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INNOVATIVE COMPETENCE OF A PRIMARY SCHOOL TEACHER IN THE CONDITIONS OF THE MODERN EDUCATIONAL ENVIRONMENT

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Abstract. The analysis of scientific and pedagogical literature showed that the term "innovation" means an innovation, novelty, change, introduction of something new. Innovations are not experienced by themselves, they are the result of scientific research, advanced pedagogical experience, individual teachers and pedagogical teams. Therefore, innovative competence is a component of the professional competence of a primary school teacher.

To study the attitude of teachers to the problem of innovations in the educational process, their self-assessment of innovative competence to the pedagogical experience of its actualization, a survey of teachers of the city of Lviv and the Lviv region was conducted. 136 respondents, primary school teachers with teaching experience from 1 to 49 years, took part in the research. A complex of theoretical and empirical methods was used (search and bibliographic method, questionnaire, observation and generalization method).

The analysis of the teachers' survey gives grounds for the conclusion that the majority of primary school teachers consider themselves innovatively competent, but have certain difficulties in actualizing it.

The perspective for further scientific research is the innovative competence of the primary school teacher in the conditions of the implementation of the concept of the New Ukrainian School.

Key words: innovation, innovative competence, professional competence, teacher, primary school teacher, new Ukrainian damage, actualization, actualization of the teacher's innovative competence.

Introduction. At the beginning of the third millennium, global, socio-economic, political, socio-cultural processes that determine the development of humanity at the current stage of its life activity are deepening and accelerating. Global social shifts are systematic, rapid, and irreversible. They are caused by scientific and technical progress, rapid informatization and computerization, democratization of social life.

The most responsible in these conditions is the role of education. According to the State Education Standard, the key figure of the New Ukrainian School (NUS) is the teacher, since the quality of education cannot be higher than the quality of the teachers who work there. The teacher's professional competence is aimed at the continuity and humanization of learning, the development of students' creative and communicative abilities.

Currently, the question comes to the fore: how should the educational process of primary school students be carried out, so that in the future, an effective, competitive pedagogical worker will turn out. One of the main tasks of a modern school is to create the necessary and full-fledged conditions for the personal development of each child, the formation of an active position of the student in the educational process.

In this regard, in the modern world, the primary school teacher plays a big role in the development and formation of the personality of a schoolchild. The intensive development of primary education, the variety of alternative educational programs, the radical change of the procedural aspect of education brings to the fore the problem of qualitative change of the teacher's personality, his creative potential, readiness for continuous self-education, the ability for flexible socio-pedagogical thinking, humanistic orientation of the personality, creativity, role and pedagogical activity in the educational process.

Taking into account the modern challenges caused by the transformation of domestic education, it can be argued that today requires the primary school teacher to achieve a high level of innovative competence as a mandatory component of the professional competence of a modern primary school teacher in the conditions of a modern educational environment that ensures the success of educational changes.

The teacher's innovative competence is manifested in his author's pedagogical system, in updated, more effective forms, ways, methods, in accordance with the qualitatively new results of educational activities obtained as a result of the implementation of innovations.

Main part. The purpose and objectives of the article. Understanding and meaning of scientific and pedagogical terms: "innovation", "innovative competence", "updating". Isolation and description of the components of the innovative competence of the elementary school teacher, scientist I. Konovalchuk, such as: motivational-value, informational-cognitive, communicative-perceptive, creative-active, reflective-analytical. Study and analysis of the scientific problem of innovation and innovative competence of primary school teachers in the conditions of the modern educational process.

Analysis of scientific and pedagogical literature showed that the term "innovation" means innovation, novelty, change, introduction of something new. In relation to the pedagogical process, innovation means the introduction of new things into the goals, content, forms and methods of education and training (Bereka V.E., Galas A.V., 2018: 164). Innovations do not arise by themselves, they are the result of scientific research, advanced pedagogical experience, individual teachers and entire pedagogical teams.

The main stages of innovation perception: the stage of familiarization with the innovation; stage of emergence of interest; assessment stage; approval stage; stage of final perception, use in full (Bereka V.E., Galas A.V., 2018: 168).

Scientists I.I. studied the issue of the formation of innovative competence in Ukraine. Kovalchuk, L.O. Petrychenko, S.P. Zagorodnii, N.S. Kalyuzhka, O.B. Protsenko, S.A. Yurochko and others.

In particular, I. Konovalchuk notes: "As a personal innovation, innovative competence is the result of the synthesis of basic readiness for innovative activity and the subjective experience of its implementation" (Matohniuk, L.O., 2018: 54).

K. Artamonova emphasizes that "innovative competence" is the result of the teacher's theoretical and practical readiness to carry out professional activities using innovations and has the following basic components of professional training: value-meaning orientations of training, structure and content of the professional training process, pedagogical tools and pedagogical conditions of professional training (Matohniuk, L.O., 2018: 59).

"Innovative competence", according to I. Dychkivska, is a system of motives, knowledge, skills, personal qualities of an elementary school teacher, which ensures the effectiveness of using new pedagogical technologies in working with students (Serykh L.V., 2019: 158).

We can agree with the opinion of L. Petrychenko, who defined the concept of "innovative competence" more broadly: as a system of motives, knowledge, abilities, skills, personal qualities of a teacher, which ensures his implementation of all stages of innovative professional activity – from modeling and forecasting to the introduction of innovations. The researcher made an attempt to specify and supplement this scientific definition, considering competence as a set of certain metamatic competencies, namely: informational-gnostic, intellectual-creative, regulatory, organizational-communicative, active-creative. Thus, L. Petrychenko defines the innovative competence of a teacher as a complex, integrative quality of a specialist, which is determined by the features of innovative activity, emphasizing its creative nature and focus on research and experimental work (Terepa, A.V., 2018: 406-410).

Components of a teacher's innovative competence: awareness of innovative pedagogical technologies; proper mastery of their content and methodology; a high culture of using innovations in the

educational environment; personal conviction in the need to use innovative pedagogical technologies (Terepa, A.V., 2019: 406-410).

According to the researches of I. Konovalchuk, the problem of efficiency and effectiveness of the implementation of educational innovations lies in the area of development of the innovative competence of the teacher – an integrative property of the personality, which is the result of the synthesis of basic professional training and practical professional and social-psychological experience of innovative activity.

The specificity of innovative competence, the researcher believes, is determined by the content of those theoretical and practical tasks that the teacher solves in the process of implementing innovations, and by special system-forming, integrative connections between the components of its structure, which includes social, motivational-value, theoretical-methodological, technological, information-communicative, reflexive-regulatory competence.

The most general signs of the innovative competence of the teacher identified by the scientist deserve attention, in particular:

- personal focus on mastering new things, readiness for changes in methods of activity, style of thinking;
- subjectivity of goal setting, goal achievement and self-realization; clarity of professional position, awareness of the social significance of innovations, inclusion in social creativity;
- compliance of the composition of competence with the structure of innovative activity; the effectiveness of methods of implementing the system of knowledge, skills, and abilities at all stages of the innovation process, the ability to take a creative approach in solving professional problems;
- the integrity of the set of competences included in the innovative competence as a system formation;
- a high level of professionalism, which is based on understanding and improving one's own pedagogical experience.

Based on the analysis of scientific works on the specified problem and taking into account the peculiarities of scientific research, it is possible to single out the components of the innovative competence of a primary school teacher:

1. motivational and valuable (motivation for success in activities aimed at implementing educational changes, awareness of the need for innovative activities and the desire to implement them, teachers' positive perception of innovations in the educational process);

2. informational and cognitive (awareness of innovations in education, knowledge for carrying out innovative activities, desire and ability to acquire them, skills of creative thinking and modification of prospective pedagogical experience);

3. communicative and perceptive (stress resistance, self-psychological and perceptive knowledge, the ability and experience of valueless perception of another person, his understanding, the ability to non-standard, creative problem solving in the process of pedagogical interaction, the ability and experience to establish psychological contact, to put into practice original means of interaction with the participants of the educational process for their development, unconventionally solve various psychological and pedagogical situations);

4. creative and effective (the ability and experience to organize one's own activities on a creative basis, integration and improvement of already known elements, techniques, methods of pedagogical activity, skills of pedagogical improvisation, to create and apply objectively new, original models, educational technologies, forms, techniques and means training and upbringing, which ensure high effectiveness and quality of the educational process, skills of mobile reaction and correction of this process);

5. reflective-analytical (effectively and adequately carry out reflective processes, quality of introspection, adequacy of self-assessment, level of self-regulation, ability for self-development, self-improvement, self-realization) (Matohniuk L.O., 2018: 98).

Therefore, innovative competence is a component of the professional competence of a primary school teacher, which is a set of specific knowledge, skills, abilities, attitudes and abilities optimal for effective innovative activity.

We note that the essence of competence is revealed precisely in the ability and experience of applying certain knowledge, abilities and skills in practice, therefore the actualization of innovative competence is an important factor in the implementation of effective innovative activities.

"Actualization" (lat. actualis – active, active, actual) is the period from the state of possibility to the state of reality (Chornobai, V.G., 2014: 409-413).

In pedagogical science, the concept of "relevance" is defined as the need of an individual in his knowledge, behavioral style, as well as mental, sensory and kinetic acts and their transformation from a latent-potential state into actualized actions, actions, dynamics of forms of behavior, which is consistent with the concept of "experience" (Chornobai, V.G., 2014: 409-413).

Based on the conclusions of foreign and domestic psychological and pedagogical research (L. Karamushka, S. Maksisenko, A. Maslow, S. Sysoeva, M. Tkalych, V. Frankl, etc.), we believe that the actualization of a teacher's innovative competence is the reproduction of special knowledge, skills and abilities, their transition from a potential state to an actual action, that is, self-actualization, which involves independent implementation and application in innovative pedagogical activity (Chornobai, V.G., 2014: 409-413).

A primary school teacher who has a high level of innovative competence formation and is capable of actualizing it, is self-motivated for positive changes, research, innovation, and constant pedagogical search. Such a teacher has a desire for professional self-realization. He possesses thorough knowledge for the implementation of innovative activities, has adequate value orientations, flexible professional thinking, developed professional self-awareness, timely takes into account the situation of social changes and the needs of the student. Such a teacher creatively assimilates scientific developments, interprets and modifies advanced pedagogical experience, knows how to produce ideas and implement them in specific conditions, systematize, integrate and improve traditional elements, methods, methods of teaching and upbringing, as well as create objectively new, original models, educational technologies, forms, methods and means of teaching and upbringing, which ensure high effectiveness and quality of the educational process. The elementary school teacher is ready to perceive new information, knows how to see the near and far perspectives of pedagogical improvisation in the course of implementing the pedagogical idea; mobile reacts and adjusts the educational process to new conditions, unconventionally approaches the solution of various psychological and pedagogical situations, puts into practice original means and methods of interaction with the participants of the educational process for their development, organizes its activities on a creative basis.

The innovative competence of the primary school teacher in the conditions of the modern educational environment, as mentioned above, is a dynamic formation and needs continuous development and updating.

Research material and methods. A complex of theoretical and empirical methods, methods of scientific research are used: search and bibliographic method; analysis, synthesis, generalization and systematization; interview, questionnaire, testing, observation; pedagogic experiment (declarative stage); method of generalization (for formulating the conclusions of scientific research).

Results and their discussion. To study the attitude of teachers to the problem of innovations in the educational process, their self-assessment of innovative competence to the pedagogical experience of its actualization, a survey of teachers of the city of Lviv and the Lviv region was conducted. 136 respondents, primary school teachers with teaching experience from 1 to 49 years, took part in the research.

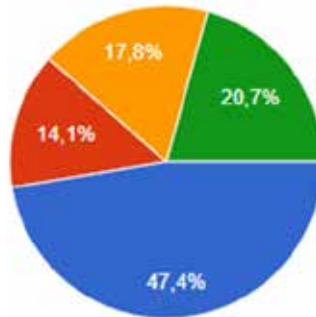
The analysis of the obtained results showed that the majority of teachers consider this problem to be urgent, they have no doubts about the need for innovative changes in education. Teachers understand that modern challenges make new demands on a person who is capable of living in a fast-moving world,

and it is possible to solve this given problem only by being in the educational process in accordance with these demands.

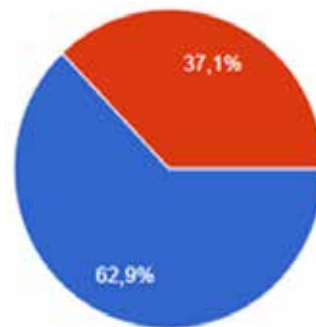
The analysis of the survey of primary school teachers on the problem of actualization of innovative competence proved the following results.

The question «Indicate your qualification category» was answered as follows:

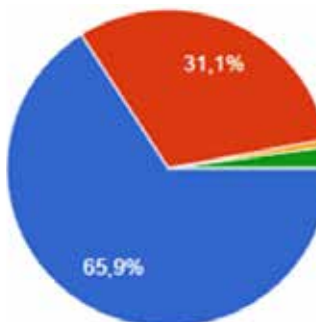
«specialist of the highest category» – 47,4%; «specialist of the first category» – 14,1%; «specialist of the second category» – 17,8%; «there is no» – 20,7%.



To the question «Are you satisfied with the existing education system?», the following answers were received: yes – 62,9%, no – 37,1%.



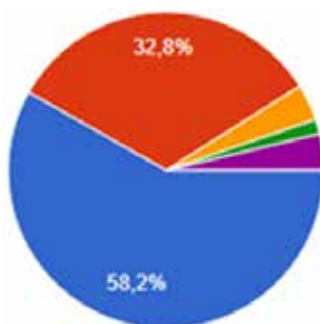
«Do you implement innovations in the educational process?», answered as follows: actively implement – 65,9%; good, but not actively implementing – 31,1%; good, but not implemented – 0,7%; negatively, but should implement – 2,2%. Not a single answer was chosen: «negatively and do not implement», «no way».



«What prevents you from applying innovations in the educational process?» 6,5% of primary school teachers answered «insufficient knowledge»; 11,1% – lack of relevant skills and experience; 82,4% – lack of necessary resources.



«What results have you achieved with the help of innovations?» teachers who implement innovations noted that they achieve significantly better results – 58,2%; slight improvement in results – 32,8%; the results did not change – 3,7%; the results are worse than the previous ones – 1,5% and unknown – 3,7%.



Therefore, the analysis of the teachers' survey gives grounds for the conclusion that the majority of primary school teachers consider themselves innovatively competent in the conditions of the modern educational environment, but have certain difficulties in its actualization.

Conclusions. The innovative competence of the primary school teacher in the conditions of the modern educational environment is considered as a component of the professional competence of the educational process of the 21st century, it involves a system of motives, professional knowledge, abilities, skills, experience, certain personal qualities of the teacher, which ensures the implementation of all stages of innovative activity.

The perspective for further scientific research is the innovative competence of the primary school teacher in the conditions of the modern educational environment in the concept of the implementation of the New Ukrainian School (NUS).

The basic professional competences of a primary school teacher in the conditions of a modern educational environment in the concept of the implementation of the New Ukrainian School, namely:

- professional and pedagogical competence – familiarity with the latest scientifically based information on pedagogy, psychology, methods, and innovation to create an educational and developmental environment that contributes to the integral individual and personal development of children of primary school age; the ability for productive professional activity based on developed pedagogical reflection in accordance with the leading value and outlook orientations, the requirements of pedagogical ethics and the challenges of primary school;

- socio-civic competence – understanding the essence of civil society; possessing knowledge about human rights and freedoms; awareness of global (especially ecological) problems of humanity and the possibilities of one's own participation in their solution; awareness of civic duty and a sense of self-worth; the ability to identify problematic issues in socio-cultural, professional spheres of human activity and find ways to solve them; skills of effective and constructive participation in civilized social development; ability for effective teamwork; the ability to prevent and resolve conflicts by reaching compromises;

- general cultural competence – the ability to understand works of art, to form one's own artistic tastes, to independently express ideas, experiences and feelings with the help of art; awareness of one's own national identity as a basis for an open attitude and respect for the diversity of cultural expression of others;
- linguistic and communicative competence – possessing systemic knowledge about norms and types of pedagogical communication in the process of organizing collective and individual activities; the ability to listen, defend one's position, using various methods of reasoning and argumentation; development of the culture of professional communication; the ability to achieve pedagogical results by means of productive communicative interaction «relevant knowledge, verbal and non-verbal abilities and skills depend– facilitative competence – awareness of the value significance of the child's physical, mental and moral health; the ability to promote the creative development of younger school-children and their individualization;
- entrepreneurial competence – the ability to generate new ideas and initiatives and implement them in order to improve both one's own social status and well-being, as well as the development of society and the state;
- information and digital competence – the ability to navigate in the information space, receive information and operate it in accordance with one's own needs and requirements of the modern high-tech information society (Bereka V.E., Galas A.V., 2018: 264).

References:

1. Bereka, V.E., Galas, A.V. (2018). Profesiyina kompetentnist' vchytelya pochatkovykh klasiv: navchal'no metodychnyy posibnyk dlya vchyteliv [Professional competence of primary school teachers: a teaching and methodical guide for teachers]. *Ranok Publishing House*, 496 [in Ukrainian].
2. Manako, A.F. (2013). Evolyutsiya ta konverhentsiya vprovadzhennya IKT v osviti yak dzherelo innovatsiy [Evolution and convergence of the introduction of ICT in education as a source of innovation]. *Informatics and information technologies in educational institutions*, 6, 82–86 [in Ukrainian].
3. Matohniuk, L.O. (2018). Psykholo – pedahohichni zasady doslidzhennya informatsiynoi kompetentnosti osobystosti [Psycholo – pedagogic principles of the research of the information competence of the individual]. *Vinnytsia: LLC Windruk*, 240 [in Ukrainian].
4. Oleshka, P.S. (2019). Profesiyyny rozvytok pedahohiv v umovakh osvith'oho seredovyscha pislyadyplomnoi osvity [teoretyko-prykladnyy aspekt] [Professional development of teachers in the educational environment of postgraduate education [theoretical and applied aspect]. *Lutsk: KPIAC "Volynenergsoft"*, 308 [in Ukrainian].
5. Savchenko, O.V. (2018) Pochatkova osvita v konteksti idey Novoyi pochatkovoyi shkoly [Primary education in the context of the ideas of the New Primary School]. *Native school*, 37, 3–7 [in Ukrainian].
6. Serykh, L.V. (2019). Osobystisno – profesiyina kompetentnist' pedahoha: teoriya i praktyka: zbirnyk materialiv III Vseukrayins'koyi naukovy-metodychnoyi praktychnoyi konferentsiyi [Personal – professional competence of the teacher: theory and practice: collection of materials of the 3rd All-Ukrainian scientific and methodical practical conference], *NIKO*, 380 [in Ukrainian].
7. Terepa, A.V. (2018). Kryteriyi ta pokaznyky matematychnoyi kompetentnosti maybutnikh uchyteliv pochatkovoyi shkoly [Criteria and indicators of mathematical competence of future elementary school teachers]. *Modern information technologies and innovative teaching methods in the training of specialists: methodology, theory, experience, problems*, 52, 406–410 [in Ukrainian].
8. Chornobai, V.G. (2014). Profesiyina kompetentnist' ta yiyi skladov [Professional competence and its components]. *Scientific bulletin of the National University of Bioresources and Nature Management of Ukraine. Series: Pedagogy, psychology, philosophy*, 199(4), 409–413 [in Ukrainian].
9. Cherny, A.M. (2018). Profesiyyny rozvytok pedahoha: dosvid, spivpratsya, priorytety na shlyakhu do Novoyi ukrayins'koyi shkoly [Professional development of a teacher: experience, cooperation, priorities on the way to the New Ukrainian School]. *Transcarpathian Institute of Postgraduate Pedagogical Education in Ukraine*, 53, 40–43 [in Ukrainian].

