; принципом захисту гідності та особистих прав персоналу; принципом свободи та незалежності профспілок.

В статті представлений моніторинг роботи персоналу та втручання в їхнє право на повагу до приватного життя. Використання положень Закону повинно здійснюватися з урахуванням необхідності збалансовувати ці суперечливі цінності та інтереси обох сторін трудових відносин. А це значить, що моніторинг, як вид контролю роботодавця, повинен враховувати потребу поважати особисті права працівників, включаючи право на приватне життя.

Ключові слова: *інформаційна безпека, приватне життя, санкції, Європейський суд, право, Трудовий кодекс*

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MODERN ASPECTS OF CRIME PREVENTION

Abstract. We are passing through a period of time in which the big known social scourges – corruption, poverty, unemployment, drugs, and alcoholism – are completed by terrorism, organized crime, deterioration of urban environment, as well as subtle factors such as abuse, discrimination, absence of control, advocacy of violence through media. All of these factors are complemented, naturally, with particular ones for every country or region, thus amplifying social vulnerability and criminal costs. The groups which suffer the most due to high criminality rate remain always the same: the young, the elderly, women, single persons, people who live in the suburbs. Although immediate risks seem urgent, lasting improvement appear only when indirect factors are approached: poverty, illiteracy, unemployment, lack of perspective etc. Therefore, preventing crime becomes imperative for this period of time, in which the main objectives are social order, consolidation of mechanisms used to respect and apply the law, education and solidarity of the public.

Consequently, preventing crime as a social and antisocial phenomenon, which accompanies every form of organization of human existence has constituted to this day a challenge for theoreticians and practitioners of criminal sciences worldwide. Limiting to a certain extent the effects of this manifestation, characteristic of the human behavior and reducing them to a certain degree of endurance, has always represented a major preoccupation of the state, regardless of its nature. Naturally, prevention is part of the forms of reaction of society towards criminality and definitely constitutes the final, yet optimal, means of answer society must give to this species of human behavior.

Keywords: *crime, crime prevention, modern models of criminal prevention*

Introduction. Crime prevention as a social and antisocial phenomenon that accompanies every form of organization of human existence today is a challenge for theoreticians and practitioners of criminal sciences around the world. Limiting the consequences of this manifestation, and reducing them to a certain degree of endurance, has always been the main concern of the state, regardless of its nature.

Analysis of recent research and publications. «Prevention is not only the artwork of a specialist, but it requires the general effort. Beyond very limited recommendations, it implies the call for a change in mentalities... A society where communication is reconstructed, where constraints remain slim, where the person is constantly taken into consideration, will refuse violence. By refusing this defiance, a world not without violence, but a calmer world will be born.» (Answer to violence, tome 1, Presses Pocket, Paris 1977, page 222).

The purpose of our article is to study modern aspects of crime prevention.

Formulation of the main material.

1. Definition of the concept of crime prevention. Purpose and duties of prevention measures

Fight against criminality is happening in all states through specific measures, both prevention and constraint measures, with the enforcement of criminal sanctions. The problem of criminality persists in all states and the fight against it is

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inspired by the criminal politics, implying solutions at a national level.

The concept of prevention is translated by taking steps which lead to impeding the committing of crimes. The concept of prevention and fight against crime encompasses 2 determinations:

1. Post-crime prevention

2. Pre-crime prevention

Post-crime prevention signifies the ensemble of measures for re-socialization of persons who have suffered a condemnation, applied as provided by the law, either by state bodies competent in enforcing criminal punishment (when the punishment is executed in custody), by penitentiary bodies, or by groups of people (when the punishment is executed through labor), with the aim of avoiding recidivism.

Pre-crime prevention means an uninterrupted social process which implies an ensemble of social measures, applied by state bodies as provided by the law, mainly by the bodies under The Ministry of Internal Affairs and The Ministry of Justice, who work closely with different associations and organizations, in order to prevent and eliminate potential risks of committing crimes, through the identification, neutralization and removal of socio-human, subjective and objective sources, which can determine or facilitate anti-social acts. These measures are destined to essentially contribute to the permanent education of all members of society, in the spirit of obeying criminal law and legal order.

The activity of fighting crime should be understood as an ensemble of judicial and criminal measures, taken by specialized state bodies, in accordance with the law, in order to achieve the goal of the criminal trial, which is the timely and complete determination of the acts which constitute crimes, in such a manner that any person who has committed a crime will be criminally sanctioned, according to their guilt, and that no innocent person will be sanctioned according to criminal law.

Preventing crime signifies pre-empting the primary performing of those human actions or inactions, which society considers harming for its values, for which reason these behaviors have been sanctioned by criminal law (V. Clioclei, 2009).

The main objective of prevention is constituted by the ensemble of factors which determine or facilitate the realization of the criminal act.

Crime prevention represents a multilateral system of measures, aimed at:

a) Revealing and eliminating or reducing or neutralizing the causes of crime, of some separate types of crime, as well as the conditions which facilitate it

b) Revealing the groups of persons who bear a high criminal risk and reducing it

c) Revealing and eliminating situations from certain geographic areas

d) Revealing the persons whose behavior indicates the real possibility of committing crimes, as well as the corrective influence on them.

2. Classification of crime prevention and its role

Fight against crime must be done in 2 ways, namely:

a) A preventive way, for impeding the committing of crimes

b) A repressive way, for punishing those who commit crimes.

In the fight against crime, an important role is also played by the activity of the police, who prevent crime through control and public order surveillance.

There are 2 forms of crime prevention:

The first form refers to the prevention of appearance or existence of social or individual causes, which can lead to committing crimes. For example: poverty, economic crisis, conflicts between people, individual crises.

The second form refers to direct prevention of crime. For example: in the situation of the existence of a group of recidivists who always commit crimes, police bodies who monitor this group can intervene against them and in this case, stop them form committing crimes.

In accordance to the volume and the territory of crime prevention and prophylaxis, one can differentiate the following measures:

1) *General*, which aim at the discovery, the elimination and neutralization

of causes and conditions which can generate the committing of the criminal act. These measures can be aimed at large groups of persons, for example: in the fight against drug traffic, human traffic, gun traffic, etc.

2) *Special*, which are aimed towards certain categories of crimes or groups of criminals. For example: drug users, prostitutes.

3) *Individual*. These are the measures which apply to specific persons, which are on the verge of committing a crime.

1. General prevention

Is a complex multi-phasic process, comprised of interdependent elements. Thus, positive development of society, improvement of economic, politic and social institutions, would actively contribute to the general prevention of crime. In the same time, the purpose of crime prevention is not directly aimed at the change of the economic situation, but it influences a series of negative manifestations, such as:

– Poverty,

– Unemployment, etc.

Nevertheless, fight against crime does not directly pursue the raise in the level of culture of the population, but, obviously, it influences the behavior, interests and motivation of human acts and, consequently, the choice between good and bad, between a legal and an illegal behavior.

This form of prevention, namely the general prevention of crime, encompasses the main domains of social life, such as: the economic, administrative, cultural domain etc. Due to the existence of specific aspects of these domains of activity, these can generate the causes for the committing of crimes.

This complexity of criminal situations has determined Enrico Ferri to claim that using only punishment is not sufficient in the fight against crime. As an argument, Enrico Ferri states that fight against social reasons which generate crime, growth of the role of education, improvement of administration, improvement of economic conditions, etc. are also necessary.

In perspective, general prevention must bear a long-term nature, must embody all spheres of human life. For example: in the economic sphere – the development of production and use of efficient technologies, the lowering of inflation, creating new workplaces, the raise of salary level at European scale, in the social sphere – the development of middle class, strengthening family connections, etc.

2. Special prevention

Special prevention is that form of prevention which aims at directly impeding the committing of a crime. In the case of special crime prevention, it is a matter of specific acts, crimes which are on the verge of being committed and which can be stopped and prevented from happening. In this context, police plays an important role in special prevention, through the special duties it has. The measures which prevent the committing of certain crimes, in the case of special prevention, may be the following:

1) Making the citizens aware of the places in which crimes can be committed

2) Protecting goods with the help of alarm systems, etc. Special crime prevention has a much more specific character than general prevention. Thus, through special prevention, one may comprehend the prevention of committing new crimes. Special crime prevention, in the most direct way, is tightly connected to general prevention, except the measures of special prevention are much more specific and have limits concerning time, space, and persons. Moreover, general prevention takes action in the frame of the entire society, encompasses multiple spheres, such as: economic, social, politic, cultural, educational, etc.

3) Judicial factual measures can be a part of both general and special prevention. Special crime prevention measures are extremely diverse and can be classified under multiple criteria, such as: Judicial, Economic, Educational, etc.

3. Individual prevention

Targets the group of persons who have not committed crimes yet, but may commit them in the near future. This type of preventive activity is directed towards

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a specific person and towards his social micro-environment. Therefore, individual prevention must be directly aimed, as is the case with special prevention, at the person and their negative particularities, at the micro-environment, which participates in the most active manner to the shaping of the personality, as well as at the causes and conditions, which can generate or facilitate the committing of the crime.

The purpose of individual prevention consists of tracking these persons, exerting a positive influence on them, as well as on the micro-environment they belong to, in order for them to refrain from committing crimes or in order to eliminate the causes and conditions which can generate it.

3. Modern models of crime prevention

1. The repressive model

For a very long time, the social reaction against crime has had a strict repressive character. The customs of private justice consider the offence towards a group must automatically ripple to the clan they belong to, with the responsibility of the retaliation belonging to the entire group. Under „divine revenge», the leader (afterwards, the judge) could impose the application of the law (F. Mușiu, 2014).

The repressive model targets the following:

- rigorous codification of crimes and punishments, the necessity to elaborate a body of clear and accessible written laws.
- justification of the punishment by its retributive, discouraging and therefore useful character when it comes to the conservation of public order.
- the necessity to apply moderate, yet secure and prompt punishment.
- the introduction of an accusatory system in the criminal procedure; the necessity for public trial and evidence.
- the abolishment of torture as an investigation procedure, as a means to obtain evidence.
- the necessity to prevent crime.

2. The preventive model

The founder of this model is Enrico Ferri, jurist and sociologist, who challenges the repressive system conceived by the classic school. The ideas supported by the positivist school are:

- the importance of criminal behavior for the court.
- revealing hereditary and environmental factors which have determined the behavioral evolution of the criminal.
- deletion of the classic image of the reasonable person, in control of his acts and always at liberty to choose between good and bad.
- the criminal is not always at liberty to choose, being defined only by natural law (discovered only by science).
- the individualization of punishment should be done taking into account the personality of the criminal and the specific conditions which have determined the occurrence of the criminal activity.

According to these opinions, the punishment constitutes a means of social defense bearing a curative character, aimed at curing the criminal.

Modern crime prevention methods one can encounter:

– concluding partnerships with representatives of civil society: government institution, NGOs, local public authorities.

– promoting public-private partnership in crime prevention activities.

– initiation and development of local prevention programs, projects concerning prevention and fight against crime and action plans.

– development of informative and preventive activities in communities bearing a risk of victimization.

– development of educational and preventive activities, anti-victim and anti-crime training activities, from which vulnerable groups, such as children, women, elderly, persons bearing a risk of marginalization.

– conceiving promotional and informative materials, such as flyers, posters,

brochures bearing a preventive character.

3. Social defense doctrine

This doctrine is trying to combine the two conceptions (the one belonging to the classic school and the one belonging to the positivist school), granting criminal law a new purpose, namely social defense achieved both through prevention and through repression.

Fundamental ideas of this doctrine claim that:

Social defense refers to the protection of society against crime.

Protection is achieved through criminal and extra-criminal measures with the aim of neutralizing the offender (by applying emotional and educational methods or by elimination or segregation).

Social defense supports the criminal politics which prioritizes the prevention of crime and the treatment of the offender (aiming at the re-socialization of the criminal).

Re-socialization is considered a result of the humanization process of new criminal law.

Humanization of criminal law and of the criminal trial is based upon the scientific knowledge of both the criminal phenomenon and the personality of the offender.

4. The curative model

This model of criminal politics is substantiated on the results of scientific research of criminology. To the scientific data provided by clinic criminology, ideas of the social defense doctrine have added and in particular, of the new social defense.

The curative model targets:

- the focus of criminal politics on the idea of the re-socialization of the criminal.
- the introduction of treatment methods which can contribute to the social rehabilitation of the individual.
- the introduction of individualization techniques meant to contribute to the growth of the efficiency of treatment, both in the moment of the judicial individualization of the sanction and in the period of time of its execution.
- the introduction of an ensemble of social, economic, cultural, etc. measures, with the purpose of facilitating the most adequate social rehabilitation of the criminal, after the completion of the treatment. In the U.S.A., the idea of treatment underwent a certain judicial consecration in the system of sentences with an undetermined duration, combined with the measure of parole «on faith».

Conclusions. These means of non-repressive sanctioning have targeted the execution of the sanction of semi-armed prison, with the purpose of facilitating re-socialization (the criminal is allowed to live in his family and social environment, keeps his workplace, but spends the weekends and his leave in the penitentiary).

Conflict of Interest and other Ethics Statements

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Алін-Андрей Тудоріка

СУЧАСНІ АСПЕКТИ ПРОФІЛАКТИКИ ЗЛОЧИННОСТІ

Анотація. Автор наголошує, що ми проходимо через проміжок часу, коли великі відомі соціальні напасті – корупція, бідність, безробіття, наркотики та алкоголізм – доповнюються тероризмом, організованою злочинністю, погіршенням міського середовища, а також незначними факторами, такими як зловживання, дискримінація, відсутність контролю, пропаганда насильства через засоби масової інформації. Усі ці фактори, природно, доповнюються окремими факторами для кожної країни або регіону, тим самим посилюючи соціальну вразливість та кримінальні витрати. Групи, які страждають найбільше через високий рівень злочинності, залишаються незмінними: молодь, люди похилого віку, жінки, одинокі особи, люди, які проживають у передмістях. Незважаючи на те, що негайні ризики здаються нагальними, стійке зростання виникає лише тоді, коли наближаються непрямі фактори: бідність, безграмотність, безробіття, відсутність перспективи тощо. Тому запобігання злочинності стає обов'язковим для цього періоду часу, в якому основними цілями є соціальний порядок та консолідація механізмів, що використовуються для поваги та застосування закону, освіти та солідарності громадськості.

Отже, запобігання злочинності як соціальному та асоціальному явищу, яке супроводжує будь-яку форму організації людського існування, на сьогоднішній день є викликом для теоретиків та практиків кримінальних наук у всьому світі. Обмеження певною мірою наслідків цього прояву, характерних для поведінки людини, і зведення їх до певної міри витривалості, завжди представляло головну стурбованість держави, незалежно від її природи. Природно, що профілактика є частиною форм реакції суспільства на злочинність і, безумовно, не є остаточним, але оптимальним засобом відповіді, яке суспільство має дати цьому виду людської поведінки.

Ключові слова: *злочинність, профілактика злочинності, сучасні моделі кримінальної превенції*

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CONCEPTS AND PRECONDITIONS OF EUROPEAN REGIONAL POLICY

Abstract. The author analyzes different approaches to the definition of «regionalism», «regional policy», «Europe of the regions» and «European regional policy». The preconditions for the development of European regional policy as a component of general European integration are analyzed. The author emphasizes the necessity and importance of a common approach of EU countries to determine their own regional policy. Because no association can ensure its own existence and stability if there are different living standards within that association. Opinions of foreign and domestic scholars and practitioners on the interpretation of regional policy are studied. It has been shown that building a system based on supporting the economic growth and development of weak Member States and regions by channeling assistance from the EU central budget through investment funds is the best way for European integration.

Keywords: *European regional policy, regional policy, regionalism, European Union, Marshall Plan, Europe of the regions, cohesion policy, European integration*

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Introduction. «A half-citizen of the world, a half-patriot – that's who is a regionalist (in the first and the second role is a complete bastard). As an experienced European, he is an internationalist, as a narrow-minded peasant – a xenophobe, but as a regionalist, he can be both at the same time: claustrophobic open to the world». This is how Karl-Marcus Gauss (2018, pp. 144-145), one of the well-known Eurosceptics and critics of European integration, describes regionalism in a contemptuous way.

However, in the modern sense, the concept of regionalism should be considered as an ideology, strategy and process aimed at meeting the aspirations and needs of the regions on a national scale. Today, regional policy is a component of public policy in all countries of the world, which regulates the relationship between the center and the regions. Its main tasks are to preserve the unity and integrity of the territory, to ensure the balance of regional and national interests, to reduce differences in the socio-economic development of the regions, to ensure the quality of life and sustainable development.

Analysis of recent research and publications. In a sense, the development of regional policy over time reflects repeated attempts to resolve the dual nature of its role. On the one hand, it was a mechanism of redistribution in support of the EU's poor areas, and on the other hand, regional policy became a mechanism of economic growth and development focused on resources in a limited number of investment areas. That is, there has been a change in the conceptual framework of regional policy, from an emphasis on the aspect of redistribution to aspects of economic growth and development. Thus, policy rationale has become one of the sources of investment to promote the implementation of a sequence of competitiveness strategies governing the European Union since 2000 (Lisbon Strategy 2000, Growth and Jobs Strategy 2005, Europe 2020 Strategy, etc.).

Among domestic and foreign scholars who have dealt with the problems of European regional policy, it is worth noting the following: M. Baimuratova, I. Balabanova, M. Brunnermeyer, V. Vitkova, K.-M. Gauss, M. Geffernen, M. Dolishny, M. Izha, R. Kolyshko, T. Krasnopolska, O. Kuzya, V. Kuybidu, M. Kurilyak, L. van Middelaara, O. Polikarpova, V. Popovkina, O. Prokopenko, D. de Ruzhmona, E. Tikhomirov, E. Topalov, R. Hall, O. Chernezhenko, I. Yakovyuk and others. But this issue remains relevant today.

The purpose of our article is to study the concept of regional policy and to find out the origins of European regional policy.

Formulation of the main material. In political and scientific contexts, the concept of «regional policy» of the EU is an idea developed on the basis of appropriately selected criteria and analysis of the consequences of the evolution of political processes in the EU. It is implemented at all levels of European governance and policy, from the local and regional level to the state and EU levels. At each level, they use their own tools and implementation mechanisms. At the supranational level, EU regional policy is considered to be thematically organized and based on centralized decisions, a set of measures aimed at addressing the imbalance of economic and social development of EU regions while preserving economic and social integrity through legal and financial instruments. The key principle of such a policy is presented as «a system of co-financing that connects the budget policies of different levels of government» (V. Kuybida, & L. Fedulova, 2019, p. 4).

Other scholars, studying the definition of state regional policy, also point to its multifaceted and complex nature. It should be noted that the doctrinal positions on the definitive definition of regional policy differ in different approaches, which are based on the author's priorities for the goals and objectives of such policy. According to M. Dolishny (2001), in the process of defining the term «regional policy», it must be interpreted in a broad and narrow sense. In a broad sense this means the policy pursued by the state in relation to the regions, and the regions themselves within the limits of their powers. In a narrow sense, such a policy should be interpreted only as the actions of the state, and it is then that we should

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talk about the state regional policy. He believed that only through the mechanisms of regional policy as an important element of the national strategy, it is possible to activate the internal potential of the regions for socio-economic growth of territories and the state as a whole (pp. 11, 14). M. Baimuratov & I. Balabanova, (2020) define regional policy as a system of purposeful activity of the state, its public authorities, the purpose of which is to create conditions for improving the quality of human life regardless of its place of residence, ensuring territorially integrated and balanced development, integration of regions in a single political, legal, informational and cultural space, the fullest use of their potential, taking into account their natural, economic, historical, cultural, social and other features, increasing the competitiveness of regions and territorial communities (p. 12).

In turn, Europe of regions is a term that means a concept that opposes the centralistic concept of creating European institutions and provides for the active participation of European regions in the EU's power functions and is a fundamental concept of EU regional policy in the European integration process (V. Vitkova, 2019). Euroregion – a form of cooperation of adjacent border areas of different states in order to strengthen good neighborly relations, cultural and economic contacts, the use of joint investments, combating the effects of natural disasters, protection of historical and cultural heritage, etc.