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PROSPECTS FOR THE APPLICATION OF A SPECIAL TAX REGIME FOR TRANSACTIONS WITH VIRTUAL ASSETS

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Abstract. The article studies the prospects of applying a special tax regime for transactions with virtual assets in Ukraine. Applying existing tax conditions to the virtual asset market will lead to the opposite effect – the complete shadowing of the industry. That is why there is now an urgent need for delayed adoption of the relevant bill, which should ensure the launch of a completely legal and transparent market for virtual assets. Based on the results of the research, a general conclusion was made that applies to both individuals and legal entities – a single tax rate on transactions with virtual assets, in the amount of 5% – even if on the general taxation system, even if on the simplified taxation system – which levels out separately a special tax regime for operations with virtual assets declared and regulated by Law No. 7150.

Key words: taxation, virtual assets, cryptocurrency, bitcoin, electronic money, non-cash money, money surrogate.

Introduction. Government officials of many countries, including Ukraine, the USA, the EU, and several other leading countries in the world, show a deep interest in the regulation of cryptocurrencies. Lawmakers around the world are trying to figure out what laws and guidelines should be in place to make cryptocurrency safer for investors and less attractive to cybercriminals. "Regulation is probably one of the most talked about topics in the crypto industry globally," said Jeffrey Wang, head of the US division of Amber Group, a Canadian crypto finance firm. "We would be very happy with a clear regulation." US Federal Reserve Chairman Jerome Powell recently said he has "no intention" of banning cryptocurrencies in the US such as Ethereum, while Securities and Exchange Commission Chairman Gary Gensler has consistently commented on its role in commodity futures trading in the industry. So Gary Gensler recently said that investors "are likely to suffer" if tighter regulation is not introduced. Gary Gensler and Jer Powell's comments are consistent with the new sentiment from the Biden administration and other US lawmakers that cryptocurrency regulation needs to be improved. Clear regulation would mark the removal of a "significant hurdle for cryptocurrency," says Jeffrey Wang, as US firms and investors operate without clear guidance for now. ("The Future of Cryptocurrency," 2021)

In general, the sale or other exchange of virtual currencies, or the use of virtual currencies to pay for goods or services, or the holding of virtual currencies as an investment generally has tax consequences that may result in tax liability. This statement, regarding federal tax consequences, applies only to transactions in convertible virtual currency or transactions that use convertible virtual currency – this is the opinion of the official website of the US Federal Internal Revenue Service (*Virtual Currencies. Internal Revenue Service*, n.d.)

The application of the existing tax conditions to the virtual assets market will lead to the complete opposite effect – the complete shadowing of the industry and the labor emigration of the professional, highly intelligent community outside of Ukraine to more attractive jurisdictions – those countries that systematically pursue policies that stimulate labor immigration. That is why there is an urgent need

for the immediate adoption of the corresponding bill, which should ensure the launch of a completely legal and transparent market of virtual assets, and (due to this) significantly strengthen the competitiveness of Ukraine on the world market of services related to their turnover. (*Pojasnujuvaljna zapyska do Proektu #7150 Zakonu Ukrainy «Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy shhodo opodatkuvannja oborotu virtualjnykh aktyviv v Ukraini»*, 2022)

Literature review and output conditions. Ukraine will be able to be ahead of other countries in the field of virtual assets – the Deputy Minister of Digital Transformation for IT Development is convinced of this (*Mincyfra spiljno z kryptospiljnotoju prezentuvaly strateghiju rozvytku rynku virtualjnykh aktyviv*, 2021).

On February 17, 2022, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On Virtual Assets" No. 2074-IX (hereinafter – Law 2074) (Pro virtualjni aktyvy, 2022). Which was signed by the President of Ukraine on March 15, 2022, after taking into account the changes, according to his previously submitted proposals (*Propozycji Prezydenta Ukrainy do Zakonu “Pro virtualjni aktyvy,” 2020*). According to Clause 1 of Chapter VI "Final and Transitional Provisions" of Law 2074, the law itself will enter into force: a). from the date of entry into force of the law of Ukraine on amendments to the Tax Code of Ukraine, regarding the peculiarities of taxation of operations with virtual assets; b). implementation of the State Register of service providers related to the turnover of virtual assets, which is additionally specified in Clause 2 of Chapter VI of the Final and Transitional Provisions, as a limitation in the possibility of applying sanctions provided for in Article 23 of Law 2074. To fulfill the prescriptions of clause 1 of Section VI of the Law 2074 and for its implementation (*Porivnjajlna tablycja do Proektu #7150 Zakonu Ukrainy “Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy, shhodo opodatkuvannja operacij z virtualjnymy aktyvamy,” 2022*), On March 13, 2022, the Verkhovna Rada of Ukraine registered draft law No. 7150 "On Amendments to the Tax Code of Ukraine on the Taxation of Transactions with Virtual Assets" (hereinafter referred to as Draft Law 7150) (*Proekt #7150 Zakonu Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy shhodo opodatkuvannja operacij z virtualjnymy aktyvamy, 2022*).

Purpose of the article. To conduct a study of the prospects laid down in Draft Law 7150 regarding amendments to the Tax Code of Ukraine in connection with the adoption of the Law of Ukraine "On Virtual Assets", regarding the application of a special tax regime for operations with virtual assets in Ukraine.

Methodology statement. When conducting the research, the following were used: general scientific research methods – deduction and induction, synthesis and analysis, scientific abstraction, systematic approach; especially – legal methods of knowledge – formally legal; legal forecasting, retrospective, and comparative legal method; methodological substantiation of the essence, nature, and structure of the terminology, which is the object of research.

Results of the study. Draft Law 7150 is called to form a legal tax platform in the legal field of Ukraine for cryptocurrencies, for which Law 2074 adopted the general name – virtual assets. In general, this should lead to a noticeable increase in the gross domestic product of Ukraine shortly. This can be ensured by the fact that Draft Law 7150 provides for the provision of tax incentives for the taxation of operations related to virtual assets, which will probably allow the new digital economy to flourish as a legal industry that pays taxes to the budget of Ukraine.

1. Definition and legal regulation of virtual assets. State regulation of the market of virtual assets – implementation by the state in the person of the National Commission for Securities and the Stock Market (hereinafter – the NCSSM) (Regulations on the National Commission for Securities and the Stock Market, 2011) and the National Bank of Ukraine (hereinafter – the NBU) (About the National Bank of Ukraine, 1999) comprehensive measures to organize, control, supervise the market of virtual assets, regulate the rules of operation of service providers related to the turnover of virtual assets, as well as measures to prevent and counter abuse and violations in the market of virtual assets (Paragraph 1 of Article 16 Law 2074).

State regulation in the sphere of circulation of secured virtual assets secured by currency values (SVA(CV)), within its competencies, is carried out by the National Bank of Ukraine.

State regulation in the sphere of virtual assets turnover, except for SVA(CV), in particular regarding secured virtual assets secured by security or a derivative financial instrument (SVA(FI)), within its competencies, is carried out by the National Securities and Stock Commission market.

Law 2074 forms its division of virtual assets, which is not similar to the generally accepted one in the community related to the crypto industry:

- *virtual asset* – an intangible good that is the object of civil rights, has a value and is expressed by a set of data in electronic form. The existence and liquidity of a virtual asset are ensured by the system of ensuring the turnover of virtual assets. A virtual asset can testify to property rights, in particular, rights of claim to other objects of civil rights (Paragraph 1 of paragraph 1 article 1 of Law 2074); Virtual assets are intangible assets, and the specifics of their turnover are determined by the Civil Code of Ukraine and this Law. Virtual assets can be unsecured or secured. (Paragraph 1 of Article 4 of the Law of 2074);

- *a secured virtual asset* – a virtual asset that certifies property rights, in particular, the right of claim to other objects of civil rights (clause 3 clause 1 article 1 of Law 2074); Secured virtual assets certify property rights, in particular, rights of claim to other objects of civil rights (Paragraph 3 of Article 4 of the Law of 2074);

- *unsecured virtual asset* – a virtual asset that does not certify any property or non-property rights (Paragraph 6 of Paragraph 1, article 1 of Law 2074); Unsecured virtual assets do not prove property rights. (Paragraph 2 of Article 4 of the Law of 2074);

In turn, a secured virtual asset, as a financial virtual asset, forms two separate directions of its internal distribution, into secured by currency values and secured by securities or a derivative financial instrument (Paragraph 6 of Article 4 of the Law of 2074):

- a secured virtual asset secured by currency values issued by a resident of Ukraine (hereinafter – SVA(CV));

- a secured virtual asset issued by a resident of Ukraine, secured by security or a derivative financial instrument (hereinafter – SVA(FI)).

2. Providers of services for the turnover of virtual assets. Business entities of all forms of ownership have the right to operate as a provider of services related to the turnover of virtual assets, subject to compliance with the requirements specified by Law 2074 (Paragraph 1 of Article 18 of Law 2074).

The activity of service providers related to the turnover of virtual assets is allowed only on the condition of obtaining a permit for the provision of services related to the turnover of virtual assets of the appropriate type, defined by Law 2074 (Paragraph 2 of Article 18 of Law 2074).

Business entities are allowed to conduct more than one type of activity as a provider of services related to the turnover of virtual assets, subject to obtaining a permit for the provision of each relevant type of service related to the turnover of virtual assets (Paragraph 3 of Article 18 of Law 2074).

Providers of services related to the turnover of virtual assets are exclusively business entities – legal entities that conduct one or more of the following types of activities in the interests of third parties: 1). storage or administration of virtual assets or virtual asset keys; 2). exchange of virtual assets; 3). transfer of virtual assets; provision of intermediary services related to virtual assets (Paragraph 8 of Paragraph 1 Article 1 of the Law 2074);

The service provider can be a foreign legal entity that is a participant in the virtual assets market, under the law of a foreign state, conducts activities as a service provider in the manner and under the conditions determined by the National Commission for Securities and the Stock Market, taking into account the requirements and restrictions determined by this Law (Paragraph 6 Article 9 of Law 2074).

In some cases, it is not necessary to obtain a permit to carry out activities related to the turnover of virtual assets, and in some cases, it is necessary to additionally have an appropriate license:

- *Issuance of a permit for the provision of services related to the turnover of SVA (FI) – in the cases and procedures established by the NCSSM, professional participants of the capital markets have the right to conduct the relevant type of activity of the provider of services related to the turnover of virtual assets, without obtaining permits provided for by Law 2074 (Paragraph 17 of Article 19 of Law 2074);*

- *issuance of a permit for the provision of services related to the turnover of virtual assets of SVA(CV) – a). a provider of services related to the turnover of virtual assets, which is a bank, has the right to provide services related to the turnover of SVA(CV) based on a banking license and permission to provide services related to the turnover of virtual assets; b). a provider of services related to the turnover of virtual assets, which is a non-banking financial institution, has the right to provide services related to the turnover of SVA(CV) based on a license of the NBU to carry out currency operations and a permit to provide services related to turnover of virtual assets (Paragraph 16 of Article 19 of Law 2074).*

The supervision of the activities of service providers related to the turnover of foreign financial institutions, which are banks, and branches of foreign banks, is carried out by the procedure defined by the Law of Ukraine "On Banks and Banking Activities" (Pro banky i bankivsjku dijajlnistj, 2000). Supervision of the activities of service providers related to the turnover of SVA(CV), which are non-banking financial institutions, is carried out by the procedure established by the Law of Ukraine "On Financial Services and State Regulation of Financial Services Markets" (Pro finansovi poslughy ta derzhavne reghuljuvannja rynkiv finansovykh poslugh, 2001) (Paragraph 2 of Article 17 of Law 2074).

Only a financial institution can be a provider of services related to the turnover of SVA(CV) (Paragraph 7 of Article 9 of Section III of the Law of 2074).

Virtual asset exchange services are activities related to the exchange of virtual assets for other virtual assets and currency values, carried out for third parties and/or on behalf of and in the interests of third parties.

Providers of virtual asset exchange services have the right to provide virtual asset exchange services exclusively for other virtual assets or the national currency (hryvnia), and in cases determined by the National Bank of Ukraine – for other currency values (Paragraph 2 of Article 11 of Law 2074).

Thus, the realization of virtual assets in the legal field of Ukraine is possible only through an intermediary, namely a provider of services for the circulation of virtual assets: a). in the direct sale procedure, – which has permission to provide intermediary services related to virtual assets; b). during the exchange procedure – which has permission to provide operations for the exchange of virtual assets for other virtual assets and currency values.

3. Terminology proposed by Law No. 7150 to the Tax Code of Ukraine in connection with the adoption of the Law of Ukraine "On Virtual Assets".

Following Project 7150 of amendments to the Tax Code of Ukraine (hereinafter – TC), new concepts will be introduced in Article 14 of Section I "General Provisions", in particular: virtual asset (Article 14 Clause 14.1.33 TC), secured virtual asset (Article 14 Clause 14.1.61 TC), unsecured virtual asset (Article 14 Clause 14.1.62 TC), provider of services related to the turnover of virtual assets (Article 14 Clause 14.1.192 TC), services related with the turnover of virtual assets (Article 14 Clause 14.1.184 TC), a provider of services related to the turnover of virtual assets (Article 14 Clause 14.1.192 TC) – which are used in the meaning given in the Law of Ukraine "On Virtual assets".

In addition, there are also new definitions that relate exclusively to the specifics of the regulation of tax relations in Ukraine and are inherent in the Tax Code of Ukraine:

profit from transactions with virtual assets for the purposes of Chapter IV of this Code – income in the form of a positive difference between the income received by the taxpayer from operations with virtual assets and the costs of their acquisition (Article 14 Clause 14.1.196-1 TC);

use of a secured virtual asset – termination of the right of ownership of the secured virtual asset by transfer to the owner of the secured virtual asset of the property right that was secured by it (Article 14 Clause 14.1.25 TC);

goods – tangible and intangible assets, including land plots, land shares (units), as well as securities and derivatives used in any operations, except for their issue (issue) and *repayment, and virtual assets used in any operations, except operations on their release (emission) and use* (Article 14 Clause 14.1.244 TC).

4. Draft Law 7150 provides a mechanism in the Tax Code of Ukraine for the application of a special tax regime for the taxation of transactions with virtual assets.

Article 291 of Chapter 1 "Simplified System of Taxation, Accounting and Reporting", Chapter XIV "Special Tax Regimes" establishes the general provisions of the legal basis for the application of the simplified system of taxation, accounting, and reporting, as well as the payment of a single tax.

Draft Law 7150 provides for the possibility of applying a simplified taxation system to service providers involved in the turnover of virtual assets, i.e. to be taxpayers of a single tax of the first-third groups. Thus, Article 291 of Chapter 1 "Simplified System of Taxation, Accounting and Reporting", Chapter XIV "Special Tax Regimes" stipulates that the following entities (legal entities) cannot be single taxpayers of the first – third groups (Clause 291.5. TC): and natural persons – entrepreneurs) who carry out: 6) activities in the field of financial intermediation, except for activities in the field of insurance, which are carried out by insurance agents defined by the Law of Ukraine "On Insurance", surveyors, accident commissioners, and adjusters defined by Section III of this Code, and services related to the turnover of virtual assets (Clause 291.5.1 TC); insurance (reinsurance) brokers, banks, credit unions, pawnshops, leasing companies, trust companies, insurance companies, institutions of accumulative pension provision, investment funds, and companies, other financial institutions defined by law, except for business entities that provide only services, related to the turnover of virtual assets; registrars of securities (Clause 291.5.4 TC).

The simplified system of taxation, accounting, and reporting is a special mechanism for the payment of taxes and fees, which establishes the replacement of the payment of individual taxes and fees, established by Clause 297.1 of Article 297 of the Tax Code, with the payment of a single tax in the manner and under the conditions specified by this chapter, with the simultaneous maintenance of a simplified accounting and reporting (Clause 291.2 TC).

A legal entity or a natural person – an entrepreneur can independently choose a simplified taxation system if such a person meets the requirements established by this chapter and is registered as a single taxpayer in the manner determined by this chapter (Clause 291.3 TC).

Business entities that apply a simplified system of taxation, accounting, and reporting are divided into the following groups of single taxpayers (Clause 291.4 TC):

1) the first group – natural persons – entrepreneurs who do not use the labor of hired persons, carry out exclusively retail sales of goods from trading places in the markets, and/or carry out economic activities for the provision of household services to the population and whose income during the calendar year does not exceed 167 amounts of the minimum wages established by law on January 1 of the tax (reporting) year;

2) the second group – natural persons – entrepreneurs who carry out economic activities for the provision of services, including household ones, to single taxpayers and/or the population, production and/or sale of goods, activities in the field of the restaurant business, provided that during the calendar year they meet set of such criteria:

do not use the labor of hired persons or the number of persons who are in labor relations with them at the same time does not exceed 10 persons;

the amount of income does not exceed 834 amounts of the minimum wage established by law on January 1 of the tax (reporting) year.

The effect of this subsection does not apply to natural persons – entrepreneurs who provide intermediary services for the purchase, sale, lease, and evaluation of real estate, services for providing access to the Internet, and also carry out production activities, supply, sale (sale) of jewelry and household products made of precious metals, precious stones, precious stones of organic formation and semi-precious stones. Such natural persons – entrepreneurs belong exclusively to the third group of single taxpayers if they meet the requirements established for such a group;

3) the third group – natural persons – entrepreneurs who do not use the labor of hired persons or the number of persons who are in labor relations with them is not limited, and legal entities – business entities of any organizational and legal form, which during the calendar year have a volume of income does not exceed 1,167 times the minimum wage established by law on January 1 of the tax (reporting) year.

For the purposes of Article 291 of Chapter 1 "Simplified System of Taxation, Accounting and Reporting", the following types of services are understood as household services to the population provided by the first and second groups of single tax payers (Clause 291.7 TC): 1) production of shoes by individual order; 2) shoe repair services; 3) production of sewing products by individual order; 4) manufacture of leather products by individual order; 5) manufacture of fur products by individual order; 6) production of underwear by individual order; 7) production of textile products and textile haberdashery by individual order; 8) production of headdresses by individual order; 9) additional services for the manufacture of products by individual order; 10) clothing and household textile repair services; 11) production and knitting of knitted products by individual order; 12) services for the repair of knitted products; 13) production of carpets and carpet products by individual order; 14) services for repair and restoration of carpets and carpet products; 15) production of leather haberdashery and travel products by individual order; 16) services for the repair of leather haberdashery and road products; 17) manufacture of furniture by individual order; 18) furniture repair, restoration and renewal services; 19) manufacture of carpentry and carpentry products by individual order; 20) maintenance and repair of cars, motorcycles, scooters and mopeds by individual order; 21) repair services of radio and television and other audio and video equipment; 22) repair services for electrical household appliances and other household appliances; 23) watch repair services; 24) bicycle repair services; 25) services for maintenance and repair of musical instruments; 26) manufacture of metal products by individual order; 27) repair services for other items of personal use, household goods and metal products; 28) manufacture of jewelry by individual order; 29) jewelry repair services; 30) rental of personal items and household goods; 31) photographic services; 32) film processing services; 33) services for washing, processing linen and other textile products; 34) cleaning and dyeing services for textile, knitted and fur products; 35) skinning of fur skins by individual order; 36) services of hairdressers; 37) funeral services; 38) services related to agriculture and forestry; 39) domestic service; 40) services related to cleaning and cleaning of premises by individual order.

5. Tax rates for legal entities and individual entrepreneurs who are on the simplified taxation system. The rates of the single tax for payers of the first group are set as a percentage (fixed rates) to the amount of the subsistence minimum for able-bodied persons, established by law on January 1 of the tax (reporting) year (further on in this chapter – the subsistence minimum), for the second group – as a percentage (fixed rates) to the amount of the minimum wage established by law on January 1 of the tax (reporting) year (further on in this chapter – the minimum wage), the third group – as a percentage of income (interest rates) (Clause 293.1 TC).

The percentage rate of the single tax for taxpayers of the third group is set in the amount (Clause 293.3 TC): 1) 3 percent of income – in case of payment of value-added tax under the Tax Code; 2) 5 percent of income – in case of inclusion of value added tax in the composition of the single tax.

5.1. Tax rates on income of individuals from transactions with virtual assets. Chapter IV "Income Tax of Individuals" establishes the rate of tax on profits from operations with virtual assets (Clause

164.2.19 TC) in the amount of 5% (Clause 167.5.2 TC) on the general taxation system. The calculation of profit from operations with the virtual assets of an individual is carried out per the procedure specified in clause 170.2-1.1 of the TC.

5.2. The rate of tax on the income of natural persons-entrepreneurs, on the general taxation system, from transactions with virtual assets. Taxation of income received by a natural person-entrepreneur from the conduct of the economic activity, except for persons who have chosen a simplified taxation system, is defined in Art. 177 TCs. Amounts of income in the form of profits from operations with virtual assets are not included in the income of a natural person – an entrepreneur. Taxation of such incomes of an individual entrepreneur is carried out following the procedure specified in Clause 170.2-1 of Article 170 of the Tax Code (Clause 177.3.3 TC). In turn, Clause 170.2-1 of the TC regulates the taxation of profit from operations with virtual assets and is included in Chapter IV "Income Tax of Individuals". And in the context of Chapter IV "Income Tax of Individuals", the tax rate on profits from transactions with virtual assets (Clause 164.2.19 TC) is 5% (Clause 167.5.2 TC).

5.3. Tax rate on the income of legal entities, on the general taxation system, from transactions with virtual assets. Chapter III of the Tax Code of Ukraine regulates the mechanism of corporate income tax taxation. The object of taxation is defined (provided by Draft Law 7150) as profit from sales or other alienation of virtual assets, determined following Clause 141.9 of Article 141 of the Tax Code (Clause 134.1.8 of the TC). A tax rate of 5 percent is applied to the object of taxation defined by subsection 134.1.8 of Clause 134.1 of Article 134 of the Tax Code (Clause 136.8 of the Tax Code). The profit of a provider of services related to the turnover of virtual assets is taxed at a tax rate of 5 percent, provided that such a provider of services related to the turnover of virtual assets does not receive other income, except for income from the provision of services, associated with the turnover of virtual assets, and income arising from the accrual of exchange rate differences.

Conclusion. Based on the results of the research, several conclusions can be drawn regarding the prospects for making changes to the Tax Code of Ukraine provided for by Draft Law 7150:

1. Natural persons when conducting operations with virtual assets apply a 5% income tax rate (Clause 164.2.19; Clause 167.5.2; Clause 170.2-1 TC).

2. Natural persons-entrepreneurs who are on the general taxation system, when carrying out operations with virtual assets, apply a 5% income tax rate (Clause 167.5.2; Clause 170.2-1; Clause 177.3.3 TC);

3. Legal entities and individual entrepreneurs who are in the 3rd group of the simplified taxation system apply a 5% income tax rate when conducting transactions with virtual assets (Clause 291.5.1; 293.3).

4. Legal entities on the general taxation system when carrying out operations with virtual assets apply a 5% income tax rate (Clause 136.8 TC).

It is possible to draw a general conclusion, which applies to both individuals and legal entities – a single rate of tax on profit from transactions with virtual assets, in the amount of 5% – even on the general taxation system, even on the simplified taxation system – which does not command separately a special tax regime for operations with virtual assets declared and regulated by Law No. 7150.

Separately, it can be stated that it is not possible to carry out operations with virtual assets by natural persons-entrepreneurs, and their simultaneous stay in group 1 or 2 of the simplified taxation system – as it is recited in Clause 291.5.4 of the Code of Draft Law 7150. This is not possible due to the that:

1. Types and nature of the activities of the first and second groups of the simplified taxation system (Clause 291.4 TC), namely "retail sale of goods from trading places on the markets" (Clause 1 of Clause 291.7 TC) and/or "provision of household services population" (Clause 1 of Clause 291.7 TC), "activities in the field of restaurant business" (Clause 2 of Clause 291.7 TC), – do not correspond to the nature of operations with virtual assets;

2. The list of household services (Clause 291.7 TC) does not include operations with virtual assets.

And such a possibility is adjacent to the fact that the activity of turnover of virtual assets is not included in the list of activities (the last paragraph of Clause 2 of Clause 291.4 TC), which does not allow to be on the simplified taxation system of groups 1-2.

In general, it can be stated that Draft Law 7150 is subject to further improvement before its consideration by the Verkhovna Rada of Ukraine.

References:

1. The Future of Cryptocurrency: 5 Experts' Predictions After a "Breakthrough." (2021, August 19). *NextAdvisor*. Retrieved from: <https://time.com/nextadvisor/investing/cryptocurrency/future-of-cryptocurrency/>
2. *Virtual Currencies*. Internal Revenue Service. (n.d.). IRS USA. Retrieved May 26, 2022. Retrieved from: <https://www.irs.gov/businesses/small-businesses-self-employed/virtual-currencies>
3. *Mincyfra spilno z kryptospilnotoju prezentuvaly strateghiju rozvytku rynku virtualjnykh aktyviv [The Ministry of Digital, together with the crypto community, presented a strategy for the development of the virtual asset market]*. (2021, July 21). Ministerstvo cyfrovoji transformaciji Ukrainy [Ministry of Digital Transformation of Ukraine]. Retrieved from: <https://thedigital.gov.ua/news/mintsifra-spilno-z-kryptospilnotoyu-prezentuvali-strategiyu-rozvitku-rinku-virtualnikh-aktiviv>
4. *Polozhennja pro Nacionaljnu komisiju z cinnykh paperiv ta fondovogho rynku [Regulations on the National Securities and Stock Market Commission]*, Pub. L. No. 1063/2011 (2011). Retrieved from: <https://zakon.rada.gov.ua/go/1063/2011>
5. *Porivnjajlna tablycja do Proektu #7150 Zakonu Ukrainy "Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy, shhodo opodatkuwannja operacij z virtualjnymy aktyvamy."* [Comparative table to Project No. 7150 of the Law of Ukraine "On Amendments to the Tax Code of Ukraine, Regarding Taxation of Transactions with Virtual Assets."] (2022). Retrieved from: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1245233>
6. *Pojasnjuvaljna zapyska do Proektu #7150 Zakonu Ukrainy «Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy shhodo opodatkuwannja oborotu virtualjnykh aktyviv v Ukraini» [Explanatory note to Draft No. 7150 of the Law of Ukraine "On Amendments to the Tax Code of Ukraine on Taxation of the Turnover of Virtual Assets in Ukraine"]*. (2022). Retrieved from: <https://itd.rada.gov.ua/billInfo/Bills/pubFile/1245235>
7. *Pro banky i bankivsjku dijajlnistj [About banks and banking activity]*, Pub. L. No. № 2121-III (2000). Retrieved from: <https://zakon.rada.gov.ua/go/2121-14>
8. *Pro virtualjni aktyvy [About virtual assets]*, Pub. L. No. 2074-IX (2022). Retrieved from: <https://zakon.rada.gov.ua/go/2074-20>
9. *Pro Nacionaljnyj bank Ukrainy [About the National Bank of Ukraine]*, Pub. L. No. 679- XIV (1999). Retrieved from: <https://zakon.rada.gov.ua/go/679-14>
10. *Pro finansovi poslughy ta derzhavne rehuljuvannja rynkiv finansovykh poslugh [About financial services and state regulation of financial services markets]*, Pub. L. No. 2664- III (2001). Retrieved from: <https://zakon.rada.gov.ua/go/2664-14>
11. *Proekt #7150 Zakonu Pro vnesennja zmin do Podatkovogho kodeksu Ukrainy shhodo opodatkuwannja operacij z virtualjnymy aktyvamy [Draft No. 7150 of the Law on Amendments to the Tax Code of Ukraine on Taxation of Transactions with Virtual Assets]*. (2022). Retrieved from: <https://itd.rada.gov.ua/billInfo/Bills/Card/39211>
12. *Propozycji Prezydenta Ukrainy do Zakonu "Pro virtualjni aktyvy."* [Proposals of the President of Ukraine to the Law "On Virtual Assets."] (2020). Retrieved from: <https://itd.rada.gov.ua/billInfo/Bills/Card/2698>

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**PROSPECTS OF STRENGTHENING THE PUBLIC ROLE
IN JUDGES SELECTION PROCEDURES IN UKRAINE
(institutional aspects)**

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Abstract. The article explores certain issues of strengthening public control over the activities of the judiciary as a prerequisite for restoring public trust in judicial institutions. The possibility of wider involvement of public representatives in the formation of selection commissions of judges, in particular in the formation of the composition of the High Qualification Commission of Judges of Ukraine, is being considered as an effective tool for fulfilling this task. Options for changing qualitative approaches to the formation of the composition of the High Qualification Commission of Judges of Ukraine are being considered, including those involving the inclusion of non-judge representatives in its composition. The solutions proposed in the article are based on the practice of two European countries (the Netherlands and Lithuania) and the United States of America. These countries pay great attention to the involvement of the public in the process of selecting judges, as a necessary prerequisite for the legitimization of the judiciary and the formation of public trust.

The article analyzes the changes that Ukrainian legislation went through in the part of forming the architecture of bodies that carry out the selection of judges. Separately, positive trends were noted in the effort to strengthen public control over the activities of the judiciary by starting the work of a new representative body of the Public Integrity Council, the purpose of which is to assist the High Qualification Commission of Judges of Ukraine in the selection of professional and honest candidates for the position of judges.

The article also examines issues related to the professional affiliation of members of the selection commissions of judges and the search for a reasonable balance between the judicial part of said commissions, the professional legal community and representatives of the public who are not related to the legal sphere. This approach is considered as an important prerequisite for further democratization of judicial power.

Key words: selection of judges, judicial selection commissions, Higher qualification commission of judges, reform of judicial power, public integrity council

Introduction. As long-term statistical studies show, a persistently high level of public distrust of the judiciary has formed in Ukraine. For example, in 2016, the level of trust of Ukrainian society in Ukrainian courts was the lowest among all European countries and amounted to only 11% (Citizen confidence with the judicial system and the courts, 2007 and 2016, 2017; 2017). Over the next four years, this indicator did not significantly improve. In particular, according to the results of an internet survey conducted using the CAWI¹ method in 2020, the level of trust of Ukrainian society in Ukrainian courts was 15.4% (Barometr doviry do sudu: (zvit za rezultatamy li fazy onlain-opytuvannia za metodom CAWI), 2020). This is too weak dynamics in four years. If this pace is maintained, Ukraine will need almost fifty years to reach the level of public trust in the judicial system, which was in the same year 2016 in Great Britain and consisted 63% (Citizen confidence with the judicial system and the courts, 2007 and 2016, 2017; 2017). Due to this problem, solving the issue of improving the quality of Ukrainian justice is an urgent task. However, it is necessary to understand where to start?

Analyzing the possible reasons that determine the low level of public trust in the activities of

¹ CAWI (Computer Assisted WebInterviewing) is a form of internet interviewing where the respondent fills out a web-based questionnaire on their own device (computer, phone, etc.)

judicial institutions, as well as affect the unsatisfactory state of Ukrainian justice, among a number of other reasons, it is worth identifying the following two. The first reason is related to the fact that, despite the numerous attempts to reform the judicial system, most of which related to the implementation of institutional changes (creation and abolition of higher courts, changing the procedure for electing (appointing) judges, liquidating the activities of territorial (regional) qualification commissions of judges etc), for many years no real steps were taken related to personnel renewal of the judiciary. In this regard, significant positive changes in the quality of Ukrainian justice have not been achieved.

The second reason concerns such an important issue as ensuring public control over the activities of judges. The detachment of the judiciary from society, its closed nature, has constantly provoked the preservation of negative phenomena that existed within the judicial system. The isolation of the judicial system is a problem that is not unique to Ukraine. The state and consequences of the deliberate distancing of the judiciary from society in other countries is quite accurately described in the report of the European Network of Judicial Councils: "that a judiciary that claims independence, but refuses to be accountable to society, will not gain its trust ." (European network of judicial councils, 2014).

Under this conditions, the article will analyze the approaches that were used before and continue to be used in Ukraine and the world, to ensure a higher level of accountability of the judiciary to society through the possibility of forming the composition of judicial selection commissions – bodies that carry out the selection of judges.

Materials, methods, analysis

1. Judicial selection commissions in Ukraine

Let's start by noting that the unsatisfactory state of the Ukrainian judiciary is not a legacy of recent years. It was the reason that forced the authorities to permanently resort to reforming the judicial branch from the first days of the creation of the newly independent state of Ukraine (Moskvyeh, 2011:293,294). Among the issues touched upon by the judicial reforms, there were always issues related to measures to improve procedures for the selection of judges. Thus, in 1992, a new system was introduced to replace the procedure of popular election of judges, which existed in Ukraine until that time, which launched the usage of the institute of "judicial selection commissions". Special collegial bodies were created to select and evaluate the activities of judges, in particular: 1) qualification commissions of judges, 2) attestation and disciplinary commissions of judges, and 3) the Higher Qualification Commission of Judges of Ukraine (hereinafter – HQCJU). Qualification commissions of judges conducted the selection of candidates for the position of judges of courts of first and appellate instance (Zakon Ukrainy "Pro status suddiv", 1992, art.16). Attestation and disciplinary commissions of judges checked the qualification level of acting judges and conducted disciplinary proceedings (Zakon Ukrainy "Pro status suddiv", 1992, art. 25). HQCJU dealt with issues of selection, attestation (qualification assessment) and disciplinary proceedings of judges who held positions of the higher judiciary (Zakon Ukrainy "Pro kvalifikatsiini komisii, kvalifikatsiinu atestatsiui i dystsyplinarnu vidpovidalnist suddiv sudiv Ukrainy", 1994, art. 6). As already noted, an important amendment to the legislation was that the right to elect judges was transferred from the people to their representative electoral bodies – territorial (regional, inter-district, Kyiv and Sevastopol city) councils of people's deputies and the Verkhovna Rada of Ukraine². As a result of this step, the role of judicial selection commissions has grown significantly. After all, these particular commissions were entrusted with the task of forming a pool of candidates for the position of judges, for whom the relevant representative electoral bodies had to vote in the future.

In 2010, during the second stage of judicial reforms³, new steps were taken to improve the system of judicial selection bodies. They related to strengthening the centralization of the selection process

² Since 1996, the right to appoint judges for the first time for 5 years was transferred to the President of Ukraine, then judges were elected indefinitely by the Parliament of Ukraine (Article 128 of the Constitution of Ukraine as amended in 1996). Since 2016, judges have been appointed by the President of Ukraine indefinitely (Article 128 of the Constitution of Ukraine in the 2016 version).

³ 2010 is classified by the author of the article as the second stage of judicial reforms regarding institutions that carry out the selection and certification of judges.

of judges. Thus, the territorial (regional) qualification commissions of judges, which selected judges for courts of first and appellate instance, were liquidated. The powers of the liquidated commissions were transferred to the HQCJU. In this regard, its role as a selection body of judges has significantly strengthened. In particular, after 2010, the HQCJU became the only body that carried out the selection and attestation (qualification assessment) of judges of all levels in Ukraine (Zakon Ukrainy “Pro sudoustrii i statu suddiv”, 2010, art. 91). In fact, 13 members of the HQCJU formed the entire body of judges (Zakon Ukrainy “Pro sudoustrii Ukrainy”, 1981, art. 75). Because of this, the question of the composition of the HQCJU has gained new relevance. The question of the introduction of public representatives into the commission composition with the aim of democratizing the judiciary has become especially relevant.

2. Democratization of judges selection procedures

2.1. Re-certification procedure

In 2015–2016, during the third stage of reform⁴ of the judicial system, including of the system of selection of judges, a new procedure was introduced – the primary qualification attestation of judges, and a new consultative body was created in the system of judicial selection bodies – the Public Council of Integrity (hereinafter – the PIC). These two legislative amendments became the most visible and progressive changes that were introduced into the legislation of Ukraine along with the third stage of reforms. Both the procedure of re-certification of judges and the new public body became extremely important tools for Ukrainian society, which played a significant role in the development of the judicial system and in the process of renewing the judicial corps.

Thus, the procedure of total re-certification of all judges (according to the official terminology “primary qualification attestation” (Zakon Ukrainy “Pro zabezpechennia prava na spravedlyvyi sud”, 2015, art. 6 of Final and Transitional Provisions)), which affected courts of all levels and all specializations, was a completely new approach to the assessment of professional, and moral, and ethical level of judges (Zakon Ukrainy “Pro zabezpechennia prava na spravedlyvyi sud”, 2015, art. 69,72), which has not been used in Ukraine until now.

The purpose of the re-certification of judges was to create an updated professional corps of judges by conducting a continuous verification of the level of competence, professional ethics and moral traits of acting judges. Re-certification was planned in several stages and was to be completed over several years. For judges of the Supreme Court of Ukraine and higher specialized courts, the term was set at six months from the date of entry into force of the law. For judges of appeal courts, the term was two years. For judges of local courts, the terms were determined by the HQCJU (Zakon Ukrainy “Pro zabezpechennia prava na spravedlyvyi sud”, 2015, art. 6 of Final and Transitional Provisions).

The perceived length of the process was associated with many organizational issues, which also required adequate time for their preparation and resolution. In particular, just to organize the re-certification process of 7,000 judges who worked in Ukrainian courts at the beginning of 2016 [Informatsiia pro diialnist DSA Ukrainy, yii terytorialnykh upravlin shchodo finansovoho ta materialno-tekhnichnoho zabezpechennia sudiv u I pivrichchi 2016 roku, 2016], it was necessary to determine the schedule of commission meetings and the re-certification schedule, prepare test tasks, solve the issue of room allocation, develop appropriate procedures for notifying re-certification participants about the terms of its conduct, approving instructions for determining re-certification results, and taking other measures. But the ultimate goal of recertification was too important to be intimidated by organizational difficulties.

The pace of re-certification of judges since 2016 has been different. In 2016, 84 meetings of the HQCJU were held (Zvit Vyschoi kvalifikatsiinoi komisii suddiv Ukrainy za 2016 rik, 2016). In 2017, there were 26 meetings [Zvit Vyschoi kvalifikatsiinoi komisii suddiv Ukrainy za 2017 rik,

⁴ 2015–2016 years are classified by the author of the article as the third stage of judicial reforms regarding institutions that carry out the selection and certification of judges

2017). In 2018, there were 332 meetings (Zvit Vyschoi kvalifikatsiinoi komisii suddiv Ukrainy za 2018 rik, 2018). At the same time, from the end of 2019, the powers of the HQCJU were terminated. Meetings of the HQCJU at which current judges were checked, along with the entire process of re-certification of judges in Ukraine, stopped.

Along with this, even during this short period of time and irregular meetings of the HQCJU, re-certification turned out to be quite an effective tool that allowed to improve the quality (professionally and morally and ethically) of the composition of the judicial corps. As a result of the three-year re-certification of judges, as of December 26, 2018, 419 judges out of 2,043 judges were dismissed or were subject to dismissal (Infografika. Rezultaty otsiniuvannia stanom na 26 hrudnia 2018 roku, 2019).

In this case, it is worth noting the aspect that re-certification, as a mechanism for cleaning the judiciary, had a significant positive indirect effect. It turned out that some of the judges, who were not confident in their level of knowledge of the law or in their ability to prove the legality of the acquisition of their assets and who did not want to be dismissed based on the results of a negative re-attestation, voluntarily resigned their powers and resigned from their positions (Infografika. Rezultaty otsiniuvannia stanom na 26 hrudnia 2018 roku, 2019). For example, in 2016, 50 judges out of 281 judges of appeal courts of the Kyiv region resigned from their positions (Zvit Vyschoi kvalifikatsiinoi komisii suddiv Ukrainy za 2016 rik, 2016). That is, every sixth judge of the appellate courts of the Kyiv region had certain reasons for not passing the qualification assessment. And if you compare statistical data for 2016-2018 regarding the number of judges dismissed in Ukraine due to unwillingness to undergo re-certification (419) with the number of judges who were dismissed as a result of negative re-certification (179), the first figures will be many times higher than the second (Infografika. Rezultaty otsiniuvannia stanom na 26 hrudnia 2018 roku, 2019). Thus, the risk of being recognized as an incompetent or unscrupulous judge turned out to be the argument that made it possible to significantly update the composition of the judicial corps in a positive direction. Under the mentioned circumstances, the decision on the re-certification of the current judges should definitely be considered the first really effective step aimed at solving the issue of renewing the corps of judges.