The actualization of the concept of «European regionalism» is associated with Denis de Rougemont. Developing a regionalist approach, back in the 1960s he characterized state borders as flexible and mobile, the rigidity of which is gradually being overcome. At the same time, the source of strength of future «Euroregions» will not be their closed nature, but their ability to interact with each other. According to him, the transition from nation to region will be «the greatest phenomenon of the twentieth century».

According to O. Kuz (2019), the viability and stability of any federation is constantly maintained and fueled by two driving forces: differentiation and integration. They are perceived as binary oppositions of dialectical unity, have the opposite orientation, but do not have to be contradictory. The essence of «Europe of the Regions» is to create and maintain a dynamic balance between these major forces. One way or another, the model of regions is rather a hypothetical frame for the peoples of Europe, and the regionalist approach itself can lead the process of building a common European space to both success and defeat. He emphasizes that the issue is not to choose the path of economic integration by limiting or devaluing the role of politics, but to give political importance to the economy. It is likely that the crises of Europeanism will arise and be resolved in the context of the cyclical crises of the world economy, due to the delegitimization of national governments. The political myth of the nation-state overcomes the rationalized construct of the supranational superpower. The European Union has not provided, and perhaps could not provide a phenomenological presence to the body of the nation-state, nor has it established a logical link between its overall structure and the role of individual member states. Accordingly, there are concepts that imply a rethinking of the prospects of integration and the internal contradictions of the integration dialectic: «Europe-state», «Europe-space», «Europe of a solid core», «Europe of concentric circles», «unity in diversity», «Europe of different speeds», etc.

Therefore, to better understand this phenomenon, it is necessary to turn to the origins of the formation of regional policy of the European Union.

The foundations of European regional policy, as a component of general European integration, can be traced back to the post-World War II period, at the end of which numerous interstate conferences on the «European idea» and the place in it of citizens, states and institutions. The famous «Marshall Plan» became very important for the development of post-war Europe. The then US Secretary of State George K. Marshall, speaking at Harvard University on June 5, 1947, outlined the main provisions of the plan of economic assistance to countries affected by the war.

The idea was, on the one hand, to help the US economy get rid of capital market oversaturation and facilitate conversion, and on the other, to restore Europe's devastated economy, improve the region's economic life, carry out an economic boom, raise living standards and strengthen European democracy.

The countries of Eastern Europe and the USSR were invited to the Plan. The recipient states were required to provide information on the state of their economies, losses during the war, foreign exchange reserves, and plans to use the aid. Based on these data, the US Congress decided on the amount of payments. The distribution of aid was handled by the executive committee of the Organization for European Economic Co-operation and Development, headed by the American administrator.

In July 1947, 16 European countries (Austria, Belgium, Great Britain, Greece, Denmark, Ireland, Iceland, Italy, Luxembourg, the Netherlands, Norway, Portugal, Turkey, France, Switzerland, Sweden) signed a convention establishing the Organization for European Economic Cooperation and Development (due to differences in the positions of the parties USSR refused to participate). In April 1948, the United States signed agreements with each of them. According to the plan designed for 4 years the countries were to receive $ 17 billion. The main condition for assistance was the refusal to nationalize industrial facilities and encourage private enterprises. The 60% of the funds were received by Great Britain, France, Italy, and West Germany (which joined the Plan in March 1948). As a result, the economies of these countries were rapidly restored, domestic policy was stabilized, and integration processes were intensified (I. Rozputenko, 2018).

On March 25, 1957, the so-called Treaties of Rome (Treaty establishing the European Economic Community (EEC) and the Treaty establishing the European Atomic Energy Community (Euratom) were signed in Rome, laying the foundations for a «closer» union of states and declaring a desire to a «closer» rapprochement to ensure the social and economic progress of their countries. The preamble to the Treaty establishing the European Economic Community proclaimed the desire to ensure the harmonious development of the member states by reducing disparities between the various regions and to eliminate regional disparities. Given that declaring the idea of equalization did not could not do without the introduction of its real mechanisms and tools, in 1958 within the then integration formation was created European Social Fund (ESF), thanks to which millions of Europeans were retrained in new professions and got a new job with a higher salary. In the same year, 1958, a joint body for improving regional development was established – the European Investment Bank (EIB). The main purpose of the EIB is to provide financial resources to harmonize the economic and social development of the EU. Articles 266-267 (currently 308-309) of the EEC Treaty define the main directions of the EIB's financial activities: assistance to regions lagging behind; creation and modernization of enterprises; implementation of projects of common interest to several member states.

The emergence of new ideas for European regionalization, as well as the creation of concepts and foundations of European regional policy, current researchers usually date back to the early 1960s – just then, at the initiative of the European Commission (EC), were prepared special reports indicating the need for joint action and harmonization of European regional development, and on December 6, 1961, the European Commission organized the first conference on regional issues (R. Hall, 2014).

The next step in the development of the common regional policy of the Community was the Conference of Regional Economies held by the European Commission on 6 December 1961 in Brussels. It highlighted a number of regional issues, pointed up serious regional disparities, and decided on the need for a new regional policy. In 1962, the European Agricultural Fund for Rural Development (EAFRD) was established, which provided for the use of financial mechanisms for

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rural development and assistance to farmers in the least developed regions.

And already in 1964 regional policy was included in the First Medium-Term Economic Policy Program of the Community, which became the basis for the first notification of the Commission (or Memorandum) on regional policy in 1965. The document proposed the introduction of a comprehensive regional policy, which provides for the coordination of national initiatives based on regional development programs which based on a common methodology and formulated through a participatory approach (subnational and social partnership).

At that time, there was a general and optimistic feeling among the founders of the European Commission that integration would help reduce regional disparities by facilitating interregional trade. Thus, in 1969, it emphasized the need to coordinate national regional policy: «Even more than other areas of economic policy, regional policy is clearly a matter of concern to public authorities in the member states. The measures it envisages fall directly under the political, cultural, administrative, sociological and budgetary organization of states. Regional policy is an integral part of the system of internal balances on what the state is based» (The turning points of EU Cohesion policy, 2009, pp. 5-6). Such an optimistic statement was facilitated by the creation in 1968 of a separate Directorate-General of the European Commission responsible for regional policy.

Thus, the need to create a common regional policy has become obvious and necessary. And, until recently, the general direction of European integration was to ensure only the coordination of national regional policies, in order to stimulate their development and reduce disparities between regions. Now member states on common institutions have realized that the structural and regional imbalance of the Commonwealth can undermine the achievement of economic unity and the common market. As stated in the Commission's report on the regional problems of the enlarged Commonwealth in May 1973: «No association can ensure its own existence and stability if there are different standards of living within that association».

The study of the stages of formation and other aspects of regional policy of the European Union should be the subject of separate scientific research.

Conclusions. This study allowed to draw a number of conclusions.

The history of EU cohesion and regional policy is closely linked to the overall process of European integration, especially in connection with the development of economic and monetary union, which eventually led to the creation of a single currency – the euro. In the process of integration, the idea of fiscal federalism and the creation of a system of fiscal equalization was rejected, and a system based on supporting economic growth and development of weak member states and regions by directing assistance from the EU central budget through investment funds was created.

Jean Monnet, the intellectual father of the European Union, said that «Europe will be forged in crises, and it will be the sum of the decisions taken to overcome these crises». Such a guideline has become a common wisdom for Europeans, with a firm belief that bad news is always good, because in response to them will need even more Europe (Brunnermaier, M., James. G., & J.-P. Landau, 2019, p. 23).

Interpretation of the term «regional policy» is possible in a broad and narrow sense. In a broad sense this means the policy pursued by the state in relation to the regions, and the regions themselves within the limits of their powers. In a narrow sense such a policy should be interpreted only as the actions of the state, and it is then that we should talk about the state regional policy.

Regional policy itself should be understood as a system of purposeful activity of the state, its public authorities, the purpose of which is to create conditions for improving the quality of human life regardless of place of residence, ensuring territorially integrated and balanced development, integration of regions into a single political, legal, informational and cultural space, the fullest use of their potential,

taking into account their natural, economic, historical, cultural, social and other features, increasing the competitiveness of regions and territorial communities.

Therefore, today «Europe of the Regions» is a fundamental concept of EU regional policy in the framework of the European integration process. Its content has been enriched in accordance with the development of the community and changes in the global space.

The foundations of European regional policy, as a component of general European integration, can be traced back to the post-World War II period, at the end of which numerous interstate conferences on the «European idea» and the place in it of citizens, states and institutions. The famous «Marshall Plan» became very important for the development of post-war Europe. And the Treaties of Rome in 1957 laid the foundations for a «closer» union of states and declared the desire for «closer» rapprochement to ensure the social and economic progress of their countries. Today's Western researchers date the creation of concepts and foundations of pan-European regional policy to the early 1960s. Since then, the EU's next steps have been to regulate and develop its regional policy.

Therefore, regional policy and regional self-sufficiency need to be further explored, as balanced local development can be established globally through the development of regional linkages that can ensure resource complementarity.

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Людмила Адашис

ПОНЯТТЯ ТА ПЕРЕДУМОВИ ЄВРОПЕЙСЬКОЇ РЕГІОНАЛЬНОЇ ПОЛІТИКИ

Анотація. Проаналізовано різні підходи до визначення понять: «регіоналізм», «регіональна політика», «Європа регіонів» та «європейська регіональна політика». Досліджено думки зарубіжних та вітчизняних вчених та практиків щодо трактування регіональної політики. З'ясовано, що трактування терміну «регіональна політика» можливе в широкому та вузькому розумінні, а концепція «Європа регіонів» – є, на сьогодні, основоположною концепцією регіональної політики ЄС у рамках процесу євроінтеграції. Визначено, що її зміст збагачувався відповідно до розвитку співтовариства та змін у глобальному просторі. Розглянуто основні події та проаналізовані передумови розбудови європейської регіональної політики як складової загальної європейської інтеграції. Тож, про закладення підвалин європейської регіональної політики, як складової загальної європейської інтеграції, можна говорити починаючи з часів після Другої світової війни, наприкінці якої вже відбувалися численні міждержавні конференції щодо «європейської ідеї» та місця в ній громадян, держав та інституцій. В роботі акцентується увага на необхідності та важливості спільного підходу країн ЄС для визначення власної регіональної політики, оскільки жодне об'єднання не може забезпечити власне існування і стабільність, якщо всередині цього об'єднання існують різні стандарти життя. Доведено, що створення системи, заснованої на підтримці економічного зростання та розвитку слабких держав-членів і регіонів шляхом спрямування до них допомоги з центрального бюджету ЄС через інвестиційні фонди, є найкращим шляхом для європейської інтеграції.

Ключові слова: *європейська регіональна політика, регіональна політика, регіоналізм, Європейський Союз, план Маршала, Європа регіонів, політика згуртованості, європейська інтеграція*

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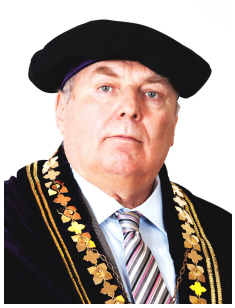

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SIGNIFICANCE, STRUCTURE AND INNOVATION IN POLICE EDUCATION IN THE SLOVAK REPUBLIC AND IN THE REPUBLIC OF POLAND

Abstract. The authors presents the current structure of police training in the Slovak Republic and Republic of Poland. Its aim is to refute or confirm the hypothesis: «Police education in the Slovak Republic needs to be innovated with regard to the effectiveness of education in this sector». The authors expands knowledge about the structure of police education in the councils of the Ministry of Internal Affairs of the Slovak Republic and in the Republic of Poland.

It focuses on the essence of content and importance of the focus of institutions that participate in the selection, preparation and creation of personnel for police positions at the Ministry of Internal Affairs of the Slovak Republic and evaluates the latest changes in recent years in education and training in the Slovak Republic. Police personnel related to point with the need for rapid replenishment of stocks and at the same time evaluates the current possibilities of professional education of police officers and their career growth within the Ministry of Internal Affairs of the Slovak Republic.

The article also presents the tasks of police work in Poland, the structure of police education, the requirements for this profession and describes the problems in the police personnel system.

Keywords: *effectiveness of education, police education, educational innovations, Slovak Republic, Republic of Poland, police, legislation, police force, security, police academy, Ministry of Internal Affairs*

Introduction.

«The goal of education and wisdom is for man to see before him the clear path of life, to walk it carefully, remembering the past, knowing the present, and anticipating the future».

J. A. Komensky (1592 – 1670)

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Even today, almost every sensible person would be tempted to ponder the eternal statements of the Czech educator, linguist, naturalist, humanist, philosopher and politician with Slovakian roots, who lived at the turn of the 16th and 17th centuries. In particular, his quote in the introduction of this article reminds modern human society of the importance of education, which gives a person the wisdom to live a daily conscious and quality life. Education enables a person to stay on the right path in life, remember the past, serve the present, and work for the future. According to Komensky, such a person has a noble nature. And this is not just about government or public administration.

Analysis of recent research and publications. Jan Amos Komensky is known throughout the world as the «teacher of nations». This world-renowned educator and reformer was born on March 28. This day is dedicated to teachers around the world in his memory. Komensky's writings were and still are extremely important for many scientific disciplines, as well as for modern upbringing and education. According to him, education and training, in addition to a humanistic and democratic spirit, should place the human being above all else at the center of the public interest. A conscious process of upbringing and education is designed to form a true humanism in the spiritual interior of a person, and, as a result, to form a true human personality. According to Komensky' ideas, every school and education is not only a workshop of humanism. Their goal is also to keep people from the negative influence of selfishness and individualism and to lead them to cooperation and responsibility in their relationships with others.

The ability to cooperate and responsibility are key human qualities that are paramount in the everyday work of a police officer. The acquisition of these qualities by a police officer is in the interest of society as a whole, and this must be rationally and skillfully promoted. In addition to subjective personal preconditions, objective reality is also important for the development of these qualities in a person, and within it, the organized and unorganized education of police officers is primarily important. Many years of police practices have confirmed that only an educated and well brought-up police officer can perform his duties at the level required by society. Furthermore, in our opinion, only such a person can serve as an example of the organization of which he often becomes a member for life. In this article, we will confirm or refute the hypothesis: *«Police education in the Slovak Republic and Poland requires innovative transformations given the current level of police effectiveness».*

The article examines the existing structure of police education within the Ministry of Internal Affairs of the Slovak Republic (hereinafter, MIA SR) and the Ministry of Internal Affairs of Poland (hereinafter, MIA RP), as provided by the current legislation. In this general perspective, we will consider the key characteristics of individual institutions involved in the selection, recruitment, training and formation of professional police personnel within the MIA SR and MIA RP. We will analyze the adequacy of available opportunities for professional training of police officers and their career development within the MIA SR and MIA RP. At the conclusion of the work we will try to refute or confirm the hypothesis we have put forward.

The purpose of our article is to study the significance, structure and innovation in police education in the Slovak Republic and in the Republic of Poland.

Formulation of the main material.

I. The status of police in a democratic state

The legal status of police in a democratic state, as well as its activities, are regulated by the constitution, legislative and subordinate legal acts, including regulatory internal instructions, whose violation entails preventive (pre-emptive) and subsequent corrective measures by democratic state institutions, in particular constitutional and executive bodies. *In a democratic state,* the activities of security services and other law enforcement agencies are simultaneously subject to

parliamentary control, prosecutorial oversight, judicial oversight, and public scrutiny. The police organization is arranged to the intent that its individual organizational units are integrated into the State mechanism system for protection of legitimate interests and rights of citizens and legal persons. The police **task** in a democratic state is to serve society for the benefit of all its members. The constitutional order in a state is formed solely by the will of the people, best of all directly, immediately, without intermediate mechanisms that often distort this will. The constitutional order thus created is intended to serve directly for the society. Full-fledged democratic regime of a modern state is characterized by a desire to enhance the police professionalism, to provide the police with qualified personnel and to implement and stabilize its organizational structure, while avoiding political influence on decision-making. (J. Králik & K. Káliková, 2016). *In non-democratic regimes,* the dependence of the police and their interconnectedness with the ruling political group is usually blatant and overt. The essence of these relations is absolute subjection of the police to the ruling regime interests.

It is important to realize that, including historical development of law enforcement agencies in different periods of human history (E. Kačík & K. Káliková, 2017), without the police institution and its socially significant activities today it is extremely difficult to imagine a relatively problem-free functioning of social relations and proper compliance by citizens of a state with legal norms arising from these relations. Without such institution, it is also difficult to imagine overall functioning of the state as a political sovereign, whose emergence was institutionally conditioned not only by natural historical development of human society, but also appropriately normalized and generally accepted natural need of most people for a certain ordering of social relations, cohabitation rules, and stability of the environment in which they live. State mission is virtually irreplaceable in this sphere of human existence. At the same time, the state must create its own means and tools to perform its tasks and duties, its own internal and external functions, provide enforcement of laws in a state and security of doers of the law. The police play a priority role within law enforcement agencies (J. Králik, & K. Káliková 2019). It should be recalled that determining the direction of legislation, that is, legislative process and content of legal acts, is the prerogative of policy, whose influence on the police is also undeniable. In particular, the police institution, which is a unique state-social fact, should be perceived by us not only as a creature of legislation, but also as an object of public opinion.

Public opinion is closely tied to the quality and quantity of information available in society. It is formed naturally about almost every public institution, its personnel base and activities. Public opinion is closely tied to the quality and quantity of contact between the institution and its representatives and the public (K. Káliková, & L. Surma 2020). Today, however, it depends on whether the information about the institution is presented in the media truthfully or falsely. Direct contact between the institution and the citizen has a decisive influence on the formation of public opinion. In real life, the police are often confronted not only with purposeful distortion of their activities by the media, but also with prejudice by a certain segment of society, resulting from the negative experience of a citizen's prima facie direct interaction with police representatives (K. Káliková & L. Surma, 2020). Often, in certain life situations, a person is influenced by the experience of another person rather than his personal experience. This does not take into account the possible misinterpretation of such other people's experiences. For that reason when training all police officers, including municipal police officers , it is very important to focus on the police officer's front-line contact with the public, his qualitative degree of influence and the result of his interaction with citizens. The easiest, fastest and best subjectively good opinion in the public mind is formed in direct communication with police officers on duty. On the basis of their behavior, citizens form an image of impartial, apolitical and objective police institution, serving citizens without distinction and solely for their benefit, provided that such communication is swift but dignified, vigorous but lawful, that is,

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socially useful and socially acceptable.

Police candidates should be screened, not recruited on the basis of at least the potential availability of necessary qualities with the hope of subsequent upbringing and education within certain MIA RP structures. This is the only way to train officers (J. Králik, 2000). who can directly or indirectly participate in the process of creating a favorable public opinion and a positive attitude toward the police. It goes without saying that the highest leading positions in the police should be held by officers with the appropriate level of culture and professionalism, who are able to demonstrate their human and professional qualities not only in their professional practice, but above all in their public relations. In terms of a positive impact on the formation of public opinion about the police, a huge role is undoubtedly played by the qualitative selection of police personnel: both senior management and lower-level managers, as well as, of course, the rank-and-file officers directly involved in law enforcement activities (J. Králik, & K. Králiková, 2016). All law enforcement officers should strive to create and strengthen good public opinion through their actions and behavior. Their status, function, and role in society constitute their profession, in the fulfillment of which they should see the point. After all, police service gives officers the financial security they need to cover their necessities of life.

In our opinion, positively influencing public opinion should be enshrined in law as a duty of every police officer. In a modern democratic state, the police institution should be perceived as a solid and irreplaceable component of the system of public authorities. This should also work in practice. Thus, every police officer should carry out his activities in the spirit of J.A. Komensky' idea presented in the introduction. The goal of his education and wisdom should be a clear vision of the path of life, which he should walk carefully, remembering the past, knowing the present, and anticipating the future. Achieving this goal ultimately involves the natural formation of a positive and stable public opinion about the police. And to ensure that the police officer does not deviate from this goal, his employer, paying particular attention to his personal development, should give him the opportunity to receive further general education and the necessary professional practical training. Police education and training should serve both as an activating and motivating incentive for each police officer, providing an opportunity for further career development and, as a result, the prospect of higher material and financial remuneration.

II. Police education system in the Slovak Republic and in the Republic of Poland

To assess the effectiveness of police training, it is necessary to analyze the structure of the police training system within the MIA SR and MIA RP. By «*police education*» we mean the gradual provision of knowledge in an established process of obtaining the individual levels of police education, leading to achievement of desired goal and successful completion of education, usually in the form of a final exam. *Police education effectiveness* can be expressed in the difference between the police education received and the desired goal. The goal here refers to the degree of success achieved, which translates into the ability to apply the police education received to police practice. Training effectiveness is also closely related to the problem of assessing the adequacy of education received by a police officer. In order for a candidate to eventually become a police officer and be able to police in accordance with generally binding and internal regulations, it is first necessary to consider the very notion of educational adequacy. In our opinion, the adequacy of police education means an objectively necessary minimum adequacy of the education received.

This applies to both form and content of education received, which is necessary for the individual to be able to carry out assigned tasks related to the performance of police work at the required optimal qualitative and quantitative level. Thus, the current structure of police education shall comply with the requirement of adequacy, which should subsequently ensure the effectiveness of education received in carrying out police work. Simultaneously, a hierarchically

integrated network of specialized training and educational institutions within the MIA SR and MIA RP should consider the public interest in terms of economic rationality. A successfully completed police training process should potentially lead to the formation of a humane, selfless and responsible police officer with a clearly delineated path ahead of him, that is, an individual whose totality constitutes a unique and irreplaceable police workforce.

Existing police training system in the Slovak Republic

Police education system within the MIA SR was recently amended in 2020 by Decree No. 10/2020 of the Minister of Internal Affairs of the Slovak Republic on the professional education of police officers. Under the auspices of the Ministry of Internal Affairs, the Slovak educational market operates not only a university-type educational institution — the Police Academy in Bratislava (hereinafter — PA), but also several secondary professional police schools: the Secondary Vocational Police School in Bratislava, Pezinok and Košice. Secondary vocational police schools are subordinated to the Center for Education and Psychology of the Personnel and Social Activities Department and the Personnel Department of the MIA SR, which, among other things, conducts external evaluation of police education. The police training system is aimed at practical training of qualified police officers of the Slovak Republic with basic theoretical knowledge, practical skills, abilities and personal background for the implementation of police mission in accordance with the Slovak legislation and international treaties to which the Slovak Republic is a party. In police training, outside organizations cooperate with the MIA SR, which provide training in specialized areas necessary for police work. Such organizations may not be included in organizational structure of the MIA SR public administration. For example, the Institute for Public Administration in Bratislava plays an important and irreplaceable role in training specialists, as do other institutions of further education and educational institutions within the MIA SR, which can potentially be created for a specific task.

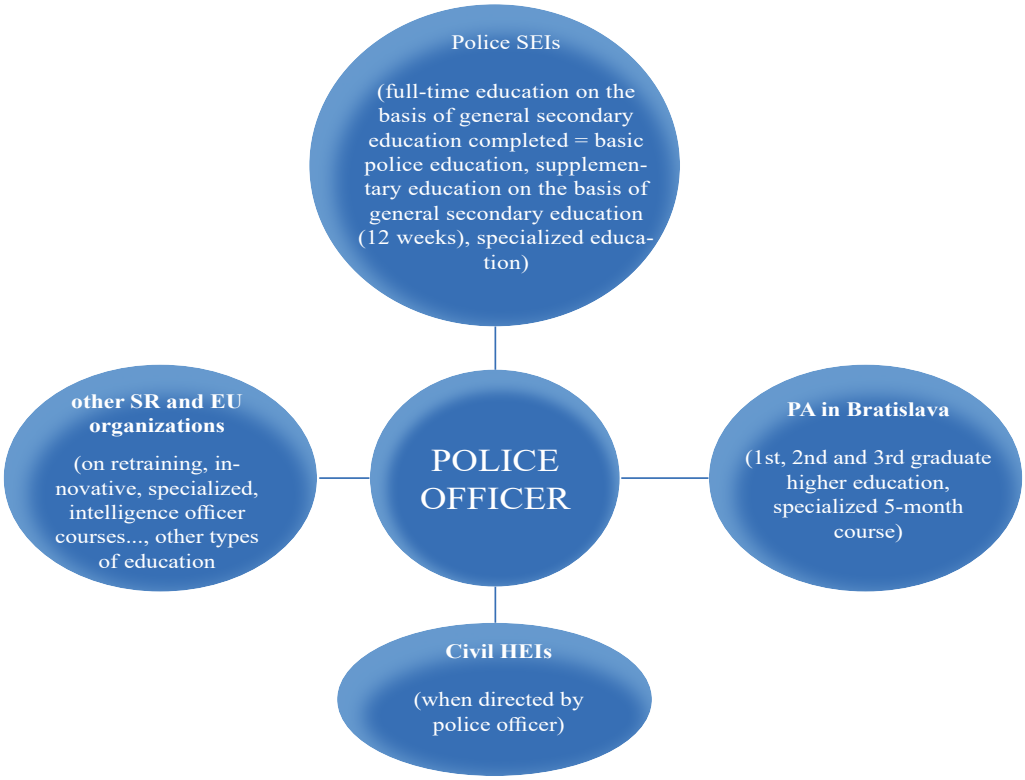

Figure 1 – Proprietary design, source — Bulletin of the MIA SR No. 11/2020

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The Secondary Vocational Police School in Bratislava (K. Králiková, & L. Surma, 2020) was established directly by the Ministry of Internal Affairs of the Slovak Republic as an educational institution for police training, providing its students with specialized police education, the so-called basic police education. Based on the needs and requirements of the MIA SR, the school also provides additional education for police officers, in particular qualification training and additional education based on the general secondary education in «Security Service» specialty, and refresher courses. For full-time police officers who have completed civilian secondary education, the school provides specialized police education (hereinafter — SPE) if their position requires them to hold an officer rank. The ten-month course ends with a final exam for police officers over the age of 21. For cadets over the age of 18, the training lasts 12 months. Upon graduation, graduates are employed by any police agency as specialists in the areas of their education. Graduates with a basic police education can take a refresher course in security services as specialized police training. Upon successful completion of training, the cadet passes the minimum qualification required to obtain an officer rank and further career development. The three-month course ends with a final exam. The school cooperates with the official bodies and units of the Presidium of the Police, regional and district offices and agencies of the MIA SR and PA in Bratislava for the proper fulfillment of educational and pedagogical tasks. The school also provides other program modes for police officers as required by practice: basic courses, additional courses, professional courses, and a variety of trainings for individual police services in accordance with approved state educational projects and programmes. The secondary vocational school curriculum is designed to meet the requirements of police practice and the latest theories of police science. Police practitioners, qualified secondary vocational school teachers, senior police officers, and Police Academy professors are involved in its development. The programmes are approved by the Director General of the Human Resource and Social Activity Department and the Personnel Department of the MIA SR, as well as by the Head of Police (The site of the Ministry of Internal Affairs of the Slovak Republic. 15.02.2021. https://www.minv.sk/?zameranie-skoly).

The Secondary Vocational Police School in Košice (K. Králiková, & L. Surma, 2020) is a police education and training institution that provides education in «Security Service» specialty on the basis of completed secondary education. Ten-month training is for police officers over the age of 21, and twelve-month training is for cadets over the age of 18. The secondary vocational school also offers a three-month advanced training course in the field of security services with areas: border police and foreign police. A School Educational Programme has been developed for certain kinds and types of organized training, determining the exact training scope and syllabus. Simultaneously, the school provides opportunities for further education through courses and training for police officers throughout the period of their public service.

In 2007, the school was reclassified as the Border Police and Foreign Police Training Center. In connection with the accession of the Slovak Republic to the Schengen Agreement (J. Balga, 2009), special requirements for the control of the border zone of the external border of the Schengen area, as well as the entire territory of the Slovak Republic by police officers began to be imposed. This required more thorough training of police officers at a high professional, physical and psychological level. The school has organized a specialized research center – the so-called Center for Research and Development of Methods and Forms of Training in the Field of Forensic and Technical Activities. The school pays special attention to the educational component, in particular service discipline, politeness, adherence to the principles of a police officer's code of ethics, the way a police officer expresses himself and communicates with citizens (The site of the Ministry of Internal Affairs of the Slovak Republic. 15.02.2021. https://www.minv.sk/?sospzke).

The Secondary Vocational Police School in Pezinok (K. Králiková, & L. Surma, 2020), like the previous two schools, is a departmental school of the MIA SR. Its mission is to prepare police recruits for public service through qualification

training or additional education on the basis of secondary education on a full-time basis in the field of security service. In recent years, this school has provided mainly ten-month training courses for high school graduates, as well as basic police training for service. During their training, cadets acquire basic knowledge and practical skills in selected police services, criminology, criminal law, shooting and physical training. The training ends with a final exam consisting of theoretical and practical parts, as in other police schools. The main training objective is to train officers according to the police needs. Graduates can deepen their qualification skills in additional education system during their career development (The site of the Ministry of Internal Affairs of the Slovak Republic. 05.02.2021. Https://www.minv.sk/?zameranie-skoly-1).

The Police Academy in Bratislava (K. Králiková, & L. Surma) is currently one of three university-type institutes in the Slovak Republic. The Academy started its activity on October 1, 1992. The PA was established by Resolution No. 370/1992 of the President of the Slovak National Council in the «Code of Laws» on the Establishment of the PA of the Slovak Republic. The Academy has the rights of a legal entity, being a subsidized or budgetary organization of the relevant budget section. The PA mission is primarily to develop scientific, pedagogical knowledge and international cooperation. The PA goal is to create appropriate conditions for the qualified education and training of specialists for the police bodies, professional structures of the MIA SR, to ensure the development of scientific knowledge in the field of security sciences. In 2004, the PA successfully accredited two degree programs (Site of the Police Academy of the Slovak Republic. 05.01.2021. https://www.akademiapz.sk/profil-absolventa-studijneho-programu) for the first (Bc.), second (Mgr.), and third (Ph.D.) levels of higher education, which have been named as follows over the years:

1. Law Enforcement and Protection of Persons and Property – The programme is designed for students, police officers and civilians who are preparing for various police positions as well as other governmental and non-governmental security services.

2. Law Enforcement in Public Administration – The programme is designed primarily for civilian students who are preparing for various positions in public administration.

The standard length of study is currently 3 years for the full-time bachelor's degree and 2 years for the master's degree. The part-time bachelor's degree lasts 4 years, the part-time master's degree lasts 3 years. 5-year doctoral programme is organized in part-time and full-time form.

In accordance with Act No. 131/2002 on Higher Education Institutions, the PA enables the acquisition of the scientific-pedagogical title of Associate Professor (doc.) and Professor (prof.) in the field of security sciences after fulfilling the set conditions.

The PA also provides additional teacher education to enable graduates to work in secondary police schools.

Since 2015, with the approval of the Academic Senate, the PA has established the so-called University of the Third Age, which provides interest-based education within the concept of continuing education for citizens of the Slovak Republic and the European strategy for continuing education. Applicants must have complete secondary education, be over 50 years old, and pay the registration fee and annual tuition.

The PA building in Bratislava also houses the Police Institute of Forensics and Expertise (hereinafter – PIFE). The institute was established in 1991 by Order No. 4/1991 of the Minister of Internal Affairs as an organization that provides forensic and technical and expert activities for the police, other law enforcement agencies and courts, as well as for scientific and technical developments in the field of security sciences and related areas. The institute currently employs about 200 specialists.

In the field of international mobility and within the foreign department, the PA organizes and implements ERASMUS+ programme activities. The European Union's ERASMUS+ programme provides students and teachers with the opportunity to study and train abroad (K. Králiková, & L. Surma, 2020) .

The PA Foreign Office includes the National Division of the European Police

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Academy, the so-called CEPOL. Through this body, Slovak law enforcement officers receive training in EU member states. Courses, seminars and conferences are organized for them. The PA is actively involved in cooperation with the Central European Police Academy, the so-called MEPA, of which the PA is a representative and contact point.

International cooperation, international membership and partnership, in which PA experts actively participate, bring new experience and open new horizons for further development and training of SR police officers.

Other educational institutions that participate in police professional development provide education and training on specific activities. These are mostly specialized police units. In particular, the Department of Cynology and Hippology of the Presidium of the Police, the aforementioned Institute of Forensics and Expertise of the Presidium of the Police, and other units. Professional development of police officers is also organized through non-departmental training institutions and, just as importantly, through projects co-funded by the European Union.

Police education system in the Republic of Poland

One of the most important business activity areas of the Polish police, which plays a fundamental role in forming the internal security of the state, is the education and educational activities of higher schools and training centres. The importance of their activities for the education of police officers, for the development of the culture of education and its identity is undeniable.

Police education in Poland is a group of educational institutions created to perform tasks related to the training of police officers with certain qualifications and professional skills. The role of training towards service values is to train highly specialized and professional personnel who will effectively and efficiently perform the service tasks associated with the following:

1) protection of life and health of people and their property,

2) identification and restriction of crimes and antisocial behaviour of persons belonging to formal and informal social groups,

3) conduct of effective preparatory proceedings,

4) elimination of organized criminal groups,

5) conduct of preventive measures in pathological environments and risk groups (Ustawa z 6 kwietnia 1990 r. o Policji (DzU nr 43, poz. 277),

6) etc.

The achievement of the above-mentioned principles established by the legislation depends on many factors, one of which is the correct use of the features of the process of training and advanced training of police officers.

According to C. Maziarza, training is a certain didactic concept that manages the cognitive activity of the subject studied and determines the course of the teacher's didactic work. It involves the management of the teaching-training process with the help of specially selected didactic tasks that determine the direction of education, jointly determine the choice of content, the organization of the pedagogical environment and the teaching-training methodology (C. Maziarz, 1994).

One of the many examples of the undoubted value of pedagogical activity, regardless of the variability of time, place or space, is prehistory. It was here that the paradigm of education and training of the next generations of people originated. It has accompanied humanity for centuries and is a variable of its security, sustainability and continuity of its identity and success development.

Educational activity is the main condition that determines, first and foremost, the moral development of the human. This gives them basic ethical skills, which include the function of maintaining a balance between them and the following:

– state,
– another human,
– society,
– ecological and natural environment.

One of the most important components of the internal security of the State is the

system of police educational institutions. The effectiveness of this component shows the level of competence of officials, and they, in return, determine the quality of their tasks in the field of public order.

The structure of police education includes the following:

– the Police Academy in Szczytno,
– the Police Training Centre in Legionowo,
– the Police School in Słupsk,
– the Police School in Piła,
– the Police School in Katowice.

Police Academy in Szczytno

The guide link in the structure of police schools is the Police Academy in Szczytno. It is the only police educational subdivision under the control of the Minister of the Internal Affairs. Its activities are based on two sources of law: the Police Law (Ustawa z 6 kwietnia 1990 r. o Policji (DzU nr 43, poz. 277) and the Higher Education Law . On the one hand, it is an educational organizational police subdivision, the purpose of which is to prepare, first and foremost, the police to perform their task, and on the other hand, it is a University that provides higher education (P. Bogdalski, B. Gawroński, Z. Gołota, & Gontarzewski, 2010).

The Police Academy in Szczytno is one of the oldest educational institutions of the Ministry of the Internal Affairs. It is the only successor of the higher officer education of the Civic Militia. On the 24th day of September 1954, it was transferred from the Civic Police Training Centre from Słupsk to Szczytno.

From the very beginning of its educational activity, its main priority has been the training of officers and leaders of the Civic Police, as well as the advanced training of future police officers from September 10, 1990 (60 lat szkolnictwa policyjnego w Szczytnie (1954–2014). (2014). praca zbiorowa. Szczytno).

Currently, its main educational tasks include the following:

– training of university graduates, the so-called officers staff,
– under certain circumstances, basic vocational training,
– supervision of the educational activities of other police schools,
– training of other persons responsible for security,
– formation of educational policy in the field of vocational education in the police,
– selected stages of recruitment in the police.

Apart from the extensive, multifaceted and multidirectional training activities, the Police Academy in Szczytno also provides an opportunity for students to continue their research activities.

Over the years, the school has also met training needs, including those of members of the judiciary and prosecutors, customs authorities, representatives of local authorities and members of the civic service corps (P. Bogdalski, B. Gawroński, Z. Gołota, & Gontarzewski, 2010).

Police Training Centre in Legionowo (CSP)

Another important educational institution in the police is the Police Training Centre in Legionowo (CSP). It was established on August 27, 1990 by the order of the Minister of Internal Affairs.

The Police Training Centre (CSP) is one of the oldest schools in the Ministry of the Internal Affairs. Until 1990, the Academy of Internal Affairs, which trained officers, was located here. Since 1990, the CSP has been a vocational and technical college specializing in certain areas of business activity. Its main tasks include the following:

– primary vocational education,
– training of road traffic to specialists,
– training of specialists in the field of pyrotechnics,
– training of specialists in the field of cynology,
– language training,
– certain stages of additional recruitment in the police service.

Police School in Słupsk

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Another important educational institution in the police of Poland is the Police School in Słupsk. It is the oldest police training centre. For more than twenty years, the Police School in Słupsk has been systematically developing its teaching identity, using the original achievements and training traditions of its predecessors.

The main modern forms of its pedagogical activities include the following:

– primary vocational education,

– special training regarding preventive work,

– training related to the police service in certain districts.

Police School in Piła

Another police school with a well-established traditions and specialization in training is located in Piła. It was established by the order of the head of the then Civic Police on September 24, 1954. Later it was named «School of Civic Militia». For more than fifty years, it has been systematically forming its educational identity in two specialties – operational-intelligent and investigative-detective. Although it was formally a non-commissioned officer school, in the 1970s it was also utilized for officer training (P. Gawronski, J. Hryszkewicz, & J R. Truchan, 2015).

Since its establishment, the main subject of training activities has been training in criminal law, primarily for police officers. Currently, the main part of its activities is basic vocational training.

Police School in Katowice

The last police educational institution is the Police School in Katowice. This is the youngest institution established on January 6, 1999.

The didactic, administrative and material potential of the training centre of the Regional Police Department in Katowice and the Police Departments for Preventive Measures in Katowice were used for its establishment (Gawronski, P., Hryszkewicz, J., & J.R. Truchan, 2015). It is the only police educational institution that does not have any clear training traditions and well-defined identity.

Based on the analysis of the forms of training activities implemented by the Police School in Katowice, the scope and types of educational projects it implements, it may be concluded that it develops features of its own authenticity. It is becoming a school that trains police officers in the field of preventive measures. Its students are most often police officers of precisely the Silesian region of Poland (Silesia).

Its main and modern didactic tasks include the following:

– primary vocational education,

– various forms of advanced training in preventive measures (specialties).

III. The role of education quality in the police service

The role of police education in the process of forming the right attitude to other people and behaviour in society has been repeatedly confirmed over the years. This is very important, because in the modern world, the safe functioning of a person requires the assimilation of a large amount of information. This is not easy, for example, because of the number of existing threats. Therefore, security education should cover many fields and be implemented at many levels. To avoid the dangers that we are accompanied by on a daily basis effectively, it is necessary to have access to information on situations that may affect the comfort of our lives. The effectiveness of the modern police largely depends on the vocational training of police officers to perform their official tasks and duties.

One of the statutory tasks of the police as a unit created to protect and maintain public safety and order is to organize activities aimed at preventing crimes and misdemeanours, as well as criminogenic phenomena.

The Polish police is a centralized armed unit that has a single uniform. Approximately 100 thousand people working in the police monitor the safety of people and maintenance of public order (The site of the police of the Republic of Poland. 02.02.2021. https://www.policja.pl/pol/kreci-mnie-bezpieczenst-1/30751,Utworzenie-Policji.html).