2.2. Public integrity council

The second important step of the legislative changes of 2015–2016, as already mentioned earlier, provided that civil society institutions also began to be involved in the competitive selection procedures of candidates for the post of judge. In order to implement this legislative idea, the PIC was formed, which was an auxiliary body and consisted of twenty members (Zakon Ukrainy “Pro sudoustrii i status suddiv”, 2016, art. 87). Representatives of human rights public associations, legal scholars, lawyers, and journalists could be members of the PIC. The specified public institution acted as an auxiliary body at the HQCJU (Zakon Ukrainy “Pro sudoustrii i status suddiv”, 2016, art. 87). The PIC was expected to play a prominent role of effective public control over the processes of selection and certification of judges, which would add objectivity to them. In particular, the PIC was supposed to assist the HQCJU during the examination of questions about the compliance of judges (or candidates for the position of judges) with two main criteria: 1) the criterion of professional ethics and 2) the criterion of integrity (Zakon Ukrainy “Pro sudoustrii i status suddiv”, 2016, art. 87).

On the other hand, the expectations regarding the tangible influence of the PIC on the selection procedure of judges turned out to be too optimistic. However, this was not the fault of the PIC. In the analytical report published by some members of the PIC in 2019, it was noted not only about the difficulties in the interaction between the HQCJU and the PIC during 2016-2018, but also about the problems in the work of the HQCJU (Butko et al., 2019:37). Over the years, the complexity of the situation was confirmed by the conclusions of other public organizations. In particular, the Center for Democracy and the Rule of Law noted that due to the unsatisfactory composition of the HQCJU, “for three years of the judicial reform, the judiciary has not been cleansed of unscrupulous judges” (Sudovu systemu ne zminyty: potribna uchast hromadskosti, 2019).

In addition to the problems with the interaction of the PIC and the HQCJU, it is worth saying that the functional capabilities of the PIC were insufficient from the very beginning. This was due to shortcomings in the legislation. Thus, the legislative procedure for the selection of judges allowed the HQCJU to ignore the position of the public, represented by the recommendations of the PIC. In particular, the HQCJU was given the right to “block” and ignore the conclusions of the PIC, which contained information about certain controversial issues in the dossiers or biographies of candidates for the position of judge. As a result, this led to the appointment of judges with a dubious professional level or dubious integrity (*Sudovu systemu ne zminyty: potribna uchast hromadskosti*, 2019). The corresponding legal deficiency was corrected only in 2019, and the conclusion of the PIC could be disregarded only if eleven of the sixteen members of the Commission voted against it. That is, a qualified majority of the members of the HQCJU had to vote against the conclusion of the General Assembly, which was unlikely (*Zakon Ukrainy “Pro sudoustrii i status suddiv”*, 2016, art. 88).

In any case, it is necessary to remember that the PIC was only an auxiliary body, and not a full-fledged part of the composition of the HQCJU. This circumstance was weakening the possibility of public influence on the judicial system compared to the case if the public representatives were directly part of the relevant selection body of judges. Therefore, the formation of the HQCJU from representatives of the judiciary and representatives of the public environment in a broad sense would be the best solution for achieving the goal of increasing public control over the activities of judges. In the current conditions, another possible option for strengthening the representative influence on the decisions regarding the selection of judges may be the creation of joint commissions, which will be attended in appropriate proportions by the representatives of the HQCJU and members of the PIC. In such a case, this dual commission should be given the right to decide whether or not to recommend a suitable candidate for the post of judge. Otherwise, the positive influence of the public will be neutralized by the coherence of the actions of unreformed judicial bodies.

Therefore, as the above information shows, even after the judicial reform in 2015-2016, which markedly improved the system of selection of judges, in particular due to the introduction of the procedure of continuous re-certification of judges and the involvement of representatives of civil society in the competitive procedures for the selection of judges, the judicial system changed very reluctantly and tried to protect itself with the help of shortcomings in the legislation.

Undoubtedly, similar circumstances force us to continue the search for those solutions that would help to introduce such processes in Ukraine and choose such organizational models for the selection of judges, which would, on the one hand, allow selecting the best specialists from among the best, maintain a reasonably high level of judicial autonomy from the political authorities, and on the other hand, they still allowed the implementation of the constitutional principle of power belonging to the people and left judges accountable and under the control of citizens. Western scholar constitutionalist Paul Bovend'Eert conveys this opinion as follows: “there must be some construction of democratic control or supervision in Parliament regarding judicial appointments. A judiciary without any democratic control, as a state within the state, is not acceptable.” (Bovend'Eert, 2018). For Ukraine, which declares itself a democratic state, the movement along the path of spreading democratic principles in the judicial system should also be a priority and should be maintained.

3. Composition of judicial selection commissions

3.1. Ways to improve the composition of the HQCJU based on international practice

Therefore, the first thing that needs to be done for the further democratization of the judicial power is to optimize the format of the activity of the HQCJU. It is worth starting with reducing the influence of representatives of the judiciary on the selection of candidates for judicial positions. The next step should be the separation of responsibility for the formation of the judicial corps with other subjects of the selection process. Among such subjects, it is expedient to include representatives from the nonjudicial system – specialists of both legal and non-legal specialties, who would be consid-

ered representatives of society in a broad sense (Butko et al., 2019:8), following the European and American models. In this format, the HQCJU will have a more democratic appearance. In addition, this approach corresponds to the recommendations of the public, international experts, and international practice (Corruption prevention members of parliament, judges and prosecutors: conclusions and trends, 2019:18).

Thus, as part of a study of the activities of the bodies that select judges in Ukraine, which was conducted in 2019 by the public organization Center for Democracy and the Rule of Law, appropriate recommendations were made, which proposed to introduce changes to the legislation of Ukraine in terms of the formation of the composition of the HQCJU and to provide for "significant (at least half of the composition of the Commission) representation of the public (journalists, representatives of public organizations, psychologists, representatives of HR agencies, etc.) in the composition of the Commission" (Butko et al., 2019:8).

In turn, the reports of the international organization Group of States against Corruption (GRECO)⁵, which examined the issues of organizing the activities of bodies for the selection of judges in European countries, also noted that judicial councils and commissions for the appointment of judges in European countries are beginning to include non-professionals members and explore other steps they can take to better reflect the society they serve. In addition, GRECO positively evaluates efforts aimed at ensuring that the judicial system is not isolated and reflects the interests of society (Corruption prevention members of parliament, judges and prosecutors: conclusions and trends, 2019:18).

This shows that the democratization of judicial power is a modern trend in European countries.

If we talk about European trends and international approaches, it is worth citing the example of some European countries and the USA.

In particular, the experience of Europe shows that in the Netherlands and Lithuania, a significant part of the judicial selection commissions, in addition to the judges themselves and professional lawyers, are representatives from the nonjudicial system. In particular, the composition of the National Commission for the Selection of Judges (Landelijke selectiecommissie rechters) of the Netherlands is a unique example of representative diversity. Thus, in 2018, in addition to judges, the National Commission included representatives of the professional legal community (lawyers and prosecutors): 1) pastor-theologian of the Protestant church, 2) film consultant, 3) freelance director, 4) teacher and others (Butko et al., 2019:6). In Lithuania, in 2018, the members of the Selection Committee for judicial candidates as representatives of the public included: 1) a psychologist/consultant on personnel management issues, 2) a teacher at Mykolas Romeris University (specialty – political science), 3) the head of the online media association (journalist) (Butko et al., 2019:4).

As can be seen from the example of these countries, the composition of the selection commissions of judges was not formed according to the principle of dominance of judges or professional legal representation, but consisted of a wider list of professions. At the same time, the explanation of this approach to the formation of the selection commissions of judges in the Netherlands, Lithuania, and other countries remains the same – the level of public control over the activities of judges should be higher.

3.2. Juridical and Non-juridical members in the selection commissions of judges

At the same time, while noting the importance of non-juridical members in the selection commissions of judges, the role of lawyers, lawyers and lawyers should not be underestimated. For example, the experience of the USA shows that in 22 states there are nomination commissions for judges, which are similar to selection commissions for judges like the HQCJU (The O'Connor judicial selection plan, 2014:9). The composition of such nomination commissions is usually represented by judges, lawyers and representatives from the nonjudicial system, so-called lay-persons. Along with this, assessing the quantitative balance between representatives of the judiciary, representatives of the legal community

⁵ GRECO (The Group of States against Corruption) – The Group of States against Corruption sets anti-corruption standards for state activity and monitors the compliance of practices with these standards.

and representatives of the public, we note that there are states in which the public part in its quantitative composition prevails in the number of representatives of the judiciary and representatives of the professional legal environment. Thus, in the states of Arizona and Colorado, most members of the nomination commission are representatives from the non-judicial sphere (The O'Connor judicial selection plan, 2014:10).

At the same time, the experience of the USA eloquently shows another important circumstance – the fact that representatives of legal specialties must be present in the composition of the nomination commissions of judges. For these reasons, it is worth investigating in more detail the issue of professional legal representation in the configuration of judicial selection commissions.

Analyzing the level of professional (non-judge) legal representation in the judicial selection commissions and determining exactly which specialists in legal specialties should be involved in such a composition (so that they reflect the position of the public as fully as possible), it would seem most appropriate to include judges in the selection commissions precisely representatives of human rights organizations. And here it is worth noting that this concept has been successfully implemented in the configuration of the PIC, which, in accordance with the legislation of Ukraine, helps the HQCJU to select judges.

However, it is worth explaining why the representatives of human rights organizations are the most "valuable" part of the selection commissions. Giving preference to this category of lawyers and choosing them from among other representatives of legal professions, for example practicing lawyers advising businesses, or scientists or teachers of legal research and educational institutions, can be explained by the following reasoning. The specificity of the activities of human rights organizations is based on the genetic or innate need to protect human dignity and the vocation of their members in the need to protect basic human rights and freedoms. As a result, representatives of such organizations are less vulnerable to negative factors that distort the transparency of selection – such as self-interest, materialism, and mercantilism. In addition, such specialists have a comprehensive vision of most of the problems that exist in state authorities, and in particular in law enforcement and judicial bodies, and because of this, they more consciously assess the role and importance of a virtuous and professional candidate for a judicial position and the importance of electing exactly such a person for this position. In this component, lawyers representing the business sector are inferior to human rights defenders, because a good corporate lawyer is the person who will be able to better protect the interests of the company regardless of whose side the truth is on. In other words, if a weakness in the law would allow a step to be taken that would not be in accordance with the principles of justice, but it would be in the interests of the company, then the corporate lawyer will almost always take this step.

Secondly, comparing the future suitability for the role of a member of the selection commission of judges between human rights defenders and representatives of the educational and academic environment, it should be said that, as a rule, the first have an advantage in terms of having more practical experience of working with the judicial system and a deeper awareness of its shortcomings. As a whole, the ethical and professional component of the representatives of human rights organizations gives them, as possible members of the selection commissions, a finer vision and the ability to distinguish the features that should make up the professional and moral portrait of a candidate for the position of a judge, a vision of what qualities should dominate in applicants for the position of judge mantle. Such traits and abilities are extremely important for members of selection commissions, if the main emphasis in matters of formation of the corps of judges is to set the requirements of professionalism, morality and integrity.

Continuing the theme of the representative composition of selection commissions, lay-persons, who should also add objectivity to the decisions made by the relevant body, can be a likely addition to the participation of professional lawyers and human rights defenders in their composition. Similar analogies to the participation in legal proceedings of persons unrelated to the legal profession can be seen in the example of the work of jurors, who perform the role of public arbitrators in a court session.

In this case, the point of view, which foresees the possibility of forming the composition of the HQCJU in addition to judges, representatives of legal specialties, as well as jurors, may be potentially suitable. After all, the institution of jurors stands at the origins of the formation of the institution of judging and is an extremely interesting example of its evolution. Thus, in Ancient Greece, the so-called "dikasteries", i.e., quasi-judicial bodies, consisting of elected persons, who were given the right to administer justice throughout the year, operated to resolve legal disputes. The dicastery did not recruit professional lawyers, as there was no such specialization at that time. Instead, they chose among experienced people no younger than 30 years old with a good reputation, who took an oath to judge according to honor and conscience, and these people were allowed to administer justice (Latyshev, 1888:322). An interesting feature of the dicastery was the number of so-called judges – in some places their number amounted to more than several thousand people (Latyshev, 1888:322).

It is obvious that historical development has produced more effective models of justice, which are represented, in particular, by the current judicial bodies, but public participation, one way or another, remains a necessary tool for monitoring justice, which allows preventing destructive phenomena in the judicial system [Khotynska-Nor, 2016]. That is why the historical experience of the Greek dicasteries also provokes the idea of the possibility of involving in the procedure of selection of judges ordinary citizens who had experience of being jurors in court sessions. In this case, the assumption is used that the mentioned persons served as jurors for a certain time, and therefore they can have a more accurate idea of what traits a judge should possess and what points in the biography or personal qualities of a candidate for the position of judge should be paid more attention to. At the same time, this approach requires an additional review of the requirements that should be applied to persons participating in the trial as jurors. If this concept before the formation of the composition of the HQCJU is implemented, then the representatives of the commission can also be replenished in this way with experienced specialists from the public environment. In the end, representatives of churches, mass media and educational institutions or the cultural community, who are members of the judicial selection commissions in European countries, play the role of jurors in the process of selection and attestation of judges.

Each of these circumstances, as well as many others, should be carefully considered and taken into account when choosing the best institutional model for the selection of judges, or when looking for possible ways to improve it.

Along with this, it should be understood that the continuation of the reforms is the biggest threat to the existing judicial system, which is expected to fear losing control over the procedure of independent formation of the judicial corps. However, it is obvious that the priority of society should dominate here over the interests of one professional community and the reform movement must be continued in order to restore legitimacy to the judiciary. "The judiciary achieves the legitimacy and respect of its citizens thanks to its excellent work, the result of which are impartial, well-founded decisions" (Kharpenko, 2017:253).

Conclusions. In recent decades, the legislation of Ukraine, which determined the institutional system of the judges selection, has undergone changes and improvements. As a result of the carried out reforms, it was possible to form a model of the mechanism for the judges selection, which was significantly better than the previous versions, but it still needs to be brought closer to its perfect appearance. In order to improve the situation with the formation of a professional judicial corps in Ukraine, it is currently necessary to focus on one extremely important task – the task of improving public control over the formation of the judicial corps within the existing institutional models of the relationship between the judiciary and the public.

An effective way of empowering the public to influence the judiciary is the opportunity for public representatives to participate in the judges selection. To do this, it is necessary to make appropriate legislative changes in the approaches to the staffing of the HQCJU. The essence of such changes will be the introduction of judges from the public into the composition of the HQCJU. At the same time,

two principles should be implemented. The first is that members of the public are included in the commission on a permanent basis and have equal voting rights with other members of the commission regarding issues discussed at the meetings of this body. This will allow solving the existing problem, when the activity of the Public Integrity Council, as a representative of Ukrainian society, is not as effective as expected. The second principle provides that representatives of the public should be persons who, by virtue of their professional activity and experience, can act as objective and impartial arbitrators. Such persons may include representatives of human rights organizations, jurors, as well as, what is especially important, specialists from the non-judicial sphere, including professional psychologists, teachers, journalists, etc. A wide range of representatives from the public should provide an opportunity to broaden the angle of view of candidates for the position of judges and acting judges during the assessment of their professional, business and moral qualities. As a result of the implementation of such changes, it should be expected that the quality of the judiciary, the quality of justice will change, and the level of trust in the judiciary will be much higher than it is today.

Therefore, judicial reform remains one of the most awaited in society, and its implementation and change of judicial power for the better are impossible without the participation of society. It is also impossible without external pressure and external expert and financial support, which Ukraine constantly receives. Because of this, it is worth for Ukraine to heed the advice on organizing the process of selecting judges given to the Ukrainian government and parliament by international organizations, including European Council, GRECO, the European Network of Judicial Councils and other partners of Ukraine in its efforts to develop effective state institutions, including the judiciary power.

References:

1. OECD. (2017, Jul 13). Citizen confidence with the judicial system and the courts, 2007 and 2016. [Statistic data]. https://doi.org/10.1787/gov_glance-2017-graph168-en
2. Hromadska orhanizatsiia «Instytut prykladnykh humanitarnykh doslidzhen». (2020). Barometr doviry do sudu: (zvit za rezultatamy li fazy onlain-opytuvannia za metodom CAWI). (Barometer of trust in the court: (a report based on the results of the 1st phase of an online survey using the CAWI method). Mizhnarodnyi fond «Vidrodzhennia», Hromadska orhanizatsiia «Instytut prykladnykh humanitarnykh doslidzhen», Embassy of Sweden in Ukraine, USAID. https://newjustice.org.ua/wp-content/uploads/2021/03/Public_Trust_Barometer_Report_1st_Stage_2020_UKR.pdf [in Ukrainian].
3. European network of judicial councils. (2014). Independence and Accountability of the Judiciary. ENCJ Report 2013-2014. https://www.encj.eu/images/stories/pdf/workinggroups/independence/encj_report_independence_accountability_adopted_version_sept_2014.pdf
4. Moskvych, L. M. (2011) Effectiveness of the judicial system: conceptual analysis (Efektyvnist sudo voi systemy: kontseptualnyi analiz). FINN. ISBN 978-966-8030-88-8 [in Ukrainian].
5. Zakon Ukrainy "Pro status suddiv". (The Law of Ukraine "On the Status of Judges"). № 2862, 1992. Vidomosti Verkhovnoi Rady Ukrainy. N 8, st. 56 [in Ukrainian].
6. Zakon Ukrainy "Pro kvalifikatsiini komisii, kvalifikatsiinu atestatsiiu i dystsyplinarnu vidpovidalnist suddiv sudiv Ukrainy". (Law of Ukraine "On Qualification Commissions, Qualification Certification and Disciplinary Responsibility of Judges of Courts of Ukraine"). № 3911, 1994. Vidomosti Verkhovnoi Rady Ukrainy. № 22, st. 140 [in Ukrainian].
7. Zakon Ukrainy "Pro sudoustrii i statu suddiv". (Law of Ukraine "On the Judiciary and the Status of Judges"). № 2453, 2010. Vidomosti Verkhovnoi Rady Ukrainy. № 41-42, №43, № 44-45, st. 529. [in Ukrainian].
8. Zakon Ukrainy "Pro sudoustrii Ukrainy" (v redaktsii vid 15.07.1992). (The Law of Ukraine "On the Judiciary of Ukraine" (as amended on 15.07.1992)). № 2022, 1981. Vidomosti Verkhovnoi Rady URSR. № 24. st. 357 [in Ukrainian].
9. Zakon Ukrainy "Pro zabezpechennia prava na spravedlyvyi sud". (Law of Ukraine "On Ensuring the Right to a Fair Trial"). № 192, 2015. Vidomosti Verkhovnoi Rady Ukrainy. № 18, № 19-20, st. 132 [in Ukrainian].

10. Informatsiia pro diialnist DSA Ukrainy, yii terytorialnykh upravlin shchodo finansovoho ta materialno-tekhnichnoho zabezpechennia sudiv u I pivrichchi 2016 roku. (2016). <https://dsa.court.gov.ua/dsa/pokazniki-diyalnosti/1233/rtyruuyiu> [in Ukrainian].
11. Vyshcha kvalifikatsiina komisiia suddiv Ukrainy. (2016). Zvit Vyshchoi kvalifikatsiinoi komisii suddiv Ukrainy za 2016 rik. (Report of the Higher Qualification Commission of Judges of Ukraine for 2016.). <https://HQCJU.gov.ua/sites/default/files/field/file/zvit2016.pdf> [in Ukrainian].
12. Vyshcha kvalifikatsiina komisiia suddiv Ukrainy. (2017). Zvit Vyshchoi kvalifikatsiinoi komisii suddiv Ukrainy za 2017 rik. (Report of the Higher Qualification Commission of Judges of Ukraine for 2017.). <https://HQCJU.gov.ua/sites/default/files/field/file/zvit2017.pdf> [in Ukrainian].
13. Vyshcha kvalifikatsiina komisiia suddiv Ukrainy. (2018). Zvit Vyshchoi kvalifikatsiinoi komisii suddiv Ukrainy za 2018 rik. (Report of the Higher Qualification Commission of Judges of Ukraine for 2018.). <https://HQCJU.gov.ua/sites/default/files/field/file/zvit2018.pdf> [in Ukrainian].
14. Vyshcha kvalifikatsiina komisiia suddiv Ukrainy. (2019). Infografika. Rezultaty otsiniuvannia stanom na 26 hrudnia 2018 roku. Storinka Vyshchoi kvalifikatsiinoi komisii suddiv ukrainy u Feisbuk. (Infographics. Evaluation results as of December 26, 2018. Facebook page of the Higher Qualification Commission of Judges of Ukraine). <https://www.facebook.com/photo/?fbid=2190987814446797&set=a.1807544106124505> [in Ukrainian].
15. Zakon Ukrainy "Pro sudoustrii i status suddiv". (The Law of Ukraine "On the Judiciary and the Status of Judges"). № 1402, 2016. Vidomosti Verkhovnoi Rady Ukrainy. № 31, st.545 [in Ukrainian].
16. Butko, K., Kuibida, R., Maselko, R., Sereda, M., Smaliuk, R., Chyzyk, H. (2019). Kvalifikatsiine otsiniuvannia suddiv 2016-2018 rik: promizhni rezultaty (analytychnyi zvit). (Qualification evaluation of judges 2016-2018: interim results (analytical report)). https://rpr.org.ua/wp-content/uploads/2019/04/1554460296qualification_report_full_eu.pdf [in Ukrainian].
17. Sudovu systemu ne zminyty: potribna uchast hromadskosti. Tsentr demokratii ta verkhovenstva prava. 2019. S. 18. <https://cedem.org.ua/analytics/sudovu-systemu-ne-zminyty-zseredyny-potribna-uchast-hromadskosti/> [in Ukrainian].
18. Bovend'Eert, P.P.T. (2018). Recruitment and appointment of judges and justices in Europe and the US: law and legal culture. *Trema: Tijdschrift voor de Rechterlijke Macht*. 5. <https://hdl.handle.net/2066/192037>
19. Council of Europe. (October, 2017). Corruption prevention members of parliament, judges and prosecutors: conclusions and trends. GRECO – Conclusions and trends – 4th Evaluation. <https://rm.coe.int/corruption-prevention-members-of-parliament-judges-and-prosecutors-con/16807638e7>
20. The O'Connor judicial selection plan. (2014). IAALS. <https://iaals.du.edu/projects/o-connor-judicial-selection-plan>
21. Latyshev, V.V. (1888). Essay on Greek antiquities. A guide for high school students. Part I. State and military antiquities (Ocherk hrecheshkykh drevnostei. Posobyie dlia hymnazystov starshykh klassov. Chast I. Hosudarstvennyye y voennyye drevnosity.). https://archive.org/details/libgen_00299978/page/322/mode/2up [in Russian].
22. Khotynska-Nor, O.Z. (2016). Hromadskyi kontrol yak faktor rozvytku sudovoi systemy (Civil Control as Factor of Judicial System Development). *Chasopys tsyvilnoho i kryminalnoho sudochynstva*. 4 (31), 108-117. http://irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&Image_file_name=PDF/Chcks_2016_4_14.pdf [in Ukrainian].
23. Kharpenko, O.O. (2017, May 13). Vybornist suddiv: nedoliky ta perevahy (Election of judges: disadvantages and advantages). [Paper presentations] Mizhnarodna naukovo-praktichna konferencija naukovtsiv, suddiv, advokativ, pratsivnykiv pravookhoronnykh orhaniv, molodykh vchenykh, aspirantiv ta studentiv, Odesa, Ukraine. 253–254 [in Ukrainian].
24. Prylutskyi, S. V. (2010). Sudova vlada i hromadianske suspilstvo: vzaiemozviazok, mistse i rol u pravonii derzhavi (Judiciary and civil society: relationship, place and role in the rule of law). *Pravova derzhava*. № 21, 342-351. <http://dspace.nbuv.gov.ua/bitstream/handle/123456789/36862/47-Prilutskyi.pdf?sequence=1> [in Ukrainian].

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MARTIAL LAW AND VALUE ADDED TAX: PROBLEMATIC ISSUES

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Abstract. The article explores problematic issues of a regulatory and legal nature related to the imposition of martial law in Ukraine, which relate to the taxation and ensuring revenues to budgets of all levels, in particular, the introduction of changes in the administration of value added tax, their regulation and compliance from a legal point of view with the realities of today and the needs of taxpayers. The study was carried out based on the general scientific and special methods of scientific cognition. The introduction of the legal regime of martial law necessitated the rapid settlement of issues of constant filling of the state and local budgets. The above-mentioned also implies the use of effective and understandable tax collection procedures by the state, in particular, value added tax. Analysis of the regulatory and legal provisions of the amendments made to the Tax Code shows that the legal norms, governing the procedure for administering value added tax, particularly in terms of the tax credit formation, have an ambiguous interpretation, which leads to a violation of the balance of relations between the entities of legal relations of taxation.

Key words: martial law, value added tax, tax credit, Unified register of tax invoices, primary documents, possibility/impossibility of fulfilling tax duty.

Introduction. The imposition in Ukraine (caused by the military aggression of the Russian Federation) of the legal regime of martial law (Decree of the President of Ukraine No. 64/2022, 2022; Law of Ukraine No. 2102-IX, 2022) since 24.02.2022 necessitated the rapid settlement of issues of sufficient and systematic filling the state and local budgets in appropriate amounts, including through the payment of taxes and fees. Constant receipt of taxes and fees provides significant opportunities for the rapid response of the state to the solution of relevant issues and the proper meeting the national defense needs. In turn, the value added tax (hereinafter referred to as VAT) is considered one of the most efficiently working taxes from the fiscal point of view due to its high effectiveness and a wide tax base, which includes not only goods, but also works / services, ensures constant revenues to the budget. At the same time, in today's realities, tax receipts are possible from the business entities who are trying to continue their activities under martial law.

The main legal act regulating the general principles of the rights and obligations (the limits of necessary/ possible behavior) of entities of tax legal relations (taxpayers and controlling bodies), including the VAT administration in Ukraine (determining tax liabilities and formation of a tax credit), is the Tax Code of Ukraine (Tax Code of Ukraine, 2010) (hereinafter referred to as the Tax Code).

Taking into account the need to adapt the existing relations in the field of value added tax collection to the realities of martial law, the relevant legislative acts amended the Tax Code (Law of Ukraine No. 2118-IX, 2022; Law of Ukraine No. 2120-IX, 2022; Law of Ukraine No. 2260-IX, 2022). The amendments concerned a significant number of issues, but we will focus on those that in our opinion are essential particularly in terms of the formation of tax credit. Such changes initially provided for exemption from liability for non-registration of tax invoices/ adjustment calculations (if a taxpayer does not have the opportunity to fulfill his tax obligation in a timely manner), and the possibility of forming a tax credit based on primary (calculation) documents (Law of Ukraine No. 2118-IX, 2022; Law of Ukraine No. 2120-IX, 2022). In fact, the Unified Register of Tax Invoices (hereinafter referred to as the Unified Register of Tax Invoices) did not work at that time. Subsequently, the

work of the Unified Register of Tax Invoices was resumed, and the legislator returned the condition for the formation of tax credit based on received and registered tax invoices (Law of Ukraine No. 2260 IX, 2022). However, there are taxpayers who (due to certain circumstances) cannot currently register tax invoices, which subsequently affects the possibility of their counterparties (Buyers) to include the amounts of value added tax in tax credit.

Since the amounts of VAT included in tax credit in the future may reduce tax liabilities payable or can be reimbursed, the property benefits of obtaining the right to tax credit are obvious (especially for actually paid VAT in the cost of the goods/ services).

The aim of the article is determined by the need for scientific research into the legal regulation of the mechanism of tax credit formation during the legal regime of martial law, in particular based on primary (calculation) documents and/ or received and registered tax invoices. To date, given the introduction of changes in terms of value added tax collection, no research on this issue has been conducted.

The article, based on the analysis of the provisions of the relevant regulatory legal acts, examines the impact of introducing amendments to the Tax Code on the relationship between the entities of tax legal relations, and identifies problematic issues of legal regulation and ways to solve them. In addition, scientifically grounded conclusions on the outlined issues were made.

The main part. Tax credit under martial law. As already mentioned, the Tax Code of Ukraine (2010) regulates the administration of value added tax (hereinafter referred to as VAT), including determining tax liabilities and tax credit formation.

According to the definition contained in the Tax Code, tax credit from value added tax is the amount by which a payer of value added tax has the right to reduce the tax liability within the reporting (tax) period. In addition, this regulatory act defines the conditions under which the corresponding amounts of VAT on purchased goods/services can be included in tax credit, in particular, solely on the basis of tax invoices received and registered in the Unified Register of Tax Invoices. Tax invoices received from the Unified Register of Tax Invoices are the basis for a recipient of goods/services to calculate the tax amounts, related to the tax credit.

That is, tax credit includes the amount of tax paid/accrued in the event when a taxpayer carries out transactions for the acquisition or manufacture of goods and services, purchasing (building, construction, creation) of non-current assets, the import of goods and/or non-current assets into the customs territory of Ukraine. In addition, the amounts included in tax credit must be confirmed by properly drawn up and registered tax invoices. The absence of properly drawn up and registered tax invoices for transactions for the purchase of goods and services does not give the right to include the corresponding amounts of VAT in tax credit.

Given the imposition of the legal regime of martial law in Ukraine, the operation of the Unified Register of Legal Entities was suspended. The Tax Code was amended (Law of Ukraine No. 2118-IX, 2022; Law of Ukraine No. 2120-IX, 2022) and supplemented with new norms, according to which:

- if a taxpayer does not have an opportunity to fulfill his tax obligation in a timely manner, in particular, to comply with the deadlines for paying taxes and fees, submit reports, including reports provided for in paragraph 46.2 of Article 46 of this Code, registration in the relevant registers of tax or excise invoices, adjustment calculations, submission of electronic documents containing data on actual fuel balances and the volume of circulation of fuel or ethyl alcohol, etc., he is exempted from liability provided for by this Code with the obligatory performance of such obligations within three (six) months after the termination or abolition of martial law in Ukraine (*subparagraph 69.1 of paragraph 69 of subsection 10 of Section XX of the Transitional Provisions of the Tax Code* (Tax Code of Ukraine, 2010));

- temporarily, for the period of the legal regime of martial law, taxpayers for transactions for the purchase of goods/services, for which no tax invoices and/or adjustment calculations to them

were registered by suppliers in the Unified Register of Tax Invoices, include in the tax credit for the reporting period the amount of value added tax paid (accrued) as part of the cost of purchased goods/ services, based on the primary (calculation) documents available to a payer, compiled (received) by a taxpayer on transactions for the purchase of goods / services in accordance with the Law of Ukraine On Accounting and Financial Reporting in Ukraine (*paragraph 32 2 of subsection 2 of Section XX Transitional provisions of the Tax Code (Tax Code of Ukraine, 2010)*).

That is, from the beginning of the imposition of the legal regime of martial law, taxpayers (Suppliers) were exempted from liability for non-registration of tax invoices in the Unified Register of Tax Invoices. In turn, taxpayers (Buyers) had the opportunity, for transactions for the purchase of goods/ services for which the suppliers did not register tax invoices and/or adjustment calculations to them, to include in the tax credit of the reporting period the amounts of VAT paid (accrued) as part of the cost of purchased goods/services, based on the primary (calculation) documents available to a payer. However, after the termination or cancellation of the legal regime of martial law, payers are obliged to ensure registration in the Unified Register of Tax Invoices and adjustment calculations, the registration of which is postponed for the period of martial law, and the tax credit declared by payers during martial law based on the primary (calculation) documents available to a payer is subject to mandatory clarification (bringing into compliance) taking into account the data of tax invoices and adjustment calculations registered in the Unified Register.

At the same time, termination of operation of the Unified Register of Tax Invoices and the formation of indicators of tax reporting with VAT based on the primary (calculation) documents available to a payer, drawn up (received) by a taxpayer for transactions for the purchase of goods/services, led to certain inconveniences in the administration of VAT, both for taxpayers (*existence of discrepancies between tax reporting indicators and the data of the Unified Register of Tax Invoices, which could further affect the reduction of the registration limit; impossibility to declare (receive) budgetary compensation*) and controlling bodies (*impossibility to carry out appropriate monitoring; impossibility of comparing (confirming) tax reporting indicators, in particular, the amounts included in tax liabilities and tax credit, taking into account actually feasible business transactions on the basis of duly registered tax invoices*).

In this connection, another amendment was made to the Tax Code (Law of Ukraine No. 2260-IX, 2022) (entered into force on 27.05.2022), which in the new version sets out paragraph 32² of subsection 2 and subparagraph 69.1 of paragraph 69 of subsection 10 of section XX Transitional provisions of the Tax Code, as well as paragraph 69 of subsection 10 of section XX Transitional provisions of the Tax Code were supplemented by new subparagraph 69.1¹. These changes include:

- temporarily, for tax periods of February, March, April, May 2022, for transactions for the purchase of goods/services for which tax invoices and/or adjustment calculations to them were not registered by suppliers in the Unified Register of Tax Invoices, taxpayers include in the tax credit of the reporting (tax) period the amount of value added tax paid (accrued) as part of the cost of purchased goods/ services, based on the primary (calculation) documents available to a payer, drawn up (received) by a taxpayer on transactions for the purchase of goods/ services in accordance with the Law of Ukraine On Accounting and Financial Reporting in Ukraine (*paragraph 32² of subsection 2 of Section XX Transitional provisions of the Tax Code (Tax Code of Ukraine, 2010)*);

- tax payers who have the opportunity to timely fulfill tax obligations to meet the deadlines for paying taxes and fees, submit reports, including reporting provided for in paragraph 46.2 of Article 46 of this Code, registration in the relevant registers of tax invoices, adjustment calculations, are exempt from liability for late performance of such duties, the deadline for which falls on the period starting from February 24, 2022 to the date of entry into force of the Law Of Ukraine On Amendments to the Tax Code of Ukraine and other laws of Ukraine on the specific features of tax administration of taxes, fees and single contribution during the martial law, state of emergency, subject to registration by such taxpayers

of tax invoices and adjustment calculations in the Unified Register of Tax Invoices before July 15, 2022, submission of tax reports by July 20, 2022 and payment of taxes and fees no later than July 31, 2022.

In case of self-correction by a taxpayer in tax periods before July 25, 2022, in compliance with the procedure, requirements and restrictions determined by Article 50 of this Code, errors that led to an understatement of the tax liability in the reporting (tax) periods falling on the period of martial law, such taxpayers are exempted from accrual and payment of penalties provided for in paragraph 50.1 of Article 50 of this Code, and penalties (*paragraph 3 and 6 of subparagraph 69.1 of paragraph 69 of subsection 10 of section XX of the Tax Code of Ukraine* (Tax Code of Ukraine, 2010));

- single tax payers of the third group, who use the specifics of single tax taxation at a rate of 2 percent, are exempt from liability for the late fulfillment of tax duties, the deadline for which falls on the period starting from February 24, 2022 to the day of transition of such payers to the application of the specifics of taxation by a single tax of the third group at a rate of 2 percent, provided that they fulfill such tax duties regarding registration of tax invoices/adjustment calculations in the Unified Register of Tax Invoices, submission of reports, payment of taxes and fees, within 60 calendar days from the date of transition to the taxation system which such taxpayers applied before choosing the system of taxation by single tax at a rate of 2 percent (*paragraph 5 of subparagraph 69.1 of paragraph 69 of subsection 10 of Section XX Transitional provisions of the Tax Code* (Tax Code of Ukraine, 2010));

- payers of value added tax are obliged to ensure within the time limits established by subparagraph 69.1 of this paragraph, the registration of tax invoices and adjustment calculations in the Unified Register of Tax Invoices, the deadline for registration of which falls on the periods specified in subparagraph 69.1 of this paragraph, and to clarify (bring in compliance) the tax credit declared by payers based on the primary (calculation) documents available to a payer, taking into account the data of tax invoices and/or adjustment calculations registered in the Unified Register of Tax Invoices (*subparagraph 69.1 of paragraph 69 of subsection 10 of section XX of the Transitional Provisions of the Tax Code* (Tax Code of Ukraine, 2010)).

Based on the foregoing, taxpayers who have the opportunity to fulfill their tax duty in a timely manner until 15.07.2022 had to register tax invoices for tax periods February – May of the current year, submit tax reports and pay taxes for tax (reporting) periods of February – May of the current year until 20.07.2022 and until 31.07.2022, respectively, and until 25.07.2022, they had to clarify (bring in line) the tax credit declared by payers for the relevant periods based on the primary (calculation) documents available to a payer, taking into account the data of tax invoices / adjustment calculations registered in the Unified Registry of Tax Invoices.

At the same time, paragraph 1 of subparagraph 69.1 of paragraph 69 of subsection 10 of section XX of the Transitional provisions of the Tax Code, taking into account the amendments made (Law of Ukraine No. 2260-IX, 2022), provides for exemption from liability in case a taxpayer does not have the opportunity to fulfill his tax obligation in a timely manner, including the registration of tax invoices.

At the same time, in accordance with paragraph 32² of subsection 2 of Section XX of the Transitional Provisions of the Tax Code, taking into account the amendments (Law of Ukraine No. 2260-IX, 2022), for tax periods of February, March, April, May 2022, taxpayers have temporarily the right to include in the tax credit of the reporting (tax) period the amount of VAT paid (accrued) as part of the value of the purchased goods/services, based on the primary (calculation) documents available to a payer, drawn up (received) by a taxpayer for transactions for the purchase of goods/services in accordance with the Law of Ukraine On Accounting and Financial Reporting in Ukraine.

Thus, Law No. 2260-IX (Law of Ukraine No. 2260-IX, 2022), on the one hand, obliged taxpayers to clarify (bring in compliance) the tax credit declared (formed) by payers for the relevant periods (February – May 2022) based on the primary (calculation) documents available to a payer, taking into account the data of tax invoices / adjustment calculations registered in the Unified Register

of Tax Invoices. And on the other hand, it still leaves (provides for) an opportunity for taxpayers temporarily for tax periods of February, March, April, May 2022 for transactions of the purchase of goods/services, for which no tax invoices and/or adjustment calculations to them were registered in the Unified Register of Tax Invoices, to include in the tax credit of the reporting (tax) period the amounts of VAT paid (accrued) as part of the cost of purchased goods/ services, based on the primary (calculation) documents available to a payer, compiled (received) by a taxpayer for transactions for the purchase of goods / services.

It is also appropriate to note that the Information Letter of the State Tax Service of Ukraine No. 3/2022 (hereinafter referred to as the STS Information Letter) contains similar conclusions. In addition, in this letter, the corresponding position also applies to the inclusion in tax credit of VAT amounts based of primary documents on relations with taxpayers (Suppliers), which, as of 27.05.2022, apply to a simplified taxation system with specific features (they are single tax payers of the third group at a rate of 2 percent) and who were value added tax payers before the transition to the simplified taxation system.