The head of the police is the Chief «Komendant Główny», who is subordinate to the Main Police Department of the capital of Poland – Warsaw and the police

departments of 16 voivodeships.

The modern Polish police consists of members of the criminal, preventive and auxiliary police services in the organizational, logistical and technical fields.

The police forces are trying to recruit more and more educated young people.

From the very beginning, high requirements are placed on those who want to work in the police. Police work includes the following requirements:

– Polish citizenship,
– minimum secondary education,
– untarnished reputation,
– no criminal records,
– full legal capacity,
– high mental and physical training.

Apart from this, the following will be checked against each individual candidate during the recruitment process:

– knowledge of the functioning of the legislative, executive and judicial authorities in Poland,
– military service.

Problems in the police service system.

The police has growing public credibility, and every year the number of people feeling much safer is increasing.

However, today in the Polish police system there are certain problems regarding the lack of personnel.

According to the latest data from the Main Police Department, there are 5.090 vacancies in the country (as of February 1, 2020). That is why the criteria for recruitment in the police service have been reduced. The government is doing everything possible to mitigate the personnel crisis, say former police officers quoted by the author (The site NSZZ police of the Republic of Poland. 02.02.2021. Https://nszzp.pl/przeglad-prasy/media-o-obnizeniu-kryteriow-przyjec-kandydatow-do-policji/).

The police recruitment process consists of the following four stages: a knowledge test, physical training, a psychological test, and an interview. Every year, approximately 18 thousand people submit applications. The number of applicants has not changed for several years. Most people do not pass psychological tests. Sometimes even 70% of those wishing. Eventually, every fourth person enters the service, according to Mariusz Czarka, the official representative of the Main Police Department (KGP (Komenda Główna Policji). «In 2020, we want to employ 4.500 new police officers,» – he emphasizes and guarantees that the change in the admission criteria will not reduce the «quality» of hired employees (The site NSZZ police of the Republic of Poland. 02.02.2021. Https://nszzp.pl/przeglad-prasy/media-o-obnizeniu-kryteriow-przyjec-kandydatow-do-policji/).

If we analyse the data for one of the regions of Poland – Łódz, we will also see the same problem with the lack of personnel. Such information is demonstrated by Anna Bojanowska-Sosnowska, the labour market analyst and pro-dean of the Economics Faculty at the Humanities and Economics Academy in Łódz.

There are no young men in the police. It has been discussed for many years that vacancies are one of the most acute problems of the Polish police. As of December 1, 2020, the Łódz garrison lacks 661 police officers. If we add to this those who are on long-term sick leave, as well as on maternity and childcare leave, it turns out that the garrison lacks 953 police officers (The site wyborcza PL. 21.01.2021. Https://lodz.wyborcza.pl/lodz/7,35136,26633834,jakie-wyksztalcenie-maja-policjanci-najlepiej-jest-w-bsw-komendzie.html).

In our garrison, writes the pro-dean, the situation with vacancies seems to be particularly worrying. Having 661 vacancies means the lack of 10.32%. It is only worse in the Zachodniopomorski garrison, where the lack is 10.69%. The least of the problem is that of the Świętokrzyski garrison which is 0.33%. The Podlaski one is 0.66% and the Podkarpacki one is 0.9% (The site wyborcza PL. 21.01.2021. Https://lodz.wyborcza.pl/lodz/7,35136,26633834,jakie-wyksztalcenie-maja-policjanci-

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najlepiej-jest-w-bsw-komendzie.html).

According to the dean, the problem of vacancies is also evident if you look at the age structure of police officers in Poland. For example, in the region of Łódz, only 5.4% of the serving police officers are under the age of 25. Moreover, 10.3% are between the ages of 26 and 30. The majority of police officers in this region are between the ages of 31 and 40, which makes 43.27% and 41-50-35.4%.

All of this undoubtedly speaks to the importance and role of education in the police system. Moreover, as mentioned above in the article, it is very important not to recruit, but to choose people who are not only well trained, but also have an inner desire to serve for the benefit of the people and the country. It is important to improve the quality of education and thereby attract those who want not only to get a police degree and become a police officer, but also to create such conditions for students that will generate and develop in every future police officer the desire, commitment and their implementation to serve the people and every citizen of the country.

According to the inspector Cezary Popławski, the Deputy «Komendant Główny» of the Polish Police: «It may be undoubtedly said that Article 1 of the Police Law, which states that the police is a formation that serves society while maintaining its security, is not only written, but is also an established fact. The environment is constantly changing, therefore the police must constantly improve. We see the huge role of scientific institutions that discover and transmit new social tools. The police strategy should be based on the principle that police officers must be among people and serve people. Hence appears the need to improve the skills of the personnel to improve the professional police competencies. A police officer must also be sensitive and must help. These skills allow managing stress, resolving conflicts and being consistent in actions. Police work is about working with people and for people. Therefore, it is necessary to strengthen cooperation with universities that also train in the field of social studies or social psychology» (K. Gajewski, 2015).

Conclusions. We must not forget and state that members of the police also undergo educational activities privately by studying at other types, especially domestic higher education institutions. It is certain that individuals are involved proactively in the self-education process. This is mainly due to achieving a better job position, increasing financial rewards or ensuring further career advancement.

The aim of the paper was to refute or confirm the hypothesis: «Police education in Poland and the Slovak Republic needs to be innovated due to the effectiveness of education in this sector». Given the analysis of the current organizational structure of police education in the countries refuted. According to our information obtained from these sources, it is not necessary to introduce significant innovative elements into police training. From the point of view of sufficiency, as we characterized it in the paper, the effectiveness of education at the required level appears. Institutions involved in the implementation of police training, their focus, activities related to the selection, preparation and creation of the final product in the form of personnel substrate included in positions in the security forces, are sufficiently interconnected and follow each other in training itself.

A complicated reality in the Slovak Republic and in the Republic of Poland in recent decades is the unattractive employment in the performance the police. Every year, states strive to make the mission of the police officer more attractive in the eyes of the young generation in various forms and ways. Among such a step we include in the Slovak Republic the establishment of the so-called civil service cadet. It is basically the recruitment of citizens of the Slovak Republic after reaching the age of 18 years. Its intention is to «catch» new high school graduates after graduating from high school with a high school diploma and at the same time to bridge the time period of reaching the age of possible entry into the ranks of «real» police officers, 21 years. During this period, the cadet undergoes training at educational institutions police – will receive basic police training. Such a step by the state can be combined in the introduction to the paper presented by the statement of J.A. Comenius: «The goal of education and wisdom is for a person to see a clear path of life, walk carefully, remember the past,

know the present and predict the future». In the short time of the cadet's civil service in the Slovak Republic quality professionally trained staff.

Based on the above, we can also state that such a professionally prepared personnel substrate of the police contributes to the improvement of trust and public satisfaction in this department.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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ЗНАЧЕННЯ, СТРУКТУРА ТА ІННОВАЦІЇ В ОСВІТІ ПОЛІЦЕЙСЬКИХ У СЛОВАЦЬКІЙ РЕСПУБЛІЦІ ТА В РЕСПУБЛІЦІ ПОЛЬЩІ

Анотація. У статті представлена сучасна структура підготовки поліцейських у Словацькій Республіці та Республіці Польща. Її мета полягає в спростуванні або підтвердженні гіпотези: «Поліцейська освіта в Словацькій Республіці повинна бути вдосконалена з урахуванням ефективності освіти в цьому секторі». Стаття розширює знання про структуру поліцейської освіти у радах Міністерства внутрішніх справ Словацької Республіки та Республіки Польща. Автори зосереджуються на сутності змісту та важливості уваги установ, які беруть участь у відборі, підготовці та створенні персоналу на посади міліції в Міністерстві внутрішніх справ Словацької Республіки, та оцінюють останні зміни в освіті та навчанні за останні роки у Словацькій Республіці. Автори оцінюють сучасні можливості професійної освіти поліцейських та їх кар'єрне зростання в Міністерстві внутрішніх справ Словацької Республіки. Автори наголошують, що співробітники поліції також проходять освітню діяльність приватно, навчаючись у вітчизняних вищих навчальних закладах. Автори зауважують, що люди активно залучаються до процесу самоосвіти. Це вони роблять, головним чином, завдяки досягненню кращої робочої позиції, збільшенню фінансової винагороди або для забезпечення подальшого просування в кар'єрі. Складною реальністю в Словацькій Республіці та Республіці Польща в останні десятиліття є неприваблива зайнятість у роботі поліції. Щороку держави прагнуть зробити місію поліцейського більш привабливою в очах молодого покоління різними формами та способами. Серед таких кроків автори пропонують запровадити в Словацькій Республіці звання курсанта державної служби. В основному, це передбачає вербування громадян Словацької Республіки після досягнення 18 років. Ідея полягає в тому, щоб «зловити» нових випускників після закінчення середньої школи і одночасно подолати часовий період досягнення віку можливого вступу до лав «справжніх» поліцейських, – 21 рік. У цей період курсант може пройти базову поліцейську підготовку в навчальних закладах. Такий крок держави можна підсилити заявою Дж. Коменського: «Мета виховання та мудрості полягає в тому, щоб людина бачила чіткий життєвий шлях, ретельно йшла, пам'ятала минуле, знала сьогодення та передбачала майбутнє». За короткий час курсантської державної служби в Словацькій Республіці вже якісно підготовлений професійний персонал. Автори стверджують, що такий професійно підготовлений кадровий субстрат сприяє підвищенню довіри до поліції.

Стаття також представляє завдання поліцейської роботи в Польщі, структуру поліцейської освіти, вимоги до цієї професії та описує проблеми в кадровій системі поліції.

Ключові слова: *ефективність освіти, поліцейська освіта, освітні інновації, Словацька Республіка, Республіка Польща, законодавство, поліція, безпека, поліцейська академія, Міністерство внутрішніх справ*

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THE THOUGHT OF JOHN PAUL II ABOUT THE TOTALITARIANISM

Abstract. This article is an attempt to answer the question, what is the totalitarianism in the perspective of teaching John Paul II, what is its genesis and essence; what are consequences for the man and the society and the reality in which functions, in which has influence; what is its catalyst. The author tries to explore the issue of totalitarianism urged by the increased of disturbing social phenomena (ethical, religious, political and identity indifference, nationalism, fundamentalism and fanaticism; moral, cognitive and legal relativism; denial and limitation of: principles, natural human laws, and in particular the right to life), which seems to favor the creation of frameworks of totalitarian ideas and their implementation on the social and (positive) legal ground. It emphasizes the importance of the imperative, according to which, the anti-totalitarian heritage of John Paul II should be rediscovered and interpreted again and again.

«The Supreme Good and the moral good meet in truth: the truth of God, the Creator and Redeemer, and the truth of man, created and redeemed by him. Only upon this truth is it possible to construct a renewed society and to solve the complex and weighty problems affecting it, above all the problem of overcoming the various forms of totalitarianism, so as to make way for the authentic freedom of the person»[1] (p. 99, August 6 1993, from http://w2.vatican.va/content).

Keywords: *John Paul II, totalitarianism, freedom, human rights, rule (state) of law*

Introduction. Totalitarianism is a phenomenon that negatively affects a person's personality, his freedom of thought and action. In order to identify ways to overcome totalitarianism and build a modern free society, it is necessary to study the history of this phenomenon. In this study, we focused on the teachings of John Paul II.

Analysis of recent research and publications. *1. The totalitarianism – general issues.* John Paul II indicates, that a source of the totalitarianism is the negation of the objective truth. This means, if it is assumed mistakenly, that there is no transcendent truth, by the obedience of which, man acquires his full identity, then there is no principle that guarantees a fair relationship between people. In such case, the class, group or national benefits inevitably oppose each other, generating a conflict situation. The non-recognition of the transcendent truth leads to the triumph of the force of the authority, while individual actions are focus on the maximum use of available resources, to impose their own views or to achieve their own advantage, regardless the rights of other people[2] (May 1991, 44 and 46, http://w2.vatican.va). Disregarding the value of the human being, including its transcendental value and objective moral imperatives, moral imperatives affecting

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[1] John Paul II, Veritatis splendor [Encyclical on some fundamental questions of the Church's Moral Teaching]
[2] John Paul II, Centesimus annus [Encyclical on the hundredth anniversary of Rerum novarum] (May 1 1991).

on the proper functioning of states, leads to the disappearance of the foundation of political coexistence, and the whole of social life is exposed on the risk and the threat of the degradation (Veritatis splendor, 101).

In the totalitarian system, as the Pope emphasizes, the principle of the power take priority over mind. This principle forces the man to surrender to imposed by force a dominant worldview, and the worldview developed independently, freely, by the effort of his own mind is eliminate (Centesimus annus, 29). The error of the totalitarianism is hides in the concept of freedom, autonomous of truth and detached from obedience to it, «this error consists in an understanding of human freedom which detaches it from obedience to the truth, and consequently from the duty to respect the rights of others. The essence of freedom then becomes self-love carried to the point of contempt for God and neighbour, a self-love which leads to an unbridled affirmation of self-interest and which refuses to be limited by any demand of justice» (Ibid. 17). That's why – in example of the situation in Africa, as John Paul II remarks – it is just in totalitarian regimes illegally trampling on the rights and the human dignity, to extremes the desire for power, chauvinism, nepotism, racism and religious intolerance are brought. In totalitarianism «peoples crushed and reduced to silence suffer as innocent and resigned victims all these situations of injustice»[3] (August 14 1995, 117. http://w2.vatican.va). This confirms the thesis, that the concept of freedom detached from objective truth, causes that the human rights lose their rational support, what creates the danger of «the oppressive totalitarianism of public authority»[4] (March 25 1995, 96, http://w2.vatican.va/, October 2 1979, 19, https://w2.vatican.va). The totalitarianism is therefore a socially and individually destructive system; so it is rightly noted, that an important feature of the totalitarianism is its anti-personalis (Tarasiewicz P., 2011, 229).

As a consequence, the above mentioned, totalitarianism assumes the egoistic practice of the social life, in which the respect for man is measured in a selfish utilitarianism. The Pope further points out, that «modern totalitarianism is to be found in the denial of the transcendent dignity of the human person who, as the visible image of the invisible God, is therefore by his very nature the subject of rights which no one may violate – no individual, group, class, nation or State. Not even the majority of a social body may violate these rights, by going against the minority, by isolating, oppressing, or exploiting it, or by attempting to annihilate it» (Centesimus annus, 44). This statement leads to the conclusion, that no social group (that is, party, class, political, worldview or economics party, etc.), has the right to claim, usurp the role of the only guide. This would be related, as in the case of any totalitarianism, with the deterioration of the real subjectivity of the whole society as well as individual citizens participating in it. In this type of the system, despite all assurances and declarations, both a single person and the whole society, the nation become objectifie (December 30 1987, 15, http://w2.vatican.va). The seventh commandment – emphasizes the Pope – forbids any actions or undertakings, that are guided by, among others, totalitarian motivation, lead to the enslavement of the man, to obscure his dignity, objectify him, as if he were a commodit (Veritatis splendor, 100).

The purpose of our article is to study the essence of totalitarianism in terms of the teachings of John Paul II.

[3] What indicated in the Propositio (45) of Special Assembly for Africa of the Synod of Bishops; quoting by John Paul II, Ecclesia in Africa [Exhortation, on the Church in Africa and Its Evangelizing Mission Towards the Year 2000] (August 14 1995), 117.

[4]«Man can indeed be wounded in his inner relationship with truth, in his conscience, in his most personal belief, in his view of the world, in his religious faith, and in the sphere of what are known as civil liberties. Decisive for these last is equality of rights without discrimination on grounds of origin, race, sex, nationality, religion, political convictions and the like. Equality of rights means the exclusion of the various forms of privilege for some and discrimination against others, whether they are people born in the same country or people from different backgrounds of history, nationality, race and ideology».

Formulation of the main material. John Paul II teaches, that the practice and the culture of the totalitarianism brings the negation of the Church, including its teaching, values contained and proclaimed in it. «The State or the party which claims to be able to lead history towards perfect goodness, and which sets itself above all values, cannot tolerate the affirmation of an objective criterion of good and evil beyond the will of those in power, since such a criterion, in given circumstances, could be used to judge their actions. This explains why totalitarianism attempts to destroy the Church, or at least to reduce her to submission, making her an instrument of its own ideological apparatus» (Centesimus annus, 45). It can put up the thesis, that the totalitarianism fights against the Church also from the practical position, as history has shown and what the Pope also points out, the Church «has remained faithful to this duty. Indeed, she intervened in the turbulent period of class struggle after the First World War in order to defend man from economic exploitation and from the tyranny of the totalitarian systems» (Ibid., 61); this means, the Church opposed them directly and became a open opponent of those totalitarian systems. It should be emphasized, that the Church at the beginning of the ideology «of the class struggle» in XIX century warned against adaptation its principles in the state and social life. As the example is the message of the encyclical Quod apostolici muneris, About the sect of communists of December 28, 1878, in which the Church – in the teaching of Leon XIII – opposed: to the destructive influence of the socialist thoughts (mainly Engels-Marxist, but not only) on the family, negating the right to own property, denying the natural law, depriving the freedom of society that is inevitably leading to serfdo (December 28 1878, 1, 5, 8 and 9, http://w2.vatican.va/).

The totalitarian state aims to absorb of individual persons and the whole of the objective components of social life, such as: nation, society, families and religious communities. The Church defending her own freedom, also defends a man (who should listen more to God than to people), families, social organizations including nations; because all of them are entitled their own autonomy and sovereignty (Centesimus annus, 46), which totalitarian system want to take.

2. *Ideological fundamentals of the totalitarianism.* John Paul II tried to determine the historic genesis of the totalitarianism in the connection with its philosophical thought. He pointed out, that the significant part of the European philosophical thought, developed in the greater or lesser degree of separation, or even contradictions with the Christian revelation, which was particularly intensive in XIX century. Some of the representatives of idealism made attempts to transform the faith and its content (including even the mystery of Death and Resurrection of Christ) and subordinate, subject it to the process and structures of beyond-rational dialectics (September 14 1998, 46, http://w2.vatican.va). Moreover, in the philosophical thought, there was also the trend of widely understood philosophical atheistic humanism, which perceived the faith as an obstacle to the development of full rationality and alienating factor (Ibid., 46). These philosophical trends «did not hesitate to present themselves as new religions serving as a basis for projects which, on the political and social plane, gave rise to totalitarian systems which have been disastrous for humanity» (Ibid., 46).

Similarly, continues the Pope, in the natural sciences began to prevail the mentality rejecting the metaphysical and moral vision of the world, and thus rejecting also its Christian vision and any ethical references, adopting strictly positivistic point of view. This created the danger of removing the human being and his whole existence from the centre of scientific considerations. Also nowadays, some scientists, aware of possibilities offered by technology, become a subject to the market logic and demiurgic temptations of power over the creation, and in this not only the nature as such, but also the very human being (Ibid., 46). Sometimes the strictly positivistic scientism is preached, which rejecting the transcendence of human existence and thus its dual complementarity, creates the danger of pushing science to a narrow totalitarian thought.

The crisis of the rationalism in the philosophical and natural sciences, as well as in practical life, has taken the form of nihilism. «In the nihilist interpretation, life is no more than an occasion for sensations and experiences in which the ephemeral

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has pride of place. Nihilism is at the root of the widespread mentality which claims that a definitive commitment should no longer be made, because everything is fleeting and provisional» (Ibid., 46). Therefore, nihilism also negates freedom and truth at their very foundations, enslaves man, aims directly to totalitarianism.

The above mentioned mental thoughts, lead to rejection of an objective ethical order, objective and inviolable rights of human, who becomes uncertain of his rights. Such condition must inevitably lead to «the dissolution of society, opposition by citizens to authority, or a situation of oppression, intimidation, violence, and terrorism, of which many examples have been provided by the totalitarianisms of this century» (March 4 1979, 17, www.vatican.va/).

3. *Historio-practical genesis of the totalitarianism.* John Paul II reminds, that the European continent has become the witness of the conformation of widely understood totalitarian ideologies and nationalisms – which nota bene brought heavy and long-lasting persecutions of faith[5] (June 28 2003, 3, from http://w2.vatican.va, Skultuna, 2012, p. 20, https://www.rodaknet.com). These ideologies weakened hopes of societies and individuals, escalated conflicts and civil wars and inter-sate wars. The most tragic consequences were two world wars of the twentieth century[6] (Ecclesia in Europa, 112, Volker R. Berghahn, 1900-1950, Princeton, 2006, p. 6.). These totalitarian regimes, however, cannot be strictly politically defined, because within a period of their existence they had specific features, constituting in many cases the syncretic mix – often contradictory – political, economic, worldview, *etc*. thoughts and ideas; however, they were connected by one element – totalitarianism, although different in their forms and stages. Simplifying, for examples of these regimes can be mentioned: national socialism (German fascism), Soviet communism (Bolshevism, Stalinism), Japanese chauvinism and imperialism, Spanish communism, Mussolinism (the Italian fascism), Frankism (the Spanish fascism), Tisoism (the Slovak fascism).

[5] «Naturally, over the centuries in the West and the East the power of the Church has lain in the witness of the saints, of those who made Christ's truth their own truth, who followed the way that is Christ Himself and who lived the life that flows from Him in the Holy Spirit. And in the Eastern and Western Churches these saints have never been lacking. The saints of our century have been in large part martyrs. The totalitarian regimes which dominated Europe in the middle of the twentieth century added to their numbers. Concentration camps, death campswhich produced, among other things, the monstrous Holocaust of the Jews-revealed authentic saints among Catholics and Orthodox, and among Protestants as well. These were true martyrs. It is enough to recall such figures as Father Maximilian Kolbe and Edith Stein and, even earlier, the martyrs of the Spanish Civil War. In eastern Europe the army of holy martyrs, especially among the Orthodox, is enormous: Russians, Ukrainians, Byelorussians, and those from the vast territories beyond the Ural Mountains. There were also Catholic martyrs in Russia, in Byelorussia, in Lithuania, in the Baltic countries, in the Balkans, in the Ukraine, in Galicia, Romania, Bulgaria, Albania, and in the countries of the former Yugoslavia. This is the great multitude of those who, as is said in the Book of Revelation, «follow the Lamb» (cf. Rev 14:4). They have completed in their death as martyrs the redemptive sufferings of Christ (cf. Col 1:24)», John Paul II, Crossing the Threshold of Hope (New York, 1994), chapt. The Reaction of the «World», Retrieved on March 11, 2019, from http://www.excerptso-finri.com/printable/crossing_the_threshold_ofhope-popejpii.pdf. «In this century, as in other periods of history, consecrated men and women have borne witness to Christ the Lord with the gift of their own lives. Thousands of them have been forced into the catacombs by the persecution of totalitarian re-gimes or of violent groups, or have been harassed while engaged in missionary activity, in action on behalf of the poor, in assisting the sick and the marginalized; yet they lived and continue to live their consecration in pro-longed and heroic suffering, and often with the shedding of their blood, being perfectly configured to the Cruci-fied Lord», John Paul II, Vita consecrata. It would seems, that the evil of concentration camps, gas chambers, the atrocities of certain police services, and finally the total war and regimes based on violence – that this eevil, which also programmatically crossed out the presence of the cross – was stronger. However, if we look more deeper at the history of peoples and nations that have gone through a trial of totalitarian systems and persecutions for faith, then we will discover there a clear, victorious presence of the cross of Christ; John Paul II, Pamięć i tożsamość. Rozmowy na przełomie tysiącleci.

[6] *Ecclesia in Europa,* 112. It points out on global causes and dependencies connected with the outbreak of world wars. For example, in relation of first world conflict one advanced the thesis about its colonial genesis: «the Europeans were sitting on volcano that was being fed by the explosive power of colonialism. It was in the colonies that the orgy of violence that consumed millions of lives began and that ricocheted back into Europe in 1914».

[7] John Paul II undertake the critique of the nationalism, keeping however the distance to the internationalism wanting to erase the sense of national belonging. He said – referring to the document Instrumentum Laboris – that, «national differences ought to be maintained and encouraged as the foundation of European solidarity, while on the other, national identity itself can only be achieved in openness towards other peoples and through solidarity with them».

Totalitarianism related to militarism and the aggressive nationalism[7] («Synod of Bishops – Second Special Assembly for Europe, Instrumentum Laboris, 85: L'Osservatore Romano, 6 August 1999, Suppl., 17»; Ecclesia in Europa, 112), the class struggle, internal and ideological conflicts that are the source of these two terrible wars – which a char-acteristic feature was the planned and implemented annihilation of entire nations and social groups – which was denial and violation of basic human rights. An example is Holocaust «whose terrible fate has become a symbol of the aberration of which man is capable when he turns against God. However, it is only when hatred and injustice are sanctioned and organized by the ideologies based on them, rather than on the truth about man, that they take possession of entire nations and drive them to act» (Centesimus annus, 17).

John Paul II indicates, that after World War II, which end was supposed to restore a freedom and to rebuild the rights of nations, on the territories of more than half of Europe and in other parts of the globe, another form of totalitarianism began to spread: communism[8] (Ibid., 19. The Church – reminds the pope – had to fight the dramatic battle for the survive in the clash with two totalitarian systems: at first during World War II, this was the system of the Nazi ideology, and then through long decades of post-war history, the communist dictatorship together with her militant atheism; John Paul II, *Dar i Tajemnica* [Gift and Mystery] (Text in accordance with a copy: Krakow, 1996, p. 20). This totalitarianism took the form of Marxism-Leninism. This doctrine claimed, that there are people predestined to exercise absolute power, whether because of the knowledge of the rules of social development, a special class position, or «contact with the deeper sources of the collective consciousness», what would be supposedly the guarantor of their infallibility (Centesimus annus, 44). Marxism as so called the scientific socialism and the communism «which professes to act as the spokesman for the working class and the worldwide proletariat. Thus the real conflict between labour and capital was transformed into a systematic class struggle, conducted not only by ideological means but also and chiefly by political means. (...) The Marxist programme, based on the philosophy of Marx and Engels, sees in class struggle the only way to eliminate class injustices in society and to eliminate the classes themselves. Putting this program into practice presupposes the collectivization of the means of production so that, through the transfer of these means from private hands to the collectivity, human labour will be preserved from ex-ploitation. This is the goal of the struggle carried on by political as well as ideological means. In accordance with the principle of «the dictatorship of the proletariat», the groups that as political parties follow the guidance of Marxist ideology aim by the use of various kinds of influence, including revolutionary pressure, to win a monopoly of power in each society, in order to introduce the collectivist system into it by eliminating private ownership of the means of production. According to the principal ideologists and leaders of this broad international movement, the purpose of this program of action is to achieve the social revolution and to introduce socialism and, finally, the communist system throughout the world» (September 14 1981, 11, http://w2.vatican.va/).

According to the foregoing, that totalitarianisms of the twentieth century aimed at achieving of their utopian goals, through the application of widely

[8] Ibid., 19. The Church – reminds the pope - had to fight the dramatic battle for the survive in the clash with two totalitarian systems: at first during World War II, this was the system of the Nazi ideology, and then through long decades of post-war history, the communist dictatorship together with her militant atheism

[9] «It is typical for the totalitarian dictatorships of the 20th century that they try to mobilize the masses with reference to ideologies of progress with utopian goals and in doing so systematically violate not only civil rights, but human rights as a whole»; Karl G. Ballestrem, «Aporia of Totalitarianism Theory» in Eckard Jesse red., Totalitarianism in the 20th century

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understood social engineering[9] (Bonn, 1996, p. 239). Violating not only civil rights as such, but above all fundamental human rights[10] (H. Arendt, 1953, p. 310). Towards the end of these great twentieth century totalitarianisms, the problem of the proper use of «new» freedom emerged (p. 29).

4. *The totalitarianism in the era of postmodernity*. The reaction of modern societies to the threat of Marxism-communism – as John Paul II noted – was, among others, the system of national security. It aimed to prevent Marxist infiltration of society by introducing meticulous control, increasing the strength of the state, which could – similarly like in the case of totalitarian system, with whom it had the goal to fight – create the effect in the form of taking away the freedom and the destructing the values of the human being.

Also so called the consumer society, or the society of welfare, was the reaction to communist degeneration. It «fought» and «fights» with the communism in the area of the same method: materialism. It had and has the goal to fully satisfy the material needs of people, than did communism, but however – as in communism – bypassing the spiritual needs of the human. The Pope assumes, that «in reality, while on the one hand it is true that this social model shows the failure of Marxism to contribute to a humane and better society, on the other hand, insofar as it denies an autonomous existence and value to morality, law, culture and religion, it agrees with Marxism, in the sense that it totally reduces man to the sphere of economics and the satisfaction of material needs» (Centesimus annus, 19).

Thereby, after the determined, global defeat of socialism of Marx, a new danger emerged that threatened similar consequences, like implementing postulates of communism; that is negating of basic human rights or absorbing by the policy of religious needs, etc. John Paul II expresses an opinion, that this generates the threat of allying the democracy with ethical relativism, depriving the society a moral reference point, consequently also the ability to recognize the truth (Veritatis splendor, 101). It should be considered a wrong and harmful statement, that agnosticism and the skeptical relativism are an attitude and philosophy, that corresponds to the forms of democratic politics and that those who claim to know and follow the truth, are not trustworthy from a democratic position, because they recognize immutability of the truth – regardless of the opinions of the majority or dominating politically trends (Centesimus annus, 46). If, therefore, there is no recognition of any ultimate truth, regulating and affecting political life – indicates the Pope – then there is the danger of achieving the goals of power, through objectification, and the instrumentalization of ideas and convictions. «As history demonstrates, a democracy without values easily turns into open or thinly disguised totalitarianism»[11] (p. 40).

The negation of objective, unchanging truth, leads inevitably to negating transcendent dignity of the human person. Freedom understood as not as much as «freedom to», but as egoistic «freedom from»; from truth, morality, ethics, another man, God. So freedom understood in such way tends to distort social life. Selfishness – John Paul II remarks – unrestricted promotion of my own self («I»), at the very beginning

[10] H. Arendt indicates, that «by lawful government we understand a body politic in which positive laws are needed to translate and realize the immutable ius naturale or the eternal commandments of God into standards of right and wrong. Only in these standards, in the body of positive laws of each country, do the ius naturale or the Commandments of God achieve their political reality. In the body politic of totalitarian government, this place of positive laws is taken by total terror, which is designed to translate into reality the law of movement of History or Nature»

[11] Ibid., 46. John Paul II indicates also, that, if on one hand, the West still bears witness of action of evangelical leaven, then simultaneously from the second the currents of antievangelization are no less powerful. It strikes into the fundamentals of the human morality, strikes into the family and propagates the moral permissivism, divorces, free love, abortion, contraception, fight with life at the conception stage, and at the stage of end of life, manipulation of life. This program is supported by huge financial resources, not only in individual societies, but also in the world scale; can dispose with powerful centres of influences, economic influences, through which it tries to impose conditions on countries that are on the path of development. In view of all this, it is right to ask whether this is also another form of totalitarianism, hidden under the guise of democracy.

already denies another man, who becomes an enemy against whom one should defend himself[12] (Henryk Olszewski, 2010, p. 52). Such attitude leads the breakdown of society, where individual goals are realized in separation, or even at the expense of the good of others. Achieving such a state of (pseudo) freedom, forces to make compromises in cases, when there should be no question about them; compromises for the achievement of which one renounces absolute truth, common improving values, which entails the risk of completely relativizing of the reality. The foundation of society becomes the subject of a contract that even basic human right are subject to – the right to life from conception to natural death. John Paul II indicates, that this now «this is what is happening also at the level of politics and government: the original and inalienable right to life is questioned or denied on the basis of a parliamentary vote or the will of one part of the people-even if it is the majority. This is the sinister result of a relativism which reigns unopposed: the «right» ceases to be such, because it is no longer firmly founded on the inviolable dignity of the person, but is made subject to the will of the stronger part. In this way democracy, contradicting its own principles, effectively moves towards a form of totalitarianism. The State is no longer the «common home» where all can live together on the basis of principles of fundamental equality, but is transformed into a tyrant State, which arrogates to itself the right to dispose of the life of the weakest and most defenceless members, from the unborn child to the elderly, in the name of a public interest which is really nothing but the interest of one part»[13] (Krakow, 2010, p. 52). It is possible to have wrong impression – says the Pope – that all this is done with respect of the rule of law, at least in the «democratic» way, is voted on the «right» to abortion or euthanasia. However, such a rule of law is not a true law, but tragic guise, while the democratic ideal – which deserves to be called only when it recognizes and protects the dignity of every person – is betrayed at its foundations. Human dignity is then wasted, because it is taken away from the most innocent and defenseless, discriminating them on the level of right to life and its defense. This reality aims directly to the achievement of the state of disappearance of true human coexistence and the disintegration of the state-organism. Therefore, it is rightly pointed, that the democracy the more clearly shows totalitarian attributes, the more clearly disregards the human dignity (Evangelium vitae, 20). Positive legal recognition and enforcement the «right» to terminate the pregnancy (the antenatal infanticide), killing newborns (the puerperal infanticide), euthanasia, means – says the Pope – «to attribute to human freedom a perverse and evil significance: that of an absolute power over others and against others. This is the death of true freedom»[14] (John Paul II, Evangelium vitae, 20). Then the connection between freedom and truth is broken. Therefore, one ought to reject both the vision of totalitarian utopia of freedom derived of truth, as the utopia of the truth without freedom, with a false notion of tolerance. «Both utopias portend errors and horrors for humanity, as the recent history of Europe sadly attests» (Ecclesia in Europa, 98). The Pope emphasizes the inseparable connection between freedom and truth: the freedom is itself, is a freedom in such measure, in which is realized by the

[12] For example, in the literature of the subject indicates outright on so called ideologies of the enemy of totalitarian systems. H. Olszewski shows them on the example of East and West European totalitarianisms; political goals, which was suggested by « enemy ideology», were in Stalinist totalitarianism identical with those, what Western totalitarian systems would expect from it: the enemy still finds a field for destructive activities, is ubiquitous and extremely determined, hence deadly dangerous, reborn like a multi-headed hydra. We must therefore strain all our strengths to defeat him and destroy him completely; Henryk Olszewski, «O roli ideologii wroga wkształtowaniu się systemów totalitarnych».

[13] «Therefore, the condemnation of God by man is not based on the truth, but on arro-gance, on an underhanded conspiracy. Isn't this the truth about the history of humanity, the truth about our century? In our time the same condemnation has been repeated in many courts of oppressive totalitarian regimes. And isn't it also being repeated in the parliaments of democracies where, for example, laws are regularly passed condemning to death a person not yet born?».

[14] «Where God is denied and people live as though he did not exist, or his commandments are not taken into account, the dignity of the human person and the inviolability of human life also end up being rejected or compromised».

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truth about the good. Only then she is alone a good. If the freedom ceases to be related with the truth, and subordinates the truth from herself, creates logical premises, which have harmful moral consequences. Their sizes are sometimes incalculable. In this case, the abuse of the freedom causes the reaction, which takes the form of one or another totalitarian system (John Paul II, pp. 36, 37).

John Paul II expresses the view, that extreme egoism, disrespect for human dignity, and in particular, taking away the right to life, negating religious freedom, etc., causes, that in democratic systems the ability to make decisions for the common good is lost. It happens that it is not the criteria of justice and morality that are used to solve issues, social demands, but the electoral or financial strength of individual groups who want to pursue their goals. As a consequence, such situation leads to apathy, discouragement and social disappointment, which implies the disappearance of political and civil engagement. «As a result, there is a growing inability to situate particular interests within the framework of a coherent vision of the common good. The latter is not simply the sum total of particular interests; rather it involves an assessment and integration of those interests on the basis of a balanced hierarchy of values; ultimately, it demands a correct understanding of the dignity and the rights of the person» («Second Vatican Ecumenical Council, Pastoral Constitution on the Church in the World of Today Gaudium et Spes, 26»; Centesimus annus, 47).

John Paul II also sees the danger in fundamentalism and fanaticism of those who in the name of their vision of truth and goodness feel to impose on others; regardless of whether it is in the name of scientific or religious ideology. The realization of the good and the principle of truth are tied with the freedom, that fanaticism and the fundamentalism try to take away (Comp. ibid., 46). Despite the fact, that the characteristic feature of many totalitarianisms is their direct antireligiousness, however in fundamentalism and fanaticism is this not clearly perceived; they are associated with the degeneration of religiosity – they are its parareligious caricature. The anti-religious character of fanaticism and fundamentalism is in fact hidden, takes on the facade of religiosity, whose theological essence is shaded by non-religious goals-dogmas; usually politically (Comp., 1995, p. 13).

5. *Freedom, truth, human rights, the rule (state) of law, real democracy, the Church – against the totalitarianism*. The Pope emphasizes, that Christian truth stands in opposition to the institution of ideology as such, and even more so to an ideology trying to clothe the social-political reality in schemas, taking away freedom from society and every individual human being; it therefore opposes totalitarianism directly. The method by which the Church is guided is «furthermore, in constantly reaffirming the transcendent dignity of the person, the Church's method is always that of respect for freedom» (Centesimus annus, 46). The Pope assumes, that on this dignity, as well as based on the correct concept of the human person and the rule (state) of law, real democracy should also be based, unfavorable to the formation of narrow management groups, holding political power, realizing their particular goals or ideological purposes. This democracy as well as peace – supported on the foundation of respect for life – are those values which are the most precious and necessary for society (Comp. Evangelium vitae, 101 and Centesimus annus, 46). The interest and concern for human rights should be the foundation of the democratic system. In the centre of these rights is the right to life from conception to natural death; «the right to life, an integral part of which is the right of the child to develop in the mother's womb from the moment of conception; the right to live in a united family and in a moral environment conducive to the growth of the child's personality; the right to develop one's intelligence and freedom in seeking and knowing the truth; the right to share in the work which makes wise use of the earth's material resources, and to derive from that work the means to support oneself and one's dependents; and the right freely to establish a family, to have and to rear children through the responsible exercise of one's sexuality. In a certain sense, the source and synthesis of these rights is religious freedom, understood as the right to live in the truth of one's faith and in

conformity with one's transcendent dignity as a person» (Centesimus annus, 47). The principle of human rights is also deeply and inseparably related to the essence of the social justice and constitutes its political-social-state measure; while the objective ethical order immanently associated with certain objective, inviolable and undeniable human rights, can be an only basis for building and realizing the common good by the authority in the state (Comp. Redemptor hominis, 17).

The Pope also emphasizes the anti-totalitarian significance of transparency, justice, morality, human and civil freedom and idea of the state of law in action: «In the political sphere, it must be noted that truthfulness in the relations between those governing and those governed, openness in public administration, impartiality in the service of the body politic, respect for the rights of political adversaries, safeguarding the rights of the accused against summary trials and convictions, the just and honest use of public funds, the rejection of equivocal or illicit means in order to gain, preserve or increase power at any cost – all these are principles which are primarily rooted in, and in fact derive their singular urgency from, the transcendent value of the person and the objective moral demands of the functioning of States» (Veritatis splendor, 101). The morality based on truth and open to freedom, has great significance in terms of service, development and growth in the good, both individuals and entire societies (Ibid., 101). In the situation of the emptiness in the field of values, when in the moral sphere reigns the chaos and the confusion – the freedom dies, the free man becomes a slave – the slave of instincts, passions or pseudo-values[15] (John Paul II, 1997, from https://ekai.pl). John Paul II indicates that «the inseparable connection between truth and freedom – which expresses the essential bond between God's wisdom and will – is extremely significant for the life of persons in the socio-economic and socio-political sphere (Veritatis splendor, 99).