At the same time, the Information Letter of the STS of Ukraine No. 3, 2022 does not provide an unambiguous response to this matter, since it seems to indicate that taxpayers have the right to include in the tax credit for the tax reporting periods of February-May 2022 the corresponding VAT amounts, based on the primary (calculation) documents available to a payer, drawn up (received) by a taxpayer on transactions for the purchase of goods / services in accordance with the Law of Ukraine On Accounting. However, at the same time, it contains a warning that this Letter is for informational purposes only and is not an individual consultation on taxes since it is not based on the specific features of the actual circumstances of the transactions of a particular taxpayer. The information letter is based on the provisions of the current legislation of Ukraine and the practice of its application, which may change in the future.

At the same time, based on the position of the State Tax Service of Ukraine (hereinafter referred to as the State Tax Service of Ukraine, the Controlling Body), which is contained in the consultation (access mode: <https://svp.tax.gov.ua/media-ark/news-ark/print-591152.html>) (Information Letter of the STS of Ukraine, 2022), it can be concluded that the tax credit formed by a taxpayer (Buyer) on the basis of the primary (calculation) documents available to such a payer for transactions for the purchase of goods/ services that were carried out in February-May 2022, nevertheless, must be confirmed by July 15, 2022 by duly registered tax invoices, if it is possible for a taxpayer (Supplier) to fulfill his tax duties. If a tax invoice was not registered before the specified date (15.07.2022), the tax credit formed on the basis of primary (calculation) documents should be excluded from the declaration for the reporting period in which the transaction for the purchase of goods/ services was carried out (February – May 2022) by submitting a clarifying calculation to the declaration for the relevant reporting period. Only in the reporting period in which the actual registration of such a tax invoice will take place in the Unified Register of Tax Invoices, a taxpayer (Buyer) has the right to include the tax amounts specified in such a tax invoice in tax credit of such reporting (tax) period.

Thus, as we can see, even the State Tax Service of Ukraine definitely cannot decide on its position, whether at present (as of 10.10.2022) a taxpayer (Buyer) temporarily (during the legal regime of martial law) has the right to form tax credit for the relevant periods (February – May 2022) on the basis of the primary (calculation) documents available to a payer, drawn up (received) for transactions for the purchase of goods / services.

Although, in our opinion, the ambiguous (veiled) position of the State Tax Service of Ukraine, regarding whether a taxpayer (Buyer) has the right to tax credit for tax reporting periods (February – May 2022) based on his primary (calculation) documents, is most likely directly related to the impossibility of a taxpayer (Supplier) to fulfill his tax obligation, including the registration of tax invoices.

Possibility/ impossibility to perform tax duties. With the adoption of Law of Ukraine No. 2260-IX, 2022, the legislator divided taxpayers into those who have the opportunity to fulfill a tax duty and those who do not have such an opportunity. In this case, in the context of the possibility and impossibility of fulfilling tax obligations, we will focus on the tax obligation to draw up and register tax invoices by taxpayers who carry out (carried out) the supply of goods /services, and, accordingly, the possibility of forming tax credit by taxpayers who purchase goods/ services.

In turn, taking into account the provisions of the Tax Code and the realities of today, taxpayers who do not have the opportunity to fulfill the tax obligation to register tax invoices include, *firstly*: taxpayers who actually cannot fulfill it, also due to their stay in the territories located in the war zone and / or stay in the temporarily occupied territories, *secondly*: payers who are currently single tax payers of the third group and use the specific features of single tax taxation at a rate of 2 percent.

It is appropriate to note that in accordance with the provisions of Law of Ukraine No. 2260-IX, 2022), for the first category of payers, the procedure for confirming the possibility or impossibility of performing tax duties specified in subparagraph 69.1 of paragraph 69 of subsection 10 of Section XX of the Transitional Provisions of the Tax Code and the list of confirmation documents is approved by the central executive body that ensures the formation and implementation of state financial policy. At the same time, only on 06.09.2022, the Procedure for confirming the possibility or impossibility of performing the taxpayer's duties specified in subparagraph 69.1 of paragraph 69 of subsection 10 of Section XX of the Transitional Provisions of the Tax Code came into force (approved by the order of the Ministry of Finance of Ukraine No. 225 of 29.07.2022 and registered at the Ministry of Justice of Ukraine on 25.08.2022 under No. 967/38303) (hereinafter referred to as the Procedure No. 225) (Order of the Ministry of Finance of Ukraine No. 225, 2022).

Procedure No. 225 (Order of the Ministry of Finance of Ukraine No. 225, 2022) determines the sequence of actions (rules) for taxpayers and regulatory authorities to confirm the possibility or impossibility of taxpayers performing tax duties, in particular the grounds and list of documents that may indicate the existence of such circumstances, as well as the deadlines for taxpayers to submit relevant applications and for the controlling body to make a decision. At this, the obligation to confirm the possibility or impossibility of a taxpayer to fulfill his tax duty in a timely manner rests with the controlling body. However, the provisions of this regulatory act provide for the need for a payer to submit the relevant application and documents to confirm the circumstances of the impossibility to fulfill the tax obligation and for the Controlling Body to make the relevant decision. That is, we have a situation in which the impossibility of fulfilling the tax duty must be confirmed by the relevant decision of the Controlling Body based on the results of the submission by a payer of the relevant application and documents.

In addition, it is necessary to take into account the fact that some payers, due to circumstances beyond their control (being in the territories located in the *war zone, and / or staying in the temporarily occupied territories*), will be able to use the opportunity to submit an appropriate application and documents to confirm such status only after the termination of the legal regime of martial law (provided that they have such an opportunity at all). The above may be due to a significant number of different circumstances that may be the subject of a separate study (discussion).

In this regard, it should only be noted that in relation to such taxpayers, the relevant decision will actually be made only after the termination of the legal regime of martial law. In turn, the impossibility in the realities of today, the fulfillment by this category of taxpayers of the tax obligation to draw up and register tax invoices within tax periods of February – May 2022 for transactions regarding the supply of goods / services, leads to a situation in which taxpayers (buyers) may be deprived of the right to include amounts of VAT (paid during the purchase of such goods) to tax credit, reduce tax liabilities at its expense, and, accordingly, the amount of the tax payable to the budget for a certain tax (reporting) period.

When it comes to single tax payers who use the specific features of taxation at a rate of 2%, everything is clear. The situation is somewhat simpler, after the termination (abolition) of the legal regime of martial law, they will return to the usual taxation system for themselves and within 2 months must fulfill their tax obligations (for tax reporting periods February-May 2022) before switching over to a simplified taxation system, including the registration of tax invoices. Although one should not exclude the possibility that the Controlling Authorities in this case will put forward a requirement to adjust the tax credit (downwards) for the tax periods of February – May 2022 based on primary documents on relations with such taxpayers.

Discussion. The Tax Code of Ukraine, 2010 (taking into account the main provisions) stipulates that tax credit may include the amount of tax paid/accrued in the case of the taxpayer's transactions for the acquisition or manufacture of goods and services, the acquisition (building, construction, creation) of non-current assets, the import of goods and/or non-current assets into the customs territory of Ukraine. In this case, the amounts included in tax credit must be confirmed by properly drawn up and registered tax invoices, since the absence of properly drawn up and registered tax invoices for transactions for the purchase of goods and services does not entitle the inclusion of the corresponding VAT amounts in the tax credit.

At the same time, given the realities of today (during the legal regime of martial law), the legislator is trying to regulate in a certain way the issue of the possibility of forming tax credit by taxpayers (including the corresponding amounts in its composition). Currently, taking into account the amendments made to the Tax Code (Law of Ukraine No. 2260-IX, 2022), on the one hand, they allegedly give the right (opportunity) to taxpayers temporarily (for the period of the legal regime of martial law), for tax periods February-May 2022, to include in the tax credit the amounts of VAT paid (accrued) as part of the cost of purchased goods / services, based on the available primary (calculation) documents for transactions for the purchase of goods / services, for which no tax invoices were registered by suppliers in the Unified Register of Tax Invoices. On the other hand, they are obliged to bring in compliance the indicators of tax credit for the tax (reporting) periods of February – May 2022 formed based of primary (calculation) documents, taking into account the availability of properly registered tax invoices in the Unified Register of Tax Invoices, by submitting clarifying calculations for the relevant reporting periods (confirmation of tax credit by registered tax invoices).

In addition, as amended by the Tax Code (Law of Ukraine No. 2260-IX, 2022), the legislator divided taxpayers into those who have the opportunity to fulfill a tax duty and those who do not have such an opportunity.

In this case, in our opinion, taking into account the information (explanatory) letters of the State Tax Service of Ukraine (Information Letter of the STS of Ukraine No. 3, 2022; Information Letter of the STS of Ukraine, 2022), a taxpayer's (Buyer's) right to tax credit (for tax (reporting) periods of February – May 2022) based on the primary (calculation) documents available to him, is not directly associated by the Controlling Authority with the inability of a taxpayer (Supplier) to fulfill his tax obligation, including the registration of tax invoices.

Nevertheless, if we take into account (assume) that the *veiled position* of the State Tax Service of Ukraine *associates the right* of a payer (Buyer) to include VAT amounts to tax credit for the tax (reporting) period of February – May 2022 on the basis of the available primary documents, *solely* with the impossibility of a taxpayer (Supplier) *to fulfill* his tax obligation, including the registration of tax invoices, then this impossibility should be confirmed by the relevant decision of the Controlling Body (Order of the Ministry of Finance of Ukraine No. 225, 2022).

In such circumstances (*this approach of the State Tax Service of Ukraine*) (Information Letter of the STS of Ukraine, 2022), a taxpayer (Buyer) becomes a hostage to the situation in which he was obliged, on the one hand, to bring into line the indicators of tax credit declared based on the primary

(calculation) documents available to a payer, taking into account the changes made to the Tax Code (Law of Ukraine No. 2260-IX, 2022), and on the other hand, allegedly has the right to form tax credit for February – May 2022 on the basis of the primary documents, **but on condition of confirmation** of the impossibility of his counterparties-suppliers to fulfill their tax duty, in particular, in terms of registration of tax invoices.

At the same time, the Procedure for confirming the possibility or impossibility of fulfilling tax obligations defined in subparagraph 69.1 of paragraph 69 of subsection 10 of Section XX Transitional provisions of the Tax Code (Order of the Ministry of Finance of Ukraine No. 225, 2022) was actually published on 01.09.2022 and entered into force only on 06.09.2022, **almost a month and a half** after the period (25.07.2022) to which taxpayers had to bring the tax reporting indicators (tax credit formed for February-May 2022 on the basis of primary documents) in compliance with the data of the Unified Register of Tax Invoices (availability of registered tax invoices).

In turn, **taxpayers** (Suppliers) who, since the entry into force (27.05.2022) of amendments to the Tax Code (Law of Ukraine No. 2260-IX, 2022) and as of 15.07.2022, could not fulfill the tax obligation in part of registration of tax invoices in the Unified Register of Tax Invoices, **were actually unable** to exercise the right and confirm the impossibility of fulfilling their tax obligation, including those in terms of ensuring the registration of tax invoices in the Unified Register of Tax Invoices, **since on the specified dates there was no** approved Procedure that would determine the procedure for confirming the impossibility of fulfilling the relevant tax obligation and obtaining a decision of the Controlling Body.

At the same time, at present (as of 10.10.2022), the current legislation **does not link the possibility** of including by taxpayers (Buyers) in tax credit (for tax periods of February – May 2022) the amounts of VAT paid (accrued) as part of the cost of purchased goods / services), based on existing primary (calculation) documents, **solely with the need to confirm the impossibility** fulfillment of the relevant tax obligation by taxpayers (suppliers of such goods).

In addition, the Tax Code of Ukraine (*paragraph 32² of subsection 2 of Section XX Transitional Provisions*) (Tax Code of Ukraine, 2010) does **not require** that a Buyer should provide (together with tax reporting and/ or separately) the appropriate confirmation of the impossibility of fulfilling the tax obligation by a Supplier due to the inclusion in tax credit (for tax periods of February – May 2022) of the amounts of VAT paid (accrued) as part of the cost of purchased goods/services, on the basis of available primary (calculation) documents.

In our opinion, the above-mentioned controversial regulation of the formation of tax credit (including in its composition the relevant amounts of value added tax) for the reporting (tax) periods of February – May 2022 does not contribute to legal certainty in these legal relations between regulatory authorities and taxpayers. In addition, this legal uncertainty may further affect an increase in administrative claims of taxpayers against regulatory authorities. Since the latter, within the framework of the verification measures, will insist on the need to reduce the tax credit indicators for the tax periods of February – May 2022, which are not properly confirmed by duly registered tax invoices, which will be expressed in the additional accrual of the corresponding amounts of tax liabilities by reducing the amount of the tax credit.

In turn, the above will only complicate the already difficult situation of taxpayers in modern conditions. At the same time, state bodies are obliged to introduce internal procedures that will strengthen the transparency and clarity of their actions, minimize the risk of errors. Public authorities that do not implement or follow their own procedures should not have the possibility to benefit from their illegal actions or avoid performing their duties.

Conclusions. Given the above, we can state:

1. At present (taking into account the realities of today and the effect of the legal regime of martial law), the provisions of the Tax Code, on the one hand, provide for the possibility for taxpayers to

temporarily for tax periods of February – May 2022 include in tax credit the amount of value added tax paid (accrued) as part of the cost of purchased goods / services, based on primary (calculation) documents available to a payer. However, on the other hand, they oblige taxpayers to clarify (bring in compliance) the tax credit declared (formed) by them for the relevant periods (February – May 2022) based on the primary (settlement) documents available to a payer taking into account the data from tax invoices / adjustment calculations registered in the Unified Register of Tax Invoices.

2. The ambiguous (veiled) position of the State Tax Service of Ukraine regarding the right of taxpayers (buyers) to form tax credit for the tax (reporting) periods of February – May 2022 based on the available primary documents, in our opinion, links the existence of such a right solely with the inability of a taxpayer (Supplier) to fulfill his tax obligation, including the registration of tax invoices, which in turn must be confirmed by the relevant decision of the Controlling Authority.

At the same time, at present (as of 10.10.2022), the current legislation does not link the right (possibility) of taxpayers (Buyers) to include in tax credit (for tax periods of February – May 2022) the amounts of value added tax paid (accrued) as part of the cost of purchased goods/services), on the basis of existing primary (calculation) documents, solely with the need to confirm the impossibility of fulfilling the relevant tax obligation by taxpayers – suppliers of such goods.

In addition, the Tax Code of Ukraine (*paragraph 32² of subsection 2 of Section XX Transitional Provisions*) (Tax Code of Ukraine, 2010) does not require that a Buyer (together with tax reporting or separately) should provide appropriate confirmation of the impossibility of fulfilling the tax obligation by a Supplier due to the inclusion in tax credit for tax periods of February – May 2022 of the amounts of value added tax paid (accrued) as part of the cost of purchased goods/services on the basis of available primary (calculation) documents.

3. Public authorities are obliged to introduce internal procedures that will strengthen the transparency and clarity of their actions, minimize the risk of errors. However, the peculiarity of the existence of regulatory and legal support for the organization of administration (collection) of VAT in Ukraine in particular in terms of the formation of tax credit was and still is the existence of legal conflicts of certain provisions of legislative documents that lead to disputes between regulatory authorities and taxpayers and, subsequently, to an increase in court disputes, which are likely to be resolved in favor of taxpayers. In turn, the above will only complicate the already difficult situation of taxpayers in modern conditions.

4. The existence of the ambiguous, contradictory regulation of legal relations between regulatory authorities and taxpayers violates the principle of legal certainty. Therefore, it is necessary to amend the Tax Code of Ukraine and settle the issue of determining the grounds (circumstances) under which taxpayers, taking into account the requirements of paragraph 32² of subsection 2 of Section XX of the Transitional Provisions of the Tax Code of Ukraine, temporarily (for the period of the legal regime of martial law) for tax (reporting) periods of February – May 2022 still have the opportunity to include in tax credit the amount of value added tax paid (accrued) as part of the cost of purchased goods/services, based on the primary (calculation) documents available to a payer.

5. The division of taxpayers into those who have the opportunity to fulfill the tax duty, and those who do not have such an opportunity is conditional, since it implies the need for a taxpayer to submit a corresponding application and documents, as a result of which the controlling body will make an appropriate decision, which in turn can be both positive for a taxpayer (confirmation of the impossibility of fulfilling the tax duty) and negative (refusal).

References:

1. Ministry of Finance of Ukraine (2022). Pro zatverdzhennia Poriadku pidtverdzhennia mozhlyvosti chy nemozhlyvosti vykonannia platnykom podatkov oboviazkiv, vyznachenykh u pidpunkti 69.1 punktu 69 pidrozdlu 10 rozdlu XX Perekhidni polozhennia Podatkovoho kodeksu Ukrainy, ta per-

- elikiv dokumentiv na pidtverdzhennia [On the approval of the Procedure for confirmation of the possibility or impossibility of the taxpayer's performance of the duties specified in subsection 69.1 of clause 69 of subsection 10 of chapter XX Transitional Provisions of the Tax Code of Ukraine, and lists of documents for confirmation]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/z0967-22#Text> (in Ukrainian).
2. President of Ukraine (2022). Pro vvedennia voiennoho stanu v Ukraini [About the introduction of martial law in Ukraine]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/64/2022#Text> (in Ukrainian).
 3. State Tax Service of Ukraine (2022). Informatsiinyi lyst DPS Ukrainy : Zakon Ukrainy vid 12 travnia 2022 roku № 2260-IX Pro vnesennia zmin do Podatkovoho kodeksu Ukrainy ta inshykh zakoniv Ukrainy shchodo osoblyvosti podatkovoho administruvannia podatkiv, zboriv ta yedynoho vnesku pid chas dii voiennoho, nadzvychainoho stanu [Information sheet of the DPS of Ukraine: Law of Ukraine, May 12, 2022 No. 2260-IX On Amendments to the Tax Code of Ukraine and other laws of Ukraine regarding the specifics of the tax administration of taxes, fees and a single contribution during the state of war and emergency]. Retrieved from: https://tax.gov.ua/data/material/000/481/590184/InfoList3_2022.pdf (in Ukrainian).
 4. State Tax Service of Ukraine (2022). Chy potribno zminiuvaty period formuvannia podatkovoho kredytu za operatsiiamy z prydbannia tovariv/posluzh u liutomu-travni 2022 roku, yakshcho podatkovna nakladna skladena za operatsiiamy z yikh postachannia, zareiestrovana v YeRPN postachalnymkom, yakyi maie mozhlyvist svoiechasno vykonuvaty podatkovy oboviazky, 15 lypnia 2022 roku i piznishe? [Is it necessary to change the period of formation of the tax credit for the transactions for the purchase of goods/services in February-May 2022, if the tax invoice was drawn up for transactions for their supply, registered in the ERP system by a supplier who is able to fulfill tax obligations in a timely manner, on July 15, 2022 and later?]. Retrieved from: <https://svp.tax.gov.ua/media-ark/news-ark/print-591152.html> (in Ukrainian).
 5. The Verkhovna Rada of Ukraine (2022). Pro zatverdzhennia Ukazu Prezydenta Ukrainy Pro vvedennia voiennoho stanu v Ukraini [On the approval of the Decree of the President of Ukraine On the introduction of martial law in Ukraine] Retrieved from: <https://zakon.rada.gov.ua/laws/show/2102-20#Text> (in Ukrainian).
 6. The Verkhovna Rada of Ukraine (2010). Podatkovy kodeks Ukrainy [Tax Code of Ukraine]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2755-17#Text> (in Ukrainian).
 7. The Verkhovna Rada of Ukraine (2022). Pro vnesennia zmin do Podatkovoho kodeksu Ukrainy ta inshykh zakonodavchykh aktiv Ukrainy shchodo osoblyvosti opodatkuvannia ta podannia zvitnosti u period dii voiennoho stanu [On amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the peculiarities of taxation and reporting during the period of martial law]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2118-20#Text> (in Ukrainian).
 8. The Verkhovna Rada of Ukraine (2022). Pro vnesennia zmin do Podatkovoho kodeksu Ukrainy ta inshykh zakonodavchykh aktiv Ukrainy shchodo dii norm na period dii voiennoho stanu [On the introduction of amendments to the Tax Code of Ukraine and other legislative acts of Ukraine regarding the effect of norms during the period of martial law]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2120-20#Text> (in Ukrainian).
 9. The Verkhovna Rada of Ukraine (2022). Pro vnesennia zmin do Podatkovoho kodeksu Ukrainy ta inshykh zakoniv Ukrainy shchodo osoblyvosti podatkovoho administruvannia podatkiv, zboriv ta yedynoho vnesku pid chas dii voiennoho, nadzvychainoho stanu [On amendments to the Tax Code of Ukraine and other laws of Ukraine regarding the peculiarities of the tax administration of taxes, fees and a single contribution during the period of martial law and state of emergency]. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2260-20#Text> (in Ukrainian).