This means, that the man should – in a different way than in the totalitarianism – build his worldview independently, using his freedom correctly – with the effort of his own mind, own intellect; guided by the right of conscience, connected with the truth: natural or revealed. The recognition of these rights – argues the Pope – «represents the primary foundation of every authentically free political order» (Centesimus annus, 29). This rule should be confirmed also because: «the old forms of totalitarianism and authoritarianism are not yet completely vanquished; indeed there is a risk that they will regain their strength. This demands renewed efforts of cooperation and solidarity between all countries; (...) in the developed countries there is sometimes an excessive promotion of purely utilitarian values, with an appeal to the appetites and inclinations towards immediate gratification, making it difficult to recognize and respect the hierarchy of the true values of human existence; (...) in some countries new forms of religious fundamental-ism are emerging which covertly, or even openly, deny to citizens of faiths other than that of the majority the full exercise of their civil and religious rights» (Ibid., 29). Special example of this is Saudi Arabia, where the law prohibits the practice of non-Muslim religions; which is implemented among other things by the prohibition of the function of other than Islamic temples (for example, except for chapels in embassies), or even prohibition of possessing other than Islamic symbols and objects of religious worship.

The Pope expresses fear of the threat of totalitarianism and defines the features of the political order based on freedom. He cites an example of one of his predecessors – Leo XIII – who presented the structure of society based on balance and on tripartite division of powers; it means the division into: legislative, executive and judicial authority. «Such an ordering re-flects a realistic vision of man's social nature, which calls for legislation capable of protecting the freedom of all. To that end, it is preferable that each power be balanced by other powers and by other spheres of responsibility which keep it within proper bounds. This is the

[15] The pope underlines, that the social science of the Church, thanks to the set of principles which proposes, «helps lay solid foundations for a humane coexistence in justice, peace, freedom and solidarity».

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principle of the «rule of law», in which the law is sovereign, and not the arbitrary will of individuals» (Ibid., 44. Ecclesia in Europa, 98), what should be also a buffer for the development of totalitarian structures.

The rule (state) of law, a legal state – the Pope emphasizes – should also support families, who are the first and basic social unit. The family has the right to demand from everyone, including the state, the respect of its rights, as they protect it, they also protect the whole society. It should – indicates John Paul II – be under the special care, especially when selfishness, consumerism, anti-procreative campaigns, hedonistic mentality, moral misery and poverty, ma-terial and cultural poverty, totalitarian policy, ideologies and systems, exert widely destructive influence on the family, destroying among others its educational function and the family as a source of life (56 Comp. John Paul II, Christifideles laici [Exhortation on the Vocation and the Mission of the Lay Faithful in the Church and in the World] (December 30 1988, 40, http://w2.vatican.va). In this context the Pope also emphasizes the fundamental and basic right of parents to decide on the education of their children; parents who are Catholics should have a choice, in terms of education, in accordance with their religious beliefs; and the state has obligation to provide education, respect and defend freedom of education for all. The monopoly of the state in this area should be denounced and stigmatized, because it belongs to forms of totalitarianism that violate the fundamental rights that the state should defend, particularly the rights of parents to the religious education of theirs own children (January 22 1999, 71, http://w2.vatican.va).

Conclusions. Based on the thought of John Paul II – that the man being in the dark centre of totalitarianism is deprived of rights, dignity, subjectivity, freedom, truth in material as well as in transcendental dimension. The main victim of totalitarianism is man – a weak man. Weak in many ways – whether he is like a mode of a totalitarian machine, whose weakness is manifested on the level of morality and spirit, or the one who falls into its modes, whose weakness is expressed in defenselessness[16] (Matthew 10:28). The subjectivity of the man dies on the al-tar of antihuman idea, realized in a totalitarian regime. The antithesis of the idea of totalitarianism is the system of interpersonal solidarity, equality, justice and freedom, recognized from the salvific perspective of the Logos-Christ, as the center of human thought, history and existence.

Conflict of Interest and other Ethics Statements

The author declare no conflict of interest.

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Comp. *ibid.*, 46.

Comp. John Paul II, *Christifideles laici* [Exhortation on the Vocation and the Mission of the Lay Faithful in the Church and in the World] (December 30 1988), 40, Retrieved on March

[16] The pope underlines, that the social science of the Church, thanks to the set of principles which proposes, «helps lay solid foundations for a humane coexistence in justice, peace, freedom and solidarity».

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Адам Врубель

ДУМКА ІВАНА ПАВЛА ІІ ПРО ТОТАЛІТАРИЗМ

Анотація. Автор спробував відповісти на питання, що таке тоталітаризм з точки зору вчення Івана Павла ІІ, в чому полягає його генезис та сутність; які наслідки для людини і суспільства є реальність, в якій він функціонує та на яку впливає; що є каталізатором його розвитку. Автор намагається дослідити проблему тоталітаризму, викликаного посиленням тривожних соціальних явищ (етична, релігійна, політична та ідентичність байдужості, націоналізм, фундаменталізм і фанатизм; моральний, когнітивний та правовий релятивізм; заперечення та обмеження: принципів, людських законів, зокрема права на життя), що сприяє створенню каркасів тоталітарних ідей та їх реалізації на соціальній та (позитивній) правовій основі. Він підкреслює важливість імперативу, згідно з яким антитоталітарну спадщину Івана Павла ІІ слід відкривати й інтерпретувати знову і знову.

«Верховне благо і моральне добро зустрічаються в трикратній істині: істина Бога, Творця і Спасителя. Тільки на цій істині, на думку автора статті, можна побудувати оновлене сучасне суспільство і вирішити складні й важкі проблеми, що стосуються його, передусім проблему подолання різних форм тоталітаризму, аби звільнити місце для справжньої свободи особистості». Отже, людина, яка перебуває в темному центрі тоталітаризму, позбавлена прав, гідності, суб'єктивності, свободи, істини як у матеріальному, так і в трансцендентальному вимірі. Головною жертвою тоталітаризму є людина, адже в такому випадку вона є слабкою людиною. Слабкою становиться людина у багатьох відношеннях – слабкість проявляється на рівні моралі й духу, а також слабкість виражається в беззахисності. Суб'єктивність людини вмирає на вівтарі антигуманної ідеї, реалізованої в тоталітарному режимі. Антитезою ідеї тоталітаризму є система міжособистісної солідарності, рівності, справедливості та свободи, визнана з точки зору спасіння Логосом-Христом центром людської думки, історії та буття.

Ключові слова: *Іван Павло ІІ, тоталітаризм, свобода, права людини, верховенство (правова держава)*

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RELIGIOUS AND CULTURAL VIOLENCE; THE 21st-CENTURY GENOCIDE AGAINST THE YAZIDIS

Abstract. The study analyzes religious and cultural violence, focusing on the Genocide against Yazidis within the broader Kurdish socio-political framework. The ISIL genocidal intent against Yazidis includes forced relocation and practice attitudes that apply to elitism and sexual violence. It is part of the destruction of the group in terms of destruction of the spirit, will live and life itself (members) of the group. However, it should be noted that such views do not mean the legal argument for recognizing cultural genocide but an attempt to clarify the meaning of physical and biological destruction. Violence committed «in the name of religion» belongs to the dark side of religion. Violence (mostly) does not arise from the moral teachings of religions but from a perverted understanding of religion. The killing of members of a religious group is a form of physical genocide, and the threat of murder to ban religion was a way to commit cultural, that is, religious genocide. Sexual violence is different from all other weapons. The global community needs to be united to protect women and children during the war. Religion is used as an excuse for violence when the struggle is to defend the essential identity, when it is inconceivable to lose the struggle and when the struggle cannot be won. Religious support for violence causes the terrorist policy to become uncompromising. Paradoxically, just as terrorism produces fear of violence, so does the fear of terrorism produce violence.

Keywords: *Religious violence, Cultural violence, Genocide, Yazidis, ISIL, Terrorism, Religion, Kurds*

Introduction. The 20th century had countless versions, the most significant of which was the secular phase of Arab nationalism, influenced by the realpolitik constellation in which the USSR played one of the critical roles. Arab nationalism, once constituted as the leading ideological force in the Middle East, disappeared in practice but left behind a powerful political legacy of autocratic regimes. The idea of Arab unification ceased to function as a dominant feature of individual and collective action.

Analysis of recent research and publications. Much has been said about cultural genocide since 1948, how by theorists of international (criminal) law and other experts. For the most part, this discourse refers to any armed conflicts, such as the conflicts in the Balkans or more or less permanent incidents in Tibet. Moreover, any that happened before has only been updated; the cases of East Timor or Cambodia. Indeed, today we cannot talk about «a specific genocide» without mentioning, or at least not implying, the destruction of the group's cultural and eligious identity, in addition to or independent of, biological destruction, which recognized by many relevant subjects and experts in international law. However, cultural genocide is not a crime in international criminal law, despite the efforts made in that direction in drafting the Convention on the Prevention and Punishment of the Crimes of Genocide of 1948, particularly those of Rafael Lemkin, to actions

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directed against cultural identity or survival groups are included in criminal acts of execution. However, it seems that more and more proposals in theory and indications of proposals in (international) case law that the incrimination of cultural genocide (again) seriously. Lemkin's definition of genocide encompasses a broader range of actions than what was later predicted in the Convention: «(...) Genocide does not necessarily mean the destruction of the people in one fell swoop, except in the mass killings of all members of the people. It is more of a coordinated plan that includes various actions to destroy the essential foundations of the group of people's lives, which means denying the people themselves. The goals of such a plan would be the disintegration of political and social institutions, culture, language, national feelings, and religion.

Moreover, the genocide is: «Prohibition or destruction of cultural institutions and cultural activities; on the way to respond the way to in the humanities with vocational education, in order to ban humanistic thinking, which is for the gathering dangerous because it promotes national consciousness». (Schabas, 2000: 27) The term «destroy» in the definition of genocide does not only include the physical extermination of members of a group. However, it is directed towards a group as a «separate and distinct entity», which «consists of individuals and history, tradition, ties between its members, ties to the territory.

After the overthrow of Saddam, power was handed over to the interim government established until the 2005 Iraqi parliamentary elections, after which Shiite politician Nuri al-Maliki became prime minister the following year Talabani was appointed president. Massoud Barzani in 2005 by KRG (Kurdistan Regional Government) elected president of the same (Gunter, 2018). The new Constitution of 2005 Iraq is defined as a federal and sovereign state, and the legitimacy over the autonomous region of Kurdistan as a federal unit is recognized. The constitution allows for the existence of its army, which legitimizes the status of the peshmerga, and prohibits the Iraqi army from entering the territories under the rule of the KRG (Kasapovic, 2016). The so-called disputed areas of the ethnically mixed population are Nineveh and Kirkuk and parts of Dijale and Salah ad-Din provinces. They provide for a referendum on their annexation of the Kurdistan Autonomous Region within two years of its adoption, which has never been achieved, and the areas themselves have remained a scene of constant tension and balance of power.

Most Iraqis are Shiites, while Sunnis are a minority, and the issue of ethnicity is complex. In Iraq, along with Arabs (Shiites and Sunnis) and a significant Kurdish minority, there were Jews, Assyrians, Yazidis, Turkmen, and others. The Iraqis themselves are proud of their roots in ancient Mesopotamian civilizations, but as Arabic became the lingua franca of the area after the Islamic conquests in the mid-7th century, so did Arabism, which over time outgrew the most robust ethnic identity. After Iraq in 1932. gained independence and became a kingdom (the Kingdom of Iraq was ruled by a branch of the Hashemite dynasty in 1932–1958), part of its population considered Iraq to have a «special national identity», while others considered Iraqi identity «inherently related to those of other Arab peoples». (Holden 2012 p 93) Today, Arabs, with about 75%, make up the majority of the population in Iraq. Given the religious diversity, the Kurdistan region can rightly be called the «India of the Muslim world» (Maisel, 2018). Although the Kurds are predominantly Sunni Muslims by faith, they are Shiite, Alevi, Christian, Zoroastrian, and Yazidi.

Little is written about violence, although it is very present in social relations. Thus, religious and religious communities encounter various types of violence, either external (from society) or internal (from the religious communities themselves). The Yazidis, who number less than a million and live in Iraq, were victims of genocide perpetrated against them by the Islamic State in its barbaric attempt to eradicate the non-Islamic religion in the territory it occupied in 2014. with significant sexual violence to Yazidis women. In Bosnia and Herzegovina,

Muslim women gave birth to the children of their rapists. In Rwanda, Tutsis are infected with HIV. Hundreds of thousands of people fled Myanmar to a neighboring country after rumors spread about what the soldiers wanted to do with the women and girls of the Rohingya people. The list of humiliations continues with the Yazidis women. Yazidis are a sub-ethnic Kurd who mostly live in northeastern Iraq. Some consider it a separate Indo-European people. They speak the subdialect of the Kurdish language. Yazidis are an ethnic-religious community whose beliefs combine elements of several ancient religions of the Middle East. Historically, the Muslim majority persecuted the Yazidis because they professed Yazidism, which emerged based on Zoroastrianism, the monotheistic religion of Sassanid Persia. In the 7th century, the Yazidis rejected Islam. The Yazidis tried to Arabize and convert to Islam during the rule of Iraqi President Saddam Hussein.

The image of God, significantly more than any other aspect of religiosity, affects the understanding of religious messages, ways of salvation, and lifestyle formation (Kuburi, 2007, p. 43). If this image is distorted, there is a misinterpretation of religion, which ultimately leads to extremism. Once the use of violence for religious purposes is legalized and accepted by the social community, then religious violence conditions arise. The destructiveness of this phenomenon is, unfortunately, ubiquitous and frightening through the process of globalization. Today, attention is primarily focused on Islam, which does not know that tomorrow members of some other extremist groups will not resort to the same means. Cultural violence «in the name of religion» is not uncommon. The temples of another, their symbols, written sources («holy books»), and the like are desecrated and destroyed.

The purpose of our article is to analyze religious and cultural violence during the Genocide against the Yazidis in the broader Kurdish socio-political context.

Formulation of the main material.

1. Religious and cultural violence

In many war conflicts, violence and crime were committed against members of other religious groups simply because they were «others» because they did not belong to «us» and «our» religious tradition (Rwanda, Tajikistan). We had religiously motivated violence in Croatia, Bosnia and Herzegovina, and Kosovo in the 1990s. In the second half of the 20th century, we find such motivated violence in the Palestinian-Israeli conflict (although the real reasons for this conflict are different). Intra-state wars, waged in a religious society, prove to be the bloodiest wars. We are aware that religion can inspire believers to peace and tolerance and terrorism and other forms of violence. Without going into the issue of its definition, we can understand terrorism as an act of violence against the symbols of power and the state to point out both the enemy's weakness and mobilize a potential constituency. Fundamentalist terrorism uses these acts of violence as part of a cosmic war. It should be noted that the goal of terrorism is not to endanger the sovereignty of the state but symbols of its power.

Religion is a sensitive issue in states that are establishing and maintaining a secular territorial nation-state, as opposed to the process of solid mass religiosity and the vital lobbies of religious elites struggling to decide the role of religion in politics. The aspiration to build a nation-state has increased criticism of established religious authorities. They oppose the use of religion to achieve secular goals, using various means from reform to revolution. When neither revolution nor reform seems possible, terrorism is the last resort. Can binding rules for political action in the modern world be drawn based on «holy scriptures» or written religious authorities? It seems to be – no. Although the «scriptures» contain religious messages and teachings, one can glimpse the attitude towards what we call politics.

In the seventies of the last century, Donald Smith pointed out that religion is a mass phenomenon in traditional societies, and politics is not. In transitional societies, religion can, as a mass phenomenon, Smith argued, serve as a means by

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which the masses become politicized. Followers of religions, especially militant religious movements, are associated with several political phenomena: irredentism – an attempt to annex a territory once owned by a neighbor; to unite with it often because of the same religious affiliation of the population; secession – an attempt to separate the population belonging to the same religion from the internationally recognized state; migration – the migration of the population from the environment in which they form a religious minority to the state in which its majority lives is encouraged; diaspora – when due to coercion, or some other reason, goes to other countries, but maintains relations with compatriots and the religious community in the home country; international terrorism – support for the religious community in the world. In that case, they are exclusive, militant, intolerant of others, especially those who do not believe. There are such groups from Christian, Islamic, Hindu, and Shinto to sects and new religious movements.

«What bloodthirsty terrorism has so far caused the West is truly minor compared to the long history of massacre and oppression of the West itself» (Eagleton 2010 p. 67). Let us recall Dresden, Hiroshima, and Nagasaki. From the moment European powers and US became involved in changes to the political systems of Iraq, Libya, and Syria, one could expect extremism to 'flourish.' The fact is that «the US has killed incomprehensibly many more innocent civilians in the past fifty years than have been killed in the New York tragedy». (Eagleton 2011 p. 169) The theologian Tomislav Ivančić states that «Islamic terrorism is a kind of punishment for Europe because it is becoming more and more atheistic», which is a precedent for cynicism. Fundamentalists emphasize the sharp difference between politics and religion, which contributes to the dogmatic interpretation of the scriptures and the deepening of the Manichean visions of the world, the belief in a cosmic conspiracy against the proponents of «true faith». Such an attitude makes it possible to create the idea of a «holy war» that must be waged against the forces of evil. When differences in attitudes are perceived as fundamental and mutually exclusive, conflict can be interpreted as cosmic. It is a war between order and chaos, good and evil, truth and lies. In such a war, the use of violence is justified.

If we accept the thesis of 'Islamic terrorism as the unifying determinant of one bestial violence, then it would produce the view, for example, that not all Muslims are terrorists, but that all terrorists are Muslims. It, of course, is not true. Terrorism itself longs for a type of society in which violence, fear, unrest, sadness, and chaos will prevail, which is contrary to the very essence of the Qur'an and Islam. There are many examples in the distant and recent past. The general cultural development, scientific achievements, education of the population help a little. Exactly the opposite. In societies where science and technology and the population's education have advanced, funds are being created for the bloodiest destruction. Isn't it an instructive example that «the most literate people in the world created concentration camps for mass torture and burning of Jews», writes the Argentine writer Ernesto Sabato in the novel About Heroes and Graves (2012, p. 281)? The change in the purpose of churches (as they did in Russia immediately after the October Revolution) or mosques (as the Enver Hoxha did in the middle of the last century in Albania) has shown that he can be cruel religious and religious institutions in civil wars. Such war conflicts show the darkest side of human nature and leave behind «monuments of human suffering and tombs of human dignity. Gerd Bauman believes that one of the elements that violate multiculturalism as a way of promoting peace and coexistence is the interpretation of cultural and ethnic conflicts as religious» (Knezevic, 2012, p. 108). Hovanesian by cultural genocide of Armenians means expulsion of Armenian intellectuals, destruction of archives, manuscripts, works of art, renaming of historically significant places, destruction of churches, the prohibition of raising other nations and practicing their religions and cultures, closing Armenian schools and other similar activities. (Hovanissian, 1999).

Contextual theology raises an essential anthropological question: «Where was man…, and where did God disappear in such a man?» (Knezevic, 2012, p. 97). Peaceful believers and extremists also think about religion differently. Religious extremists believe that faith is an end in itself; that is, they are not fighting to destroy evil on Earth but to usher in an era in which their faith will dominate. Some may be a theocracy, while others believe that an apocalypse will ensue that will culminate in the world's spiritual transformation. Since religion is the ultimate goal, human sacrifice is allowed to establish and strengthen religion's social stronghold. For peaceful believers, religion is a means to an end, primarily consecration, truth, or spiritual fulfillment. Religious principles and customs are a method designed to lead individuals to their destination. Teaching is only a signpost to be followed, but not the very goal to be reached. Thus, for peaceful believers, the goal is spiritual enlightenment and truth, not only for individuals but also for society. They must not be confused with religious extremists who seek to establish a religious government or culture. Their teaching should be interpreted as a desire to integrate religion-inspired principles of justice and respect for all people into society as a whole.

Although the nature of religious extremism is fundamentally different from acts of political violence, no systems or data have yet been obtained on whether and how differently organized state administrations influence the tactical choices of religious activists. It can be assumed that critical historical events and shifts in the economy have influenced religious violence globally. Similar data are needed on how changes in the environment affect the creation of religiously oriented peaceful movements. Social organization within religious groups deserves attention on whether the hierarchy of religious groups encourages moral dualism and dogmatic views of truth, or more than is the case with decentralized groups that define and implement doctrine at the local level? If we link religion and violence, we must not neglect the link between religions and nonviolence. It is difficult to find a written religious source that does not contain provisions on the prohibition of killing, taking another's (even one's own) life («Thou shalt not kill!» – the Bible; Qur'an 6, 152; in the Indian religions ahimsa). Why this has not worked that way throughout the history of religions is for some other analysis. Of course, there are also differences in the interpretation of nonviolence provisions in different religious traditions. However, religious values about nonviolence have led to the emergence of several pacifist movements. Let us not forget that the basis of Buddhist and Jain ethical teaching (and other religions originated on the Indian subcontinent) is ahimsa – nonviolence against all living things (man, animal). The Jewish (Shalom) and Muslim (Alekumus-Selam) greetings contain the word «peace». The golden rule, which we find from Confucius, Jesus to Kant, is: Do not do to others what you do not want them to do to you. If members of all religions (and not only them) adhered to this rule, there would be no form of violence in society.

To not come to the wrong conclusion that fundamentalist groups occur only in non-Western societies, we can show the example of the USA. Namely, during the crisis of 1920, Christian groups appeared that wanted to return to the foundations of the faith. They focused on reading the Bible literally, and the focus of the struggle is no longer against social injustice as at the beginning of the birth of American democracy, but a historical-critical method of reading the Bible. A similar phenomenon occurred in the Catholic Church with the First Vatican Council in 1870 and the dogma of the pope's infallibility, which was a reaction to the modern world.

«What is amazing about terrorists is that no one sees them, only their results». (Zink, 2012). As soon as a terrorist act occurs in the West by migrants, fans of Huntington's thesis on civilizations' clash (Christian and Islamic) appear. Moreover, they do not see that even greater tragedies and conflicts occur not between, but within these civilizations (Shiites and Sunnis in the Arab world; conflicts between Catholics and Protestants in Ireland; Catholics and Orthodox in the former Yugoslavia in the 1990s).

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2. Genocide against the Yazidis

Most Kurds in Turkey, Syria, Iraq, and Iran belong to Sunni Islam which they took over from the Arabs in the 7th century. Thus, in addition to the already mentioned tribal ones, religious leaders – sheiks – are also of great importance. The rest of the confessional "mosaic» comprises Shiite, Alevis, Yazidis, Christians, Jews, Muslims (Gunter, 2018). The Kurds have retained some pre-Islamic religious traditions such as ancestral cults and animistic beliefs associated with natural elements such as fire, stones, water. They are building stone hills representing a kind of altar dedicated to ancestors (Ferrera, 2003). The most important holiday that unites all Kurds is Novruz – the Iranian New Year celebrated on March 21 by all Iranian peoples and all peoples closely associated with Iranian culture. It is a Zoroastrian tradition that has been preserved in areas where Zoroastrianism was practiced before the Islamic conquests (Bruinessen, 2000). The year 2011 was marked by violent demonstrations in Sulejmanija caused by the poor situation in the autonomous region, which pointed to the inadequate rule of the KRG and accusations of corruption, nepotism, and pervasive poverty. Intellectuals and journalists warned of violations of the right to freedom of speech and freedom of the press. The protests emphasized that the Barzani and Talabani families had turned Kurdistan into «personal property».

Syrian Kurds have also found themselves the target of ISIL jihadists because of their secular orientation and women's emancipation. Under the leadership of the Party of Democratic Unity (PYD), which also follows Ocallan's teachings, and the protection of its armed wing, the People's Defense Units (YPG), Syrian Kurds established autonomy in Rojava, the majority northeastern province of Syria. a civil war between the regime of Bashar al-Assad and the rebels. Of course, the Kurds were also victims of violent repression in Syria before the war.

The Yazidis are a religious sect spread mainly in Kurdistan (its headquarters are in the vicinity of Mosul, which fell into the Islamic State's hands), in Iraq, Syria, Armenia, Iran, and the Caucasus. Yazidis are often described as mysterious people who cannot reveal their religion to outsiders; they keep their true beliefs hidden from strangers. The sect's doctrine consists of Zoroastrian, Manichaean, Jewish, Nestorian, Christian, Islamic, and other elements. The supreme religious leader is the sheik. It originates, according to tradition, from the Caliph Yazid ibn Muawiya (p. 645-683) of the Umayyad dynasty. The main symbol of birds' belief is the peacock, the fallen angel Melek-Taus (Malak Ṭā'ūs), who in Yazidis is not a symbol of evil but is good by nature. The just mentioned Melek-Taus, whom Muslims call Satan, is the problem for which they were persecuted throughout the past, especially during the Ottoman Empire. Yazidis do not believe in hell or heaven, but the transgressor of divine laws purifies the soul by metempsychosis (migration of the soul). According to the Croatian Encyclopedia, Metempsychosis is philosophical-religious teaching according to which the same soul can revive several bodies in succession until it is freed from its material form; transmigration. In a narrower sense, the soul's passage through mental stages, where reincarnation is not always necessary. Their greatest saint is Sheikh Adi ('Adī ibn Musāfir), a 12th-century Muslim mystic who became a deity through metempsychosis. The main shrine is in Sheikh Khan (Šaikhān), where the faithful makes a pilgrimage every year to the tomb of 'Sheikh Adi.' There are about 700,000 of them, and in addition to Iraq, they also live in Syria, Turkey, Georgia, Armenia, and Germany. They speak the Kurdish dialect. They are divided into three castes, and women are exclusive to each other. (Srzic, 2014)

The Yazidis themselves call their religion sharkfin. They believe in one God, the world's creator, and the supreme angel (deity), Malak Taus (in the form of a peacock). They call their God Shihadi. They believe in the reincarnation of the soul. There are many examples of violence in the name of religion. For the sake of illustration, we will mention only some from the distant and recent past. Let us say bonfires across former Europe «Islamists are upgrading today by removing their

heads in front of the cameras». (Simonitit, 2014, p. 43) Believers were crucified because of their religious affiliation.

The Yazidis are, namely, a minority of Kurdish origin, persecuted by the self-proclaimed Islamic State as heretics. In Iraq, which is considered a «post-Islamic state», the consequences of the torture suffered by Islamic State paramilitaries by children and adults from 2014 to 2017 are still being felt. Islamic State paramilitaries tortured and killed the Yazidi community in northern Iraq during that period. ISIL exterminated the Yazidis in a mass killings campaign when members of that group from Syria and Iraq attacked the Iraqi region of Sinjar in August 2014. Members of the Islamic State of Iraq and the Levant are committing genocide against thousands of members of the Yazidi religious minority, who were brought to Syria from Iraq. The genocide continued with sexual slavery, forced labor, torture, and forced conversion to Islam. Some Yazidi families managed to ransom their captured members from ISIL terrorists for $ 10,000 to $ 40,000. (UN, 2016) During the offensive, Amnesty International, in a report entitled «The Legitimacy of Terror: The Situation of Yazidi Children Survivors of ISIL», informed the world in detail about children who were victims of horrific crimes and now have to face the consequences of that terror. A 56-page Amnesty International report writes about boys who were forcibly enlisted and girls who were sold as slaves, sexually exploited, and forced to marry Islamic State soldiers. Most of these children are now struggling with various illnesses, physical disabilities, or psychological consequences, such as post-traumatic stress disorder, anxiety, depression, and girls, the inability to conceive.

Changes in political discourse created a new competitor among Kurdish political parties – the Gorran party, which ran in the 2013 parliamentary elections. «squeezed out» PUK from another place (Gunter, 2018). Political turmoil and panic among Iraqi Kurds have been exacerbated by ISIL jihadists who occupy Mosul the following year and attack Sinjar, committing crimes against Kurdish Yazidis. While the Iraqi military was preoccupied with Mosul's military action, KRG's military forces managed to occupy Kirkuk and some other disputed areas. As the ISIL fighters then came within reach of Erbil, the remaining US air force helped the peshmerga prevent further jihadist advance. ISIL's progress in the disputed areas has been facilitated by Iraqi and Kurdish troops' disparate performance. In 2015, KRG faced significant political instability, the economic crisis 40, and the influx of refugees from areas that ended up under IS control (Gunter, 2018). About the victims, the Yazidis (an ethnic-confessional group of Kurds, with about 1.5 million members, mostly living in Iraq and Turkey, partly in Syria, Iran, Georgia, and Armenia, confessional Zoroastrians with a touch of Christianity, Judaism, and Islam) after six years few speak, although the UN Security Council, by Resolution 2370, labeled the crime against them as the first genocide in the 21st century. The faith of the Yazidis is based on oral tradition. There are also two sacred books depicting dogma, canon, cosmogony, and rituals: Kitêba Cilwe (Book of Revelation) and Mishefa Reş (Black Book). The language of literacy is Kurmanji (North Kurdish), and there are also works written in Arabic. The founder of religious teaching is Sheikh Adi ibn Musafir (pp. 1072-1162).

The campaign to erasing their identity corresponds to the definition of genocide, as stated in the 1948 UN convention. Under the UN Convention, genocide is defined as the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. The Convention states that this can be done by killing members of the group, causing severe physical or mental injury, and deliberately creating such conditions that the community is physically destroyed by preventing children's birth or forcibly transferring children to another community. In her book Sinjar, Susan Shand (2018) reminds us of this world-forgotten tragedy, the horrific crimes committed by jihadists, when they began to systematically massacre large groups of Yazidis with the clear intention of exterminating them. The deep internal

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political crisis and the disintegration of Iraq were some of the main causes of ISIL's wartime successes. Consequently, the genocide of the Yazidis, who were treated by both the Iraqi regime and the jihadists as a «foreign» body, excited when the world was flooded with horrific images of their mass liquidations.

The combined forces of the Syrian and Iraqi Kurds, and an allied coalition led by the US, which tirelessly bombed Islamists' positions, inflicted the heaviest defeat on the caliphate in the city of Kobani on the Syrian-Turkish border. It is genuinely astonishing to ignore the crucial role of the Kurdish people in the current conflict. Even the British Parliament Parliament released a report on the situation in Iraq in January this year, in which, prompted by fierce Kurdish resistance and protection from exiled Yazidis and Christians, it made it clear that it would not insist on Iraqi unity after the end of the conflict and defeat. Ready to support Kurdistan's demand for independence if the independence process is carried out by peaceful and democratic means (read: by referendum) and if it takes place in agreement with the central authorities in Baghdad.

Nadia Murad and Lamia Aji Bashar from Iraq are the winners of the 2016 Sakharov Prize for Freedom of Thought. They survived sexual slavery after being kidnapped by the Islamic State. «I will never forget that day. It will stay cemented in my head for the rest of my life. It was early morning. No one even guessed what would happen to us. We lived beautifully and in peace. Suddenly, out of nowhere, terrorists were created. As soon as they broke into the village, they killed all the men. After that, all the women and girls were captured. The older ones, about eighty of them, including my mother, were killed immediately. They also killed six of my brothers», Nadia said through tears. She remembers the date exactly – on August 3, 2014, jihadists stormed her village of Kosho, located in Iraq's Sinjar province». (Diab, 2016). They were raped every day, several times.

«We did not know where they were driving us. They crammed us into buses like cattle. Even today, when I think of their faces, I feel fear. As soon as the bus left, their leader, unfortunately, an Iraqi, my countryman, appeared and threatened with a knife in his hand: «As of today, you are slaves. You are the property of the Islamic State. We can do whatever we want with you. Those who do not listen will be beheaded». Riding the bus, while the cries of our loved ones that we had lost forever resounded in our heads, as well as the threats made, rapes began. They took turns and made fun of us. The worst feeling is rape. You feel like you are nobody and nothing», said Nadia and emphasized that she was abused several times in the camp every day. «I was raped by whoever arrived, fighters from all parts of the world, from Iraq, the Middle East, Europe, and the Balkans. They competed to rape more women because they believe that the one who rapes a Christian or a Jesuit goes to heaven», said Nadia. (Diab, 2016).

Sexual violence as a weapon of war is the most heinous, insidious, and unacceptable crime in today's world. It destroys the community and has a long-term negative impact on the victim and her family that lasts for generations. Wars have their own rules that are written in international humanitarian law. The law is clear: rape and other forms of sexual violence are prohibited. According to the International Court of the former Yugoslavia (ICTY) verdicts in The Hague, rape in Bosnia and Herzegovina has been qualified as a systematic war crime for the first time in history.

The Geneva Conventions have regulated this ban clearly and universally. Nevertheless, 70 years later, we are facing failures and insufficient accountability. Today, there is hardly a clear line between international criminal law in the narrower sense (international crimes in the narrower sense, i.e., war crimes, crimes against humanity, genocide, a crime against peace, i.e., aggression) and human rights law. Especially when we bear in mind that prohibitions on certain conduct extend beyond internal armed conflict and beyond internal armed conflict beyond the armed conflict itself. Moreover, international human rights instruments are not always effective: the first reason is that they are primarily declarations or conventions that do not prescribe

adequate protection mechanisms, and the second reason is that the conviction itself does not show seriousness. International human rights instruments neglect specific elements of individual crimes – in this case, to destroy, in whole or in part, a group of people as such, which is usually based on low motives for hatred of the group. All this evidence of the inadequacy of international human rights instruments in cultural genocide would serve as a second argument for criminalizing cultural genocide.

It could be argued, in this context, that sufficient protection of the cultural identity of a group provided by international humanitarian law, through the 1954 Convention on the Protection of Cultural Property during Armed Conflict (249 UNTS 240, May 14, 1954, entered into force). August 7, 1956) or the Geneva Conventions of 1949 (75 UNTS 31; 75 UNTS 85; 75 UNTS 135; 75 UNTS 287, of August 12, 1949, entered into force on October 21, 1950) and their additional protocols from 1977 (1125 UNTS 3; 1125 UNTS 609, June 8, 1977, entered into force December 7, 1978), as well as other sources of international criminal law (ICTY Statute, Rome Statute), through the prohibition of violations of the laws or customs of war in the form of destruction of religious, charitable, educational institutions and institutions intended for art and science, historical monuments and works of art and science. It should be noted here that otherwise, cultural property destruction is culturomics, which we must distinguish from cultural genocide, where the emphasis is on the destruction of the group's identity.

Conclusions. Violence committed «in the name of religion» belongs to the dark side of religion. ISIL should be primarily remembered for the genocide of the Yazidi people, the mass crimes they committed against others in Iraq, Syria, Egypt, and only then for the terrorist attacks across the West. Understanding the group's destruction, the author concludes that the ISIL genocidal intent against Yazidis includes forced relocation and practice attitudes that apply to elitism and sexual violence. It is part of the destruction of the group in terms of destruction of the spirit, will live and life itself (members) of the group. However, it should be noted that such views do not mean the legal argument for recognizing cultural genocide but an attempt to clarify the meaning of physical and biological destruction. The killing of members of a religious group is a form of physical genocide, and the threat of murder to ban religion was a way to commit cultural, that is, religious genocide. Sexual violence is different from all other weapons; it is a slow murder. Behind sexual violence lies a perfidious tactic of fear, stigmatization, and psychological pressure within war's horrors. It is the systematic and planned humiliation and destruction of primarily one nation. The global community needs to be united to protect women and children during the war.

Violence (mostly) does not arise from the moral teachings of religions but from a perverted understanding of religion. Religion is used as an excuse for violence when the struggle is to defend the essential identity, when it is inconceivable to lose the struggle and when the struggle cannot be won. Religious support for violence causes the terrorist policy to become uncompromising. Paradoxically, just as terrorism produces fear of violence, so does the fear of terrorism produce violence. Many commentators present Islam as an inherently violent religion and the Islamic State as a manifestation of Islam's genuine aspirations as a religion. Such comments primarily show a lack of understanding of the entire history of terrorism, which was not religious during its most notorious period in the 20th century, let alone Islamist in nature (moreover, it was ethnonationalism and secular) a lack of understanding of the history of Islam.

After this conflict, the Middle East map might no longer be the same, and a new state will exist in that area. It seems that it will not be the Islamic State but maybe Kurdistan.

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Фарук Хаджич

РЕЛІГІЙНЕ ТА КУЛЬТУРНЕ НАСИЛЬСТВО; ГЕНОЦИД 21 СТОЛІТТЯ ПРОТИ ЯЗИДІВ

Анотація. Автор аналізує релігійне та культурне насильство, зосереджуючи увагу на Геноциді проти єзидів у ширших курдських соціально-політичних в межах. Геноцидний намір ІДІЛ проти єзидів включає примусове переселення та практикує відносини, що стосуються елітарності, зґвалтування та сексуального насильства. Це частина руйнування групи з точки зору руйнування духу і самого життя (членів) групи. Однак слід зазначити, що такі погляди не означають аргумент для визнання культурного геноциду, а спробу пояснити значення фізичного та біологічного знищення. Насильство, вчинене «в ім'я релігії», належить до темної сторони релігії. Насильство (здебільшого) походить не від моральних вчень релігій, а від збоченого розуміння релігії. Вбивство членів релігійної групи є формою фізичного геноциду, а загроза вбивства для заборони релігії була способом вчинення культурного, тобто релігійного геноциду. Сексуальне насильство відрізняється від усіх інших видів зброї. Світова спільнота повинна бути об'єднаною для захисту жінок та дітей під час війни. Релігія використовується як привід для насильства, коли боротьба полягає у захисті сутності, коли неможливо програти боротьбу і коли цю боротьбу неможливо перемогти. Релігійна підтримка насильства спричиняє терористичну політику безкомпромісною. Парадоксально, але як тероризм породжує страх перед насильством, так і страх перед тероризмом породжує насилля.

Ключові слова: *релігійне насильство, культурне насильство, геноцид, єзиди, ІДІЛ, тероризм, релігія, курди*

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SOCIOLOGICAL AND LEGAL ASPECTS OF EUTHANASIA

Abstract. The European integration policy of Ukraine oblige representatives of its authority to take into account international experience in the field of euthanasia legalization, its spread and to prepare a solution regarding this issue. At the same time, the complexity of this issue is manifested in the fact that today, there is no unified approach to the terminology understanding within the specified topic by the Ukrainian and foreign scientists, as well as the public. In turn, this leads to an inadequate reflection of the reality in the said society and causes a certain fear in front of it. Therefore, the purpose of this article is to provide a brief overview of general philosophical and medical-legal conceptual developments to conduct further theoretical research on the topic, and also relevant law-making and educational activities. To achieve this goal, a sociological survey was conducted among the physicians – listeners of the Kyiv Institute of Physician Improvement, that formed an empirical basis for research in this area. The scientific and theoretical basis is the works of domestic and foreign scientists in the fields of medicine, criminal law, medical law, psychology, sociology, philosophy and the like.

Keywords: *the right to die, the crime against life, active euthanasia, passive euthanasia, mercy killing*

Introduction. Advances in modern medicine in resuscitation changed fundamentally the attitude to death as a one-time phenomenon, stretching it over time, respectively, the destruction of separate body parts. The previously used criteria for determining the death of human beings are contradictory to the new scientific understanding. This contradiction contributed to the heightened perception of one of the most difficult issues – euthanasia. Euthanasia receives serious attention in the special literature, especially in Western countries. The increased interest in euthanasia is not only connected with the medical success in the era of the scientific and technological revolution, which unusually expanded the boundary zone between life and death, but with the changes in human worldview, recognition of the priority of the spiritual values. These processes have influenced the fact that euthanasia in a broad sense was legalized in such countries as Belgium, France, Israel, Colombia, Canada, the Netherlands, USA (Oregon, California), Switzerland, autonomous education. In Andalusia, Spain. Large-scale debates on the legalization of euthanasia are provided in the UK, Greece, Italy, Spain, Russia. Some countries, as an alternative to the legalization of euthanasia, signed the special legal act – murder out of compassion (Georgia, Denmark, Germany, Moldova, Poland, etc.).