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OPTIMIZATION OF THE ACTIVITY OF A HIGHER EDUCATIONAL INSTITUTION IN THE CONDITIONS OF CRISIS PHENOMENA: SOCIO-ECONOMIC ASPECT

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Abstract. The article highlights the interrelationship of financing the activities of a higher educational institution during political, military, economic or socio-cultural crises and the possible ways of optimizing the socio-economic sphere of management, which will allow, despite various crises, to continue working and have stable financial and economic indicators. Within the framework of the study, the interpretation of the definitions "socio-economic development", "educational management", "crisis phenomenon", "digital educational environment" was analysed, and it was established that the managerial activity of a head of a higher educational institution can be divided into five elements. The author determined that for socio-economic development in the conditions of crisis phenomena of the institution of higher education, it is necessary to intensify the provision of additional paid services in order to obtain additional profit, to introduce secondary processing of raw materials, administrative processes of economic management in the digital educational environment of the educational institution, to improve the organizational management of individual areas of activity, attract investments for development of the university space, make changes to the accounting policy, rationally use resources and bring objects into compliance with European infrastructure security conditions.

Key words: higher educational institution, crisis phenomena, modernization, development, socio-economic development, management activity.

Introduction. The search for innovative ways of socio-economic development of the educational environment and support of stable performance indicators of a higher educational institution, taking into account economic crises, cultural changes, political problems, social and organizational transformations taking place in Ukraine determine the relevance of the study.

The aim of the study. To theoretically substantiate the processes of socio-economic development of a higher educational institution in crisis conditions. In accordance with the purpose of the research, the following task was formulated: to analyse the ways of socio-economic development of a higher educational institution proposed by the author.

The following research methods were used to implement the goal and task of the research: terminological analysis (study of the conceptual apparatus of the research); systematization of scientific sources (study of the conditions of the researched problem); study and generalization of practical experience (acquaintance with leading practices, scientific developments and their provisions, notation of basic information); the method of expert assessment (analysis of the normative legal act, scientific works, practices of higher educational institutions and providing them with an assessment based on established norms and the real level of the issue); method of classification (ordering and classification of educational phenomena on the basis of their homogeneity, further relying on scientific knowledge).

Analysis of recent research and publications. V. Andrushchenko, V. Bobrytska, L. Grynevych, I. Ivanyuk, V. Kremen, S. Nikolayenko, V. Savelyev and others are actively developing the theoretical and methodological foundations of the educational policy of Ukraine. The scientific foundations of

educational management are the subject of research by L. Belov, S. Burdin, R. Vernydub, V. Gamanyuk, O. Zhabenko, S. Krysyuk, S. Nikolayenko, L. Prokopenko, L. Yurchuk, etc. T. Vasylyuk, N. Volkova, L. Kalinina, I. Lysokon, I. Makarenko, N. Protasova, M. Stepka, etc. investigate separate areas of educational development and management.

Main part. Higher education is one of the leading social institutions of the state, as it trains various specialists for implementation of the social order, taking into account the regional aspect and needs of the labour market. Starting from the 19th century, the processes of formation of modern nations and constant political, military, and social contradictions take place. Since the declaration of Ukraine's independence, there have been quite a few crisis phenomena, such as: the Transnistrian conflict (1990-1992), the Crimean crisis (1992–1994), the uprising on SKR-112 (1992), the conflict over the island of Tuzla (2003), the global economic crisis (2008), the Orange Revolution (2004–2005), the Revolution of Dignity (2013–2014), the annexation of Crimea (since 2014), the occupation of Donetsk and Lugansk regions (since 2014), the global COVID-19 pandemic (2019–2022), and Russia's military aggression against Ukraine (since 2014).

A crisis phenomenon should be understood as a situation that ultimately leads to the optimization or decline of the system due to the inability to adapt to new conditions (Grygoryeva, Mishchenko, 2017:78).

Each of the phenomena as a certain political, social, economic, spiritual or cultural phenomenon affects both the development of global processes and local, in particular, national educational doctrine. That is why, in modern interpretations, education has an integrated characteristic as a social institution, the basis of personality development and a set of knowledge acquisition processes (Vasylyuk, Lysokon, Razmolodchikova, Shymko, 2022:13). In state educational policy of Ukraine, the transformational processes are taking place, which characterize the tasks and goals of the development of the national educational system (Bobrytska, 2015:147), in particular in the field of socio-economic development.

The leading mission of the Ukrainian higher school and its institutes is to train highly qualified specialists capable of self-realization in various spheres of social life. The competitiveness of prepared future specialists directly depends on a number of factors – the level of professionalism of the academic staff, the involvement of practitioners and leading scientists in the educational process, the interaction of the university with stakeholders, the development of scientific and scientific and technical potential of the representatives of a higher educational institution, as well as the level of material and technical support.

The improvement of the system of higher education in Ukraine takes place taking into account domestic practices, the latest social challenges and tasks of the authorities with the aim of improving the efficiency of the system, overcoming regional peculiarities in the quality of educational services and organization of their provision, ensuring the right for self-government in management and transparent financing (Bobrytska, 2019:16).

In our opinion, the level of material and technical support and the quality of the infrastructure of the university play one of the leading roles, as the classroom fund of an educational institution, its digital educational environment, barrier-free environment create conditions for obtaining high-quality higher education. Currently, the search for optimal models of educational management, including the socio-economic direction, is of particular importance, because every crisis phenomenon makes adjustments to public administration and financing.

According to the Ukrainian researcher M. Stepka, it is the uncoordinated financing of the higher educational sector and its institutions that is the reason for slowing down their development, which has led to delay in the integration of the domestic educational environment into the European space of higher education (Stepka, 2012:46-47). So, for example, in the conditions of a global pandemic, the financing of the healthcare system has increased, during military aggression

there is a massive process of militarization and reduction of state budget expenditures for the functioning of the social and humanitarian sphere, in particular, the sphere of education. Under such conditions, financing of education is actually carried out according to the residual principle, and it is important to find new approaches and methods of socio-economic development of an institution of higher education.

In our opinion, the main possible proposals for socio-economic development of Ukrainian universities include:

- activation of profit opportunities from provision of additional paid services;
- introduction of secondary processing of raw materials;
- digitalization of administrative processes of managing the economy;
- modernization of organizational management of individual areas of activity;
- investment activities for development of university educational space;
- bringing infrastructure into line with European security conditions.

Before considering each of the proposed ways of socio-economic development of the university, it is worth paying attention to such definitions as educational management and socio-economic development. The concept of socio-economic development should be understood as the level of financial and economic development of a business entity, which affects the solution of socially significant problems at a certain level (Konchakovskiy, Boyko. 2017:1). At the same time, within the scope of the study, we are impressed by the interpretation of the definition of educational management as «set of processes regulated by authorized state and interested social institutions and directly related to decision-making functioning of the national system of education» (Lysokon, 2022:146).

It is worth noting that an important step for optimizing the administrative and economic activity of a higher educational institution is the essential replacement of concepts from "administrative-economic" to "social-economic" activity. Administrative and economic work, as a concept and direction of management activity, is the Soviet legacy of educational management. Under administrative and economic activity in the educational management system, it is customary to understand the technical maintenance of premises, carrying out cosmetic repairs of the classroom fund and ensuring the functioning of communal systems.

In leading European universities, this direction of management is called socio-economic activity, as it covers the solution of current and prospective administrative, security, infrastructural, organizational, planning-economic and legal issues. Currently, there is a gradual transition from certain elements of the Soviet model of higher educational management to the European one. Such a transition is an important condition for socio-economic transformation in the educational space of a higher school, as there is a conscious process of changing the principles and approaches to management.

Let's move on to the direct analysis of proposals for socio-economic development of higher educational institutions and start with ***the activation of opportunities for obtaining profit from provision of additional paid services***. In Ukraine, all state and communal educational institutions are non-profit organizations that cannot make a profit from their own activities. That is why there is a certain myth that higher educational institutions in Ukraine cannot make a profit from their own activities, but there is an opportunity for them to provide additional paid services.

According to the resolution of the Cabinet of Ministers of Ukraine "On approval of the list of paid services that can be provided by educational institutions, other institutions and institutions of the system of education belonging to the state and communal form of ownership" (Postanova, 2010), higher educational institutions are able to provide paid services in the field of education, scientific and scientific and technical activities, international cooperation, household and housing and communal services, healthcare, recreation, leisure, health improvement, tourism, physical culture and sports. In general, according to this document (Postanova, 2010), the university has an opportunity to provide more than 100 different services.

The provision of additional educational services is a good opportunity to involve students of higher education in their implementation in the form of practical work or practical training in order to gain work experience and interaction with stakeholders in terms of providing them with services within the market value, which ensures the systematic replenishment of the special fund of the university, individual groups resources and a positive image among interested parties.

It is worth noting that in the realities of the development of the Ukrainian educational system and its financing during crisis phenomena, according to the residual principle, the development of the system of providing additional paid services is a good opportunity for universities to remain with stable financial and economic indicators.

No less interesting is *introduction of secondary processing of raw materials* on the basis of the university. The implementation of this system has two effects at once - economic and social. The economic benefit consists in: 1) paper sorting, its secondary internal use and further sent for recycling, which makes it possible to save money on the purchase of paper; 2) disposal of glass containers, batteries and plastic bottles allows you to receive additional funds for a special fund, which can be sent to energy modernization programs in future.

The social impact of waste sorting and recycling is the implementation of a number of United Nations Sustainable Development Goals until 2030, such as "Responsible consumption and production", "Climate change mitigation" and "Protection of terrestrial ecosystems" (UNU, 2015), which makes any university socially responsible to its students, employees, partners and local community.

Increasing attention to environmental issues has long been no surprise, as environmental protection is an active object of public discussions in various spheres of human life. Problems of human or society interaction with nature are now very common (Shedlovska, 2011:196). Therefore, one of the possible ways of solving this problem and promoting the formation of ecological culture among interested parties is the introduction of secondary processing of raw materials in a certain university centre.

Since the beginning of the COVID-19 pandemic, all educational institutions have faced the problem of transition from face-to-face learning to distance or mixed (face-to-face) learning. Despite the long process of introducing information and communication tools into the educational process, which lasted for about 20 years in Ukraine, the system of education was not ready for the process of mass digitization. However, within a fairly short period of time, the system of education has successfully adapted and continues to operate in a digital environment and makes maximum use of available resources.

Digitization of administrative processes in business management of the educational environment is a relevant issue, since the positive practice of transferring the educational process to the online format allows us to make assumptions about the possibility of digitalization of the university management process both in general and in its individual directions, in particular socio-economic.

In our opinion, equipping representatives of the management team and experts of the middle echelon of the economic support of an institution of higher education with means of information and communication technologies, the use of special software and computer tools as the main tool for quality management of property and economy allows to significantly increase the efficiency of the work of the institution of higher education. The use of online storage and databases will allow to store the necessary documentation in an electronic version. Long-term storage documents can be stored both in paper form and in a special database or special online resources.

In this case, within the scope of the study, we support the interpretation of the definition of the digital educational environment as «set of resources aimed at organizing and ensuring the educational process, implementation of scientific, technical and international activities, creating conditions for educational services and management of higher education». According to this definition, the digital educational environment is considered as a set of modules: scientific, educational, administrative

and informational module. The administrative module is represented by electronic document flow, management of the educational process, operational processes of administration, digital security and protection systems, etc. (Vasylyuk, Lysokon, Shymko, 2021:167).

The next proposal regarding the optimization of the socio-economic system of the educational environment, which needs clarification within the framework of the study, is *the modernization of organizational management of individual areas of activity*. This management activity should be divided into the following elements:

– informational (identification of a set of data on economic activity to be disclosed in the form of open data on the official website of the university and publication of information on the material and technical base);

– infrastructural (studying the issue of the efficiency of the use of premises, classroom fund, resource base, as well as carrying out measures to support the working condition of the objects and economic infrastructure, implementation of energy efficiency elements at workplaces);

– normative (revision and updating of some normative acts of the university in terms of administrative and economic support);

– organizational (creation of a clear action plan for development of the infrastructure and resource base of the educational environment, analysis of available resources for each object separately and as a whole for the university);

– technical (improvement of the work system of the main, construction, furniture, and metal shops, implementation of energy-efficient systems and alternative energy, rationalization of the use of movable and immovable property).

The identified elements reflect the current directions of management activities in the institution of higher education, which require correction or significant changes in order to successfully adapt the educational environment to complex socio-political conditions at the global or local levels.

The opening of the European educational space for Ukrainian universities becomes the basis for development of domestic educational and scientific and technical products, improving the quality of the organization and provision of educational services, reforming the socio-economic component of the management of the educational institution, in particular its investment activities. That is why investment activity in the university space is gaining momentum, being actively used in educational practice and developing in the discourse of educational and pedagogical sciences.

The success of the socio-economic development of a university depends on the ability to attract the necessary investments in time for implementation of planned projects or programs, the achievement of goals set, the development of a new educational product, etc. Investments in higher education act as a means of achieving goals and development, and partially become an element of financial activity.

Within the framework of the study, it is worth highlighting the main areas of investment activity of the university: educational, research, informational, social, international and infrastructural ones. The listed areas of educational investment affect the solution of the main issues of the higher educational institution, which consist in interaction with the community and the involvement of all interested persons in the management of the institution, the formation of a certain image of the university and the realization of its social mission.

The general development of state and society affects the development of the system of education, in particular the field of higher education. It is known that the investment of means and resources in education is a profitable decision, which is confirmed by the tendency of the educational sphere towards improvement and socio-economic growth (Chervatyuk, 2004: 472).

In our opinion, the organization and management of investment activities of a higher educational institution is a poorly researched issue, however, from the point of view of management, these processes significantly affect the life of the university, contributing to the modernization of material and technical support, improvement of quality of educational services, development of social infrastruc-

ture and accessibility, development of scientific and technical potential and integration of European educational practices in Ukrainian institutions of higher education.

The social significance of the investment activity lies in drawing attention to global and local educational needs that require solutions or arise during crisis phenomena. In this way, educational investment ensures the systematic development of an educational institution, creates a positive image for the business sector and implements the public-private-public management model.

Complex geopolitical circumstances that have arisen in the centre of Europe require bringing the *educational environment in line with European security conditions*. The concept of "security" is quite broad in scientific circles. Security issues can include any sphere of public life, because each of the spheres is represented by its own threats and risks of functioning. In the global sense, security should be interpreted as a state of security of a person, society or state (Chekalenko, 2017: 12).

Safe conditions for obtaining education are now the first priority of higher educational institutions. In our opinion, socio-economic development and safety in the educational space of the university are tangential, since it is important to determine the state of infrastructure facilities in terms of labour protection, civil protection and fire safety. Creating a safe educational environment and supporting its functioning require educational institutions to:

- equip the appropriate premises for shelter, taking into account the available resource base;
- develop special hazard warning software for students of higher education, academic staff and management;
- create of a unified security management system;
- introduce elements of individual safety for all participants of the educational process.

It should be understood that most of the infrastructure facilities in the field of higher education were built in the 19th and 20th centuries, their construction and technical standards are not designed for emergency situations, such as natural disasters, man-made disasters or military aggression. No amount of government funding will change these realities, but the implementation of European safety norms and principles will help to increase the level of safety in the educational environment.

Special attention should be paid to the creation of safe conditions in the educational environment, as well as psychological and pedagogical support. An urgent issue is the need to determine the psychosocial properties of the educational environment of the institution of higher education, their evaluation and readiness to provide appropriate services to its students and employees.

We agree with the opinion about the importance of the problem of psychological safety in an educational institution, which is determined by practical tasks related to the development of technologies for psychological, social and pedagogical support of all participants in the educational process (Artemyev, Gura, 2017:22).

Conclusions. In educational policy, there is continuous development, which can be characterized by the development of new management models and organizational transformations that contribute to the socio-economic transformation of a higher educational institution. The socio-economic development of the educational environment should be focused on safe organization of the educational process, provision of educational services, control over the quality of education, management of various areas of activity, variability of providers of the educational process, the latest scientific and technical discoveries, etc. In today's realities, Ukrainian higher education and its institutions must be transformed in order to continue to function effectively and fulfil the social mission. Educational institutions that actively implement European educational practices of university environment management and have been able to successfully adapt to today's challenges will be in greater demand on the educational services market.

Education is a universal social institution, which has to function despite the crisis phenomena faced by humanity. The main problem in the development of the educational space of higher education in Ukraine is the unpreparedness for change, but at the same time external factors have a direct

impact, and therefore adaptation to the new conditions is only a matter of time. In the realities currently shaking humanity and the Ukrainian people, higher education is gradually shifting from the public sector to an independent sector of government. By law, they are granted the possibility to conduct entrepreneurial activities or parallel financial and economic activities, apart from the educational process. That is why the success of universities not only as centres of socio-cultural, scientific or educational activities lies in their readiness to implement innovative management models, including socio-economic ones.

References:

1. Artemiev D., Hura S. Bezpeka osvitnoho seredovyscha (Safety of the educational environment). Suchasnyi stan rozvytku ekstremalnoi ta kryzovoi psykholohii: materialy IV Mizhnarodnoi naukovo-praktychnoi konferentsii (30.11.2017-01.12.2017, Kharkiv). 21-23. Retrieved from: <http://edu-mns.org.ua/img/news/102/Tezi.pdf#page=22> [in Ukrainian].
2. Bobrytska V. (2015). Aksiolohichniy dyskurs osvnoi polityky v konteksti suchasnykh suspilnykh vyklykiv (The axiological discourse of education policy in the context of contemporary societal challenges). *Osvitnia polityka: filosofii, teorii, praktyka*. 143-168. [in Ukrainian].
3. Bobrytska V. (2019). Suchasni osvni reformy v Ukraini: dosiahnennia y novitni vyklyky (Contemporary Educational Reforms in Ukraine: Achievements and Emerging Challenges). *Visnyk Natsionalnoho aviatytsiinoho universytetu. Serii: Pedagogika. Psykholohii*. Vol. 2 (14). 16-22. [in Ukrainian].
4. Chekalenko L. (2017). Kontseptsii bezpeky: suchasne prochyttannia (Security concepts: a modern reading). *Zovnishnia polityka i dyplomatiia: tradytsii, trendy dosvid*. Vyp. 24 (2). 12-17. Retrieved from: [http://www.irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&Image_file_name=PDF/Nvdau_2017_24\(2\)_4.pdf](http://www.irbis-nbuv.gov.ua/cgi-bin/irbis_nbuv/cgiirbis_64.exe?C21COM=2&I21DBN=UJRN&P21DBN=UJRN&IMAGE_FILE_DOWNLOAD=1&Image_file_name=PDF/Nvdau_2017_24(2)_4.pdf)
5. Chervatiuk L. (2004). Novi pidkhody shchodo zaluchennia investytsii u vyshchu osvitu Ukrainy (New approaches to attracting investment in higher education in Ukraine). *Stratehiia rozvytku Ukrainy. Serii: Ekonomika. Sotsiolohii. Pravo*. (3/4). 462-475. [in Ukrainian].
6. Hryhorieva O., Mishchenko A. (2017). Kryzovi yavyshcha v ekonomitsi ta yikh proiavy na pidpriemstvi (Crisis phenomena in the economy and their manifestations in the enterprise). *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu. Serii: Mizhnarodni ekonomichni vidnosyny ta svitove hospodarstvo*. Vol. 13. 76-79. Retrieved from: http://www.visnyk-econom.uzhnu.uz.ua/archive/13_1_2017ua/18.pdf [in Ukrainian].
7. Kabinet Ministriv Ukrainy. (2010). Postanova Kabinetu Ministriv Ukrainy «Pro zatverdzhennia pereliku platnykh posluh, yaki mozhut nadavatytsia zakladamy osvity, inshymy ustanovamy ta zakladamy systemy osvity, shcho nalezhat do derzhavnoi i komunalnoi formy vlasnosti» (Resolution of the Cabinet of Ministers of Ukraine «On approval of the list of paid services that may be provided by educational establishments, other institutions and establishments of the education system belonging to the state and communal form of ownership»). Retrieved from: <https://zakon.rada.gov.ua/laws/show/796-2010-п#Text> [in Ukrainian].
8. Konchakovskiy Ye., Boiko O. (2017). Sotsialno-ekonomichniy rozvytok pidpriemstva (Social and economic development of the enterprise). Retrieved from: <https://conf.ztu.edu.ua/wp-content/uploads/2017/01/87.pdf> [in Ukrainian].
9. Lysokon I. (2022). Analiz definitsii «upravlinnia osvitoiu» v ukrainskomu pedagogichnomu dyskursi (Analysis of the Definition «Management of Education» in the Ukrainian Pedagogical Discourse). *Innovatsii v osviti: realii ta perspektyvy rozvytku: materialy III Mizhnarod. nauk.-praktych. konf. (20.05.2022 r., m. Ternopil)*. 142-147. DOI: <https://doi.org/10.31812/123456789/6472> [in English].
10. Orhanizatsiia Obiednanykh Natsii (UNU). (2015). Retrieved from: <https://ukraine.un.org/uk/sdgs> [in Ukrainian].
11. Shedlovska M. (2011). Kontseptualizatsiia poniattia «ekolohichna svidomist» u sotsiohumanitarnykh naukakh (Conceptualising the concept of 'environmental consciousness' in the social sciences and humanities). *Visnyk Lvivskoho universytetu. Serii sotsiolohichna*. №. 5. 196-204. [in Ukrainian].