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The European integration policy of Ukraine obliges its authorities to take into account international experience in the field of euthanasia legalization expansion and preparation to settle this issue. It should be noticed, like in many other unusual spheres for the post-Soviet Ukraine, particularly in countering people trade, criminal income, torture, domestic violence, corruption, etc., at first it is advisable to conduct an appropriate information campaign to educate the establishment and the society with the essence of the problem, which could eliminate the distorted perceptions of the problem. At the same time, the complexity of such an information campaign is manifested in the fact that today there is no unified approach to understanding both Ukrainian and foreign scientists, as well as the public, of terminology, within the specified subject. In turn, this leads to an inadequate reflection of reality in this area of society and causes a certain fear of it.

Provision of comprehensive and complex scientific research requires the appropriate use of scientific and special methods of cognition. Appropriate systematization of methods is provided due to the methodological strategy of studying the interdisciplinary synthesis of the legal consciousness and the dynamics of empirical processes. The method of abstraction is based on dialectical principles of research was used in the consideration of the concept of euthanasia. Historically legal and comparatively-legal methods are based on the study of the euthanasia institute establishment a form of human right to die in certain countries of the common law. The attitudes towards euthanasia of health workers, patients and lawyers are studied through sociological and sociological – psychological methods. legal composition and legal consequences of euthanasia are investigated through formal legal and systemic-structural methods. The dogmatic method helped to investigate the practice of euthanasia use in foreign countries.

To achieve this goal, a sociological survey was conducted among the physicians – listeners of the Shupyk National Medical Academy of Postgraduate Education, that formed an empirical basis for research in this area. The scientific and theoretical basis are works of domestic and foreign scientists in the fields of medicine, criminal law, medical law, psychology, sociology, philosophy and the like.

Analysis of recent research and publications. Euthanasia (translated from Greek – good or easy death) is an intentional acceleration of the death of a terminally ill to stop his or her suffering (Vengerov, 2004). Euthanasia, from a legal point of view, can be defined as the intentional killing of a hopelessly ill patient to alleviate his or her suffering. In the special literature, there are two types of such death. Active (positive) euthanasia, the essence of which is to take active action accelerating the death of a suffering person with a hopeless prognosis at the last stage of the disease. Passive (negative) euthanasia is a rejection of measures to support the life of the terminally ill. Some scientists still distinguish two concepts – orthonasia and distanasia. Therefore, distanasia is understood as the doctor's maintenance of the patient's life, who is not suffering excessively but already considered incurable, even with the help of expensive and hard-earned funds. Orthonasia is understood as the instant death of the patient after the stop of the provision of certain measures, and sometimes only their limitation (Sih, 1976, p. 57). In similar cases there is a difference between «assistance while dying»; where the doctor is legally obliged to facilitate the suffering of the patient and provide him with psychological support, and «assisted dying» that includes active and passive euthanasia, as well as assisted suicide attempts (Fuchs & Hennings, 2014, p. 98).

There are two important aspects of the reviewed complex of issues. The first aspect is the doctor's responsibility to resuscitate, and the second is his right to interrupt the relevant actions. In various situations, the legal aspects of a doctor's resuscitation refusal, and the limits of his or her responsibility are dealt with differently. The indicative situation of stopping the heartbeat and breathing of an organism due to the incurable disease or natural outcome is an integral part of the human death, caused by the depletion of vital forces. What means and actions should

be used in resuscitation if death, in this case, is the inevitable end of a person's life and irreversible? Another, opposite in meaning situation is characterized by the cessation of breathing and circulatory function after the accident (injury, attempted suicide, etc.), while the body has a certain amount of strength to prolong life.

The purpose of our article is to provide a brief overview of the developments general philosophical and medical-legal conceptual apparatus for further theoretical research on the topic, as well as relevant law-making and educational activities.

Formulation of the main material. The problem of euthanasia has political, legal, economic, eugenic and ethical sides. Currently, modern society is increasingly faced with the care needs of terminally ill patients (particularly in a vegetative state) as well as newborns, fatally ill patients, or patients with a severe form of pathology (Benner, 2001). Opportunities in this area involve a certain social level of security and compliance with the rights and legitimate interests of citizens who need medical care, relief, relief of the condition during the impending death. One of the arguments of impracticality in assisting in death delaying is the assertion that the price of medical services in the last week the patient's life is very high. 80% of U.S. patients die in hospital, and their maintenance in the last year of life takes 22% of the medical budget (Blondon et al., 2014). As F. Miller points out, modern medicine in many cases spends too much effort to delay death. At the same time, the medical workers could pursue purely scientific goals: get more data on the dying process, the effects of drugs, etc. But technology must not be allowed to turn dying patients into «dying plant organisms» and doctors in «prolongers of the dead life» (Miller, 1987).

The legal meaning of the problem lies, on the one hand, in the assessment of the legal measures, particularly assessing the limit of the doctor's responsibilities in decision making regarding the need of the relevant interventions, the doctor's powers and liabilities, and on the other hand, protection of the rights and legitimate interests of citizens at the last stage of their lives. Moral, ethical and legislative problems of euthanasia are accurately illustrated in foreign literature. (Sherova et al., 2015, p. 64).

Human life must be protected from the process of birth to the process of death. It's a humane demand of the criminal law. Nevertheless, the literature raises the question of the impractical side of the torment continuation of the dying person. C. Cassel believes that when deciding to help the elderly, it is necessary to proceed from three principles: usefulness, respect for the patient's personality and justice. The justification for the legality of the refusal, according to the scientist, is: a) treatment is useless from a medical point of view; b) the patient refuses from the treatment; c) the patient's life, according to his own opinion, during and after treatment, will be unbearable (Kassel, 1987, p. 11-12). Ideally, attempts to revive the patient should only be used in those cases when there is a good chance of a successful patient's survival and his or her normal existence. An example: deliberate abandonment of attempts to revive a 32-year-old woman, a drug addict who has already made 18 suicide attempts, was put into hospital with a spinal injury after another attempt (Baskett, 1986, p. 189-190).

This case leads to the suffering alleviation of the dying as a result of the physiological, pathological or unfortunate case. Another interesting case: the so-called Krefeld decision of the Federal Court of Germany, which confirmed the duties of the doctor in any attempt of the patient to commit suicide, but at the same time acquitted the doctor, who did not take steps to save the lives of the old and hopelessly ill woman who took a lethal dose of sleeping pills. Moreover, the court was concerned with the fact that the patient, if she survives, will live with very serious health problems (Verbakel & Jaspers, 2010).

In 1986, at the 56th Congress of German Lawyers in Berlin, held together with surgeons, the subject «Right to own death? Contradictions between the duty of saving life and one's own opinion in criminal law». were discussed. Based on the discussion, it was proposed that the German Penal Code will be edited with a section on assisting the dying. The main provisions of the project are: a) helping the

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dying – universal debt; b) the doctor is obliged to relieve pain; neglect of anesthesia is punishable by law; c) direct interventions for accelerating death are unacceptable; d) the testamentary order of the dying person must be assessed critically, because he or she does not always correctly assess the situation; e) the intervention of the lawyer should be rejected (no agreement has been reached between lawyers and doctors (Carstense & Schreiber, 1987, p. 303-304).

In this regard, a considerable scientific and practical interest is given to the Dr. O. Sullin's case, reviewed in 1965 by the District Court of the city Gallivara (Sweden). With the consent of the relatives of an 80-year-old partially paralyzed and unconscious patient, after another heart attack, O.Sullin stopped resuscitation activities due to the futility of resuming the vital systems of her body. The patient died. The District Court acquitted the doctor, finding that the actions of the accused fully correspond to the duties of the doctor. Emergency life-threatening activities can be interrupted due to a lack of improvement in health and for reasons of humanity. The court's point of view was approved by Swedish public opinion (Hendry, 2013, p. 55).

It is necessary to strive for a society in which everyone will choose the moment of his or her death, to a society in which suicide becomes the norm (Hendry, 2013). The State of California (USA) passed the Right to Die Act, allowing chronically ill people to give up artificial means of sustaining life after signing a will at the presence of two witnesses. 23 U.S. states currently have an acting legal document «Will in life» in which the person determines the measure of help he or she wants to get in a possible hopeless state. According to U.S. experts, this document will be approved by all the States (Rudnev et al., 2018). If the patient suffers and there is no hope of curing him, American scholars note that mercy demands to support voluntary active euthanasia (Rudnev et al., 2018, p. 33). It should be noted that in 1936, 1969, 1976 the House of Lords in the UK has been introduced law projects on the feasibility of legalizing euthanasia. In Holland, the country's parliament considered the possibility of passing a law allowing lethal injection to suffering from severe pain to terminally ill patients, i.e. «active euthanasia». Some countries have recognized the desirable creation of special clinics in which terminally ill people could painlessly and calmly end their lives. Such clinics are being set up, particularly in Krakow, Poland, where there is a society of friends of the sick «Shelter»; with a special care center, caring for patients in a terminal state (Bortnowska, 1985, p. 149-157). In Canada, there is a «Society of palliative care»; The medical director of one of these institutions S. Saunders notes that «this is an alternative to the negative and socially dangerous notion that a sufferer of an incurable disease tormenting him should have a legal right to a quick death or euthanasia» (Saunders, 1981).

There is a need to establish a special service of mercy, in particular, centers of mercy, which would provide possible assistance to the dying. An example is the creation of hospices in St. Petersburg. Such a service is useful for different points of view. Deontologically and ethically: provision of favorable conditions of trust between doctor and patient, elimination of the possibility of mental trauma for other patients. Taking into account mercy – the relatives and beloved ones of the patient do not see the suffering of the dying.

Scientifically – the research of the processes of dying and training of highly qualified specialists-thanatologists. Eugenically – psychological preparation of a person for the inevitability of death. Naturally, the experience of other countries in establishing and operating such institutions needs to be examined more thoroughly.

Foreign sociological studies conducted, in particular, in the United States, show a certain attitude to euthanasia among both medical professionals and patients: a) from 61 to 67% of doctors expressed their support for active and passive euthanasia; b) most doctors surveyed (86%) advocate for the use of passive euthanasia; c) there are more supporters of euthanasia among Protestants and atheists than among Catholics; d) opponents of euthanasia are the mostly found among pediatricians, surgeons, obstetricians and gynaecologists; e) an opinion poll

shows that 53% of respondents support active euthanasia, while 36% oppose; f) from 10 terminal patients surveyed, 7 were in favor of negative euthanasia. For the same – 60% of doctors and 70% of relatives. However, 9 out of 10 nurses serving such patients opposed it. A study of 40 cancer deaths showed that in 70% of cases, passive euthanasia tactics were used (Brown et al., 1976, p. 319–329). Our study of the attitude to this issue among doctors – listeners of the Shupyk National Medical Academy of Postgraduate Education showed that more than 90% of them are in favor of the use of active and passive euthanasia.

A well-known Russian lawyer A.F. Kony was also a supporter of euthanasia, who believed that euthanasia morally and legally permissible on condition of a) a conscious and persistent request of the patient; b) the inability to alleviate the suffering of the patient in known ways; c) by accurate and undeniable proof of the impossibility of saving a life established by the board of doctors with mandatory unanimity; d) advance notice to the Public Prosecutor's Office (Horses, 1967, p. 384). This position is currently supported by the specialists, which make one addition to it: euthanasia is an exclusive human right, not a duty, much less a right of a doctor, a third party or an institution (Potselev & Danilova, 2015, p.84).

The Right to Die Act has drawn criticism from some academics who believe that imperfect language, in this case, could open a door for abuse, ignoring the real problems of a dying person. This is the opinion of Polish author J.Bogush. «The doctor», he writes, «is responsible for saving the patient's life. Accelerating death by action or neglection is unacceptable. Where salvation is no longer possible, and mitigation is necessary, the doctor must quench the suffering» (Bogush, 1985). The same thoughts has another Polish researcher, G. Brzezinski, noting that in the terminal condition of the patient the task of the doctor is to support the hope of the patient, his or her optimism (Brzezinski). Many domestic authors believe that euthanasia is unacceptable from a moral and legal point of view: no one is free to take a person's life, which should be maintained in all cases until the natural end. Besides, it is necessary to take into account the possibility of errors in the prognosis of the patient's condition, and the possibility of abuse of euthanasia by the doctor and others (Brzezinski).

The complexity of the problem of euthanasia is also dictated by a differentiated approach to its resolution. A separate legal assessment of active and passive euthanasia is needed. As a rule, special literature denies the possibility of euthanasia used in the Soviet health care environment (Kovaleva et al., 2017, p.282), but does not distinguish the types of active euthanasia. This approach prevents the legal assessment of active euthanasia, both in the form of a system and as isolated cases.

As a system active euthanasia existed in Nazi Germany. The Euthanasia programme has been in development for several years. Its theoretical justification belongs to the German doctor Klinger, who claimed that the state is unprofitable to treat terminally ill patients, so they «should be given euthanasia, that is, a rapid painless death» (Antonenko, 2016). A special method of screening patients was developed for the implementation of the programme, and special organizations were in place.

As it was established at the Nuremberg Trials, in one year alone in Germany under the guise of patients killed about 275,000 people. Active euthanasia is known to have been condemned by the Nuremberg Military Tribunal as a crime against humanity.

A legal assessment of active euthanasia in some cases is unthinkable without considering negative euthanasia. Therefore, we need to investigate the current medical documents and relevant sources.

Currently, death is established based on a set of signs, the presence of which is necessary and sufficient to establish the fact of complete cessation of brain function and irreversibility of this condition, even in artificial maintenance through resuscitation measures of cardiac activity (artificial ventilation, cardiovascular stimulants).

Diagnosis of death, notes X. Pia, is based on establishing the fact of complete and irreversible violation of specific vital functions, regulated by the oblong brain. Particularly, the above disorders cause a complete cessation of the cortical activity

of the brain. Resuscitation measures can support the vegetative functions of the body only for a certain period. The death of the cerebral cortex also means the death of the individual. This provision should guide physicians in solving the most important problem of ethical nature – the justification for the further extension of the existence of the decorated human body (Pia,1986). The issue of resuscitation in the United States, for example, is decided by an ethical committee that singles out a group of patients who are not provided resuscitation (Dyadyun, 2015).

However, there may be cases when the use of resuscitation measures leads to the recovery or maintenance of cardiac activity due to the lower parts of the nervous system, at the same time the recovery of brain functions does not occur, and the comatose condition is irreversible. At the same time, there is: (a) a state of persistent decorating and vegetative state, in particular, self-breathing; b) a state of «brain death»; when the entire brain dies.

In the first case, the patient is alive, and therefore his rights and responsibilities of the doctors are important. In the second case, resuscitation measures artificially support cardiac activity and circulation, creating only the appearance of life. The patient is dead. Continued resuscitation provides the only perfusion of the corpse and contributes to the accelerated development of brain autolysis.

Conclusions. Considering our review and discussion, we will try to give a legal assessment of euthanasia based on the current criminal law. Disabling resuscitation measures in the case of total brain death leads immediately to the termination of all life processes in the body, supported by artificial ventilation and the use of cardiovascular medicines. Is it possible to say that the termination of special measures is a crime? Formally, such an act falls under the signs of the composition of two crimes: or failure to help a sick person by the medical personnel (P. Ll article 139 Criminal Code of Ukraine) if non-provision of help leads to severe results; or murder, the main motive of which is compassion for the torment of the patient, the senselessness of further assistance. However, in this case, there is no crime at all in the inaction of persons, because there is no person whose life should be protected by law. There is also no state of agony, which refers to the last stage of dying, characterized by the rise of compensatory mechanisms (Erimia, 2016). Resuscitation is done for resuscitation, not for the sake of saving lives. The legality of the termination of resuscitation is determined, in our view, by the performance of professional medical functions. This decision cannot be swayed by the lack of consent of the victim or his legal representatives.

Now let's look at the case when resuscitation leads to the development of persistent decorating and vegetative state. How to consider the termination of resuscitation in this case? Is it not helping a sick person by medical staff or murder? It should be noted that in this case there is agony, and the fact of death is not yet present. In such a situation, the patient is a living being with appropriate legal guarantees. The patient needs to be assisted. But let's recall, the consequences are already irreversible. Polish experts believe that in agony it is impractical to prolong the act of dying (Köneke, 2014), that the doctor should not prolong a purely vegetative life in the face of the inevitable loss of consciousness and a complete lack of hope for the improvement of the patient's condition (Köneke, 2014).

One can agree with the opinion expressed. Appropriate assistance to the dying person should be provided until brain death. By the way, G. Maslinska herself believes that «reducing the life of a dying person is a murder in the legal sense» (Maslinska, 1985). Thus, the actions of those responsible in such a situation should be qualified either as murder by consent or as failure to assist the sick person by medical personnel under the right conditions.

It should be noted that in the Criminal Code of the USSR of 1922 (note to article 143) stipulates that the murder committed at the insistence of the murdered out of compassion is not punished. In other words, the victim's consent to causing death was a circumstance that preclude criminal liability. But in November 1922,

the drug justice V.N. Krylenko gave a speech, criticizing the note to Art. 143 Criminal Code of the USSR. At the 4th session of the Central Executive Committee of the All-Russian Congress of Soviets IX, which discussed the issue, the note was deleted. Undoubtedly, this historical fact has also influenced the attitude of our legislation to the consent of the victim as a circumstance that excludes criminal responsibility. Nevertheless, in the Soviet theory of criminal law, this circumstance was recognized as worthy of attention and in some cases is taken into account by judicial practice (Krasikov, 1976).

The Criminal Code of the USSR of 1927 no longer contains such a note. As A. Jihilenko rightly pointed out at the time, «the Criminal Code fell to the opposite extreme – ordinary murder, which does not entail mandatory mitigation of repression (Zhizhilenko, 1927)». Murder at the urging of the victim, out of compassion, should be regarded as a special kind of privileged murder (Zhizhilenko, 1927). Thus, Polish law provides responsibility to the person who kills the person at his or her request and under the influence of sympathy for him. Current Ukrainian law considers this type of murder as simple without aggravating and mitigating circumstances. In our view, murder out of compassion should be seen as a separate type of crime against life. Murder at the request of the victim is also not a circumstance that excludes responsibility, however, it is a matter of extenuating circumstances.

In modern life, the use of both violent and non-violent methods of euthanasia is unacceptable. Human life must be maintained in all cases until the natural end. Medical science and practice are not guaranteed for diagnostic errors. Legalization of euthanasia can harm health practices, will contribute to abuses, and therefore increase public distrust of the quality of health care, the health system as a whole. Individual cases of negative euthanasia are permissible because of the futility of healing and the severity of the patient's condition and subject to the unanimous decision by a group of competent specialists, as well as with the consent of the patient or his legal representatives. To strengthen the rule of law and strengthen criminal and legal guarantees of human rights to health and life, a special rule is required in the Criminal Code to be applied.

Conflict of Interest and other Ethics Statements
The authors declare no conflict of interest.

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СОЦІОЛОГІЧНО-ПРАВОВІ АСПЕКТИ ЕВТАНАЗІЇ

Анотація. Євроінтеграційний політичний курс України зобов'язує представників її влади враховувати міжнародний досвід у сфері поширення легалізації евтаназії і готуватися до практичного вирішення цього питання. При цьому, складність даного питання проявляється в тому, що на сьогоднішній день відсутній єдиний підхід до розуміння як українськими, так і зарубіжними вченими, а також громадськістю термінології, що вживається в межах зазначеної теми. У свою чергу, це призводить до неадекватного відображення дійсності, пов'язаної з питаннями евтаназії і, як наслідок, обумовлює певний страх суспільства перед нею. Отже, метою даної статті є короткий огляд напрацювань загального філософського і медико-юридичного понятійного апарату для проведення подальших теоретичних досліджень, а також здійснення відповідної правотворчої і просвітницької діяльності. Для досягнення поставленої мети було проведено соціологічне опитування серед лікарів – слухачів Національного університету охорони здоров'я імені П. Л. Шупика, що сформувало емпіричну базу дослідження у зазначеній сфері. Науково-теоретичним підґрунтям стали праці вітчизняних і зарубіжних вчених в галузі медицини, кримінального права, медичного права, психології, соціології, філософії тощо.

Ключові слова: *право на смерть, злочин проти життя, активна евтаназія, пасивна евтаназія, вбивство з милосердя*

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