12. Stepka M. (2012). Ekonomichni umovy zabezpechennia yakosti osvitnikh posluh u systemi vyshchoi osvity (Economic conditions for quality assurance in higher education). Pedahohichna dumka. 364 s. [in Ukrainian].
13. Vasyliuk T., Lysokon I. & Shymko I. (2021). Tsyfrove osvitnie seredovyshe suchasnoho universytetu: teoriia, praktyka ta administruvannia (Digital Educational Environment of a Modern University: Theory, Practice and Administration). Tsyfrova humanitarna maisternia. DOI: <https://doi.org/10.1145/3526242.3526260> [in English].
14. Vasyliuk T., Lysokon I., Razmolodchikova I. & Shymko I. (2022). Kontseptualno-tehnolohichna model pidhotovky maibutnikh fakhivtsiv sotsialno-pedahohichnoi sfery (Conceptual and technological model for training future social and pedagogical specialists). Kryvyi Rih: KSPU. DOI: <https://doi.org/10.31812/123456789/6416> [in Ukrainian].

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URBAN FARMING AS A TOOL OF FOOD SECURITY IN FRONT-LINE KHARKIV: GLOBAL PROBLEMS FROM MICROSOCIOLOGICAL PERSPECTIVE

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Abstract. The article is devoted to the problem that belongs to the interdisciplinary topic's social measurements of food security. Ukrainian sociology missing somehow notable bodies of works in these thematic planes. That is why the article is a statement of the problem and has an orienting character. The task of the authors is to problematize sociological means relevant to the frontline city transformation of food practices. The article aimed to characterize the sociological potential of the military factor of the global food crisis through the prism of challenges to food security in Ukrainian frontline city. It represents the results of the original reconnaissance case study, which the authors did in Kharkiv from May to August 2022 as part of the project FUSILLI (a Food and natural resources project, funded by the European Union's Horizon 2020 Research and Innovation Program under Grant Agreement No.101000717).

Based on the received results the authors formulated assumptions about the main directions of transformation of food practices of the residents of a large city, in which underway combat actions. The authors also offered methods and directions of possible sociological research that allow verifying this assumption.

Key words: food security, urban farming, case study, microsociology, the frontline city.

Introduction. Combat actions in the Ukraine territory at the end of February sharp worsened the world food situation. Prospects have become real and tangible rapid growth of the already inflated world food prices. Stop Ukrainian export after the start of the war conflict has led to Index food FAO1 prices (FPI), which keeps track of world prices for the most food sold in the world goods, in March reached the highest level since registration began in 1990.

Russia's Invasion of Ukraine – the last point in the incremental global food crisis. Global demand after pandemics, extreme weather terms, abbreviation reserves food, high energy prices, bottleneck places in supply chains, and export restrictions and taxes create a burden on the food market for two years. The recent coincidence of all these factors against the backdrop of the Russian invasion of Ukraine is unprecedented and caused a sharp rise in food prices around the world. Mainly such a situation is typical for developing countries. In the most extreme cases, food inflation grew by hundreds of points. For example, in Lebanon, which is heavily dependent on imported food (including greater parts of wheat from Ukraine), since 2020 index of prices increased more than 3000 percent points. In many developing countries, products food is one of the major categories in general index consumer prices, which economists used to calculate the general cost of people's lives. Growth in prices for basic product power has already called protests in countries around the world including Argentina,

¹More about the methodology FOI calculation can be found in the report https://www.fao.org/fileadmin/templates/world-food/Reports_and_docs/FO-Expanded-SF.pdf (accessed 30 October 2022).

Indonesia and Greece. In Iran, protesters took to the streets after prices for basic products from flour grew by 300%²

Analysis of recent research and publications. Prospects for the world food crisis update need references to analyze food security on global and local levels. The theme of food and environmental security today is extremely important for both domestic and foreign scientific communities. The majority of works contain an analysis of national food situations. In particular, A. Shevchenko (Shevchenko, 2021) reveals evolution ensures ecological and food security in strategies for national security in Ukraine since independence. E. M. Starychenko (Starychenko, 2018) under food security understands such conditions of economics, social and environmental spheres of countries, when secured food independence of the state, and guaranteed physical, social and economic availability of food products for everyone. This researcher highlights the place of food security in the system of national security, which subordinates economic, social and environmental security. Thanks to this E. M. Starychenko expands the range of indicators of food security, not only in the economic but also in social and environmental spheres. A. Skydan, V. Grynyshyn in their scientific developments (Skydan; Hrynyshyn, 2020) deepened existing and developed new theoretical and methodological, practical provisions and recommendations for the formation of systems of food security in Ukraine. These authors carried out a monitoring and analytical evaluation of the level of food security in Ukraine and calculated the risks of losing food security through a developed methodical toolkit. L. Verkhovod in his works analyzes the relationship between the economy and war (Verkhovod, 2020). Scientist emphasizes that armed conflict became part being contemporary Ukraine and called for changes in all areas of the life of society. That is why becomes the relevant scientific discourse regarding nature today's wars and their features. Armed conflicts were so entangled in public life that entail reformatting the economy both locally and globally.

One of the ways to overcome the food deficit is the development of urban agriculture. Urban farms and gardens can increase food security for people in cities, reduce the cost of supplying and distributing food produced in rural areas, boost the local economy, and reduce urban unemployment through job creation and social inclusion. Urban farming – the cultivation of agricultural products in line cities – arose in response to the fast-growing need for food in the population and the inability of traditional agriculture to fully satisfy these needs. Amid explosive development technologies and modern developments in this sphere, the pandemic does ideas of innovative urban farming especially popular. However, this trend may become one of the major factors that ensure the existence and development of humanity. At the same time, more and more people in developed countries, and not only, require environmentally clean products. Urban farms called create unique and high-quality urban environments, and help gets rid of problems in production the of organic products and their implementation, minimizing logistics costs. City farms have some advantages over traditional agriculture:

- allow getting more harvest with less area;
- safe for the environment;
- produce a minimum amount of non-recyclable waste;
- save aquatic resources;
- eliminate the need for transportation products;
- socially and economically beneficial³.

An analysis of recent studies that directly relate to urban farming shows that some attention is paid to this problem by architects and engineers who develop fundamentally new agricultural technologies and agro-industrial enterprises. Koshlatyi A. B., Kariuk A. M., Mishchenko R. A. take into account experience designing and building multi-story buildings in urban farming, the so-called «vertical farms» (mainly poultry, livestock, and greenhouses) (Koshlatyi; Kariuk; Mishchenko, 2018).

² The war in Ukraine is fueling a global food crisis. Available at : <https://graphics.reuters.com/UKRAINE-CRISIS/FOOD/zjvqkgomjvx/> (accessed thirty October 2022).

³ City farming. Available at: <http://www.lighting.philips.ua/products/horti-culture/city-farming> (accessed 30 October 2022).

Scientists do almost not study the social aspects of this type of management, as well as small individual farms in large cities.

The main text. In the introductory part, we noted a significant problem: in 2021, 36 of the 55 countries in the food crisis were dependent on exports from Ukraine at the level of ten percent of their total wheat imports. Moreover, some countries imported wheat exclusively from Ukraine. According to the Ministry of Agrarian Policy and Food of Ukraine, grain exports are, as a rule, six million tons per month. In 2022, only 322,000 tons were exported in March, 970,000 tons in April, 1.2 million tons in May, and just over one million tons in June. According to the State Statistics Service of Ukraine, as of January 1, 2022, the total storage capacity was 75 million tons. Given the capacity in areas with active hostilities, only 60.9 million tons of storage tanks were available⁴. According to the Ministry of Agrarian Policy and Food of Ukraine, as of June 2, 2022, 14.2 million hectares were sown with spring crops, which is 19.4 percent less than last year.

Approximately 25 percent of enterprises that produce crop products do not have the necessary plant protection products. Households and commercial producers do not have enough fuel to run motor vehicles and agricultural production.

Lack of fuel may affect winter crops in July/August. Prices for inputs for agricultural production are skyrocketing; prices for seeds, plant protection products, fertilizers and fuels rose by an average of 40-45 percent. In future seasons, it may not be profitable for producers to harvest standing crops⁵.

In addition, the invasion halted work in Ukraine's once bustling Black Sea ports and emptied the fields. Russia's export opportunities were also limited. These two countries account for a quarter of world wheat exports and one-fifth of barley and corn exports, as well as more than half of sunflower oil exports. Of these, about one-eighth of all calories consumed in the world comes from.

It is important to note that food prices are rising amid and due to other significant difficulties in the global economy. Inflation is on the rise; the pandemic continues to hamper supply chains. At the same time, climate change threatens production in many agricultural regions of the world due to the increase in the number of droughts, floods, heat waves and forest fires.

In addition to disrupting the production and supply of food (mainly from Ukraine), the war is also hurting global food production, affecting the production of fertilizers, which are already more expensive due to rising energy prices. Russia and Ukraine are the largest producers of potash fertilizers for crops; because of the war, their prices skyrocketed.

Due to these factors, food prices are likely to remain elevated next year as yields decline if fertilizer use is reduced and food production becomes more expensive.

In March, Ukraine banned the export of many kinds of cereal, cereals and other products to avoid food shortages. In particular, it is forbidden to export (subject to the said declarative licensing) wheat and a mixture of wheat and rye (meslin), corn, chicken meat and eggs, and sunflower oil. The Ministry of Agrarian Policy of Ukraine assures that there will be enough food for this year. But the situation for consumers of Ukrainian products abroad is rapidly deteriorating. In addition, intra-Ukrainian prospects are not clear against the background of the fuel and fertilizer crisis, as well as the partial mining of crop areas. Thus, in addition to the loss of export potential, there is a real threat to Ukraine's food security.

In 2022, Ukraine lost 25% of seed areas. Despite losses, this year's crop pattern is generally capable of meeting local consumption. But this is explained by the fact that even before the start of the war, Ukrainian farmers managed to prepare relatively well for the sowing campaign: by the time of the invasion, about 70% of the necessary mineral fertilizers had already been delivered to Ukraine, and the necessary fuel reserves had been made. The further development of agriculture greatly depends on events at the front and the duration of the war.

⁴ Ukraine: FAO steps up efforts to preserve the new crop and ensure export the most important grain crops. FAO/ Victoria Mykhalchuk 05/07/2022. URL: <http://www.fao.org>.

⁵ Ibid.

The agriculture of the eastern regions of Ukraine, in particular, the Kharkiv region (a significant part of it until recently was occupied), is experiencing particular difficulties. The sowing campaign in some areas either started with a significant delay or did not start at all. The reduction of the land fund is the first difficulty faced by farmers. Part of the sown area was mined; demolition work is still ongoing. This means that even after de-occupation, part of the fields in eastern Ukraine will be unsuitable for agricultural work for some time. This means that the part of winter crops that could be sown in these territories will also decrease.

The next problem that farmers face is huge craters after rocket and shell explosions. The field is "contaminated" by fragments and metal, which remains in the ground and oxidizes, which invariably leads to chemical and physical contamination of the soil. After the explosions, the fields shrink. Due to the significant density of soils, moisture penetrates them worse, and besides, winds dry them out a lot. The soil ecosystem is destroyed, and the soil degrades: the organic component is destroyed, and erosion (weathering, drying), and oxidation occurs. Thus, soils lose their fertility.

A separate item is a problem with fuel and fertilizers. Attacks on oil depots and oil refineries, railway junctions also put the sowing campaign in jeopardy. Farmers need a lot of fuel and fuel and lubricants to work their fields. The government and local authorities are working on a solution to this problem, but it takes time and new fuel delivery routes to solve it. Accordingly, this slows down the sowing campaign.

Thus, the current situation allows us to clearly outline the main **problem**. Russia's war against Ukraine has become a factor that has made the global food crisis irreversible. The fragility of the global food distribution system, its dependence on local factors (this war has a global dimension, but undoubtedly remains a local conflict), and the general instability of global mechanisms for maintaining the security of human existence – all this is reflected in the specific problems of food security faced by the inhabitants of Ukrainian frontal zones. Long-studied problems of food security are refracted through a cognitive, but tragic prism: for many decades, Ukrainian cities not only did not know hunger but did not even experience serious, systemic problems with regular food supplies. The factor that deepened the global food crisis did not just put the inhabitants of Ukrainian cities in a difficult situation. He found them completely unprepared for minimal deviations from the usual picture of a sufficient daily supply of varied food and unhindered access to it. This problematic field is open to many scientific disciplines; Sociology in this area is interested not only in the social effects of the macroproblems listed above but also in the difficulties that arise at the microlevel of social relations and processes. It is especially important to trace the social meanings, factors, and consequences of the transformation of food practices. Ukrainian sociology has encountered such a research field for the first time. It is necessary to outline its boundaries and epistemology, as well as social engineering potential. Based on this, the purpose of this article is to characterize the sociological potential of the problem of the military factor of the global food crisis through the prism of food security challenges in the Ukrainian front-line city. The article is a statement of the problem and has an orienting character. We consider the advancement of the hypothesis of sociological research and the indication of the main directions for its verification to be a successful, effective result of our analysis.

We achieve this goal using a case study. Kharkiv, the second in Ukraine after the capital Kyiv in terms of population (more than 1,420,000 people at the beginning of 2022), the center of the largest region in eastern Ukraine, was chosen as an indicative case. For our analysis, it is of particular importance that the Kharkiv region is of great importance for Ukrainian agriculture and provides more than 5% of the gross national product in this industry. Kharkiv itself with an area of 350 sq. km. – is a large industrial center with a high degree of urbanization.

Kharkiv bakeries, meat-packing plants, and dairy plants, which also worked with raw materials that were produced in the Kharkiv region, fully satisfied the needs of the townspeople for priority

food products. Supermarkets of the city, together with agricultural markets in peacetime, ensured an uninterrupted supply of food to residents of all areas of the city.

On February 24, the situation changed dramatically: the Kharkiv region was subjected to intense attacks by the Russian army, and Kharkiv itself found itself in an operational encirclement. A significant part of the Kharkiv region, including agricultural zones, was occupied by Russian troops. The cessation of deliveries of agricultural products from the region to the city, the shutdown of most food industry enterprises, the cessation of the operation of trade networks, the transport collapse, coupled with the constant danger of artillery shelling and rocket and bomb attacks, led to the fact that many northern, eastern and central regions of the city (including densely populated housing estates Saltovka, Alekseevka, Rogan, Vostochny, KhTZ, Novye Doma) were cut off from the food supply. During the hostilities, the situation changed, in areas of the city remote from the front line, the work of enterprises, trade networks and the transport was gradually restored; however, on the northeastern and northwestern outskirts, the situation remained the same.

In these circumstances, the residents of Kharkiv and the city authorities faced a number of problems. First of all, these are the problems of food supply in wartime. The logistics of a large city were disrupted: public transport did not work, all shops remained closed in many districts, and it became dangerous to travel long distances. The supply disruption has led to a shortage of "cheap" products across entire categories, from bread to sausage. At the same time, the effect of false abundance arose due to a drop in demand for delicacies, and after it, symbolic segregation of buyers directly in the trading space. Bread, milk, and cereals acquired critical importance; their scarcity caused panic. At the same time, non-essential items, such as chips and sugary sodas, served as an «anti-stress» (precisely because they were non-essential). There were (and from the point of view of those who found the end of the 80s – the beginning of the 90s of the twentieth century – «returned») the practice of managing the deficit: the establishment of norms for the sale of specific products in one hand, limited access to trading floors. A separate item was the nutritional problems of special groups – the elderly, unable to move; diabetics; allergy sufferers; children on special nutrition.

Certainly, these problems, despite the common root causes, are very diverse. They demanded different solutions and evoked different reactions from both the population and the authorities. For each of the points, separate studies are needed, the boundaries of which cannot be outlined within one article. To achieve our goal, we offer one of the possible cases, which, from our point of view, is very indicative. This is a case of spontaneous urban farming or horticulture, which has acquired special significance for the inhabitants of Kharkiv in the conditions described. Before turning to the case itself, it is necessary to say a few words about urban farming as a phenomenon.

Urban agriculture or urban farming we describe as growing plants and raising animals in an urban area. The main feature of urban farming, which distinguishes it from rural farming, is the integration of farming into the economy of cities and the urban ecological system. Urban agriculture is surrounded by an ecosystem of megacities, with which it closely interacts.

Linkages include the use of typical urban resources (organic waste as compost and urban wastewater for irrigation), which has a direct positive impact on the city's ecology.

Urban farming is not a relic of the past, and not a habit brought by settlers from the villages, which subsequently disappears as unnecessary. This is a promising direction, an integral part of the urban system, which, with a reasonable and innovative approach, can solve many problems of megacities on a global scale, and for individual residents in particular.

Urban farms can be located within cities on adjacent plots, rooftops, and private as well as municipal areas such as city parks, schoolyards, and hospital yards. Urban farming includes the cultivation of food (grains, fruits, and vegetables, mushrooms). Most often, more expensive products are grown within the city, and urbanized farms are highly specialized.

Urban farming contributes to the greening of urban landscapes, and the productive use of urban waste, improving the ecological situation. In most developing countries, urban farms grow food for personal consumption.

With the use of modern technologies and innovative developments, urban farming has a huge potential, which has not yet been discovered in Ukraine.

Ackerman (Ackerman, 2012) gave a short definition of urban agriculture: it is seen as a sustainable practice with social, economic, and urban environmental benefits.

We offer for analysis a case related to gardening in the yards of a multi-story building in Kharkiv. Gardening in itself is not extraordinary for Kharkiv. Despite the high level of urbanization, many microdistricts of Kharkiv are built up with private houses with small plots of land, where it was always possible to keep household plots. During the events described, residents of such houses in Kharkiv found themselves in a less difficult situation in terms of food safety than residents of high-rise buildings. Even if they did not systematically maintain a household plot, they had the opportunity to support their livelihood with vegetables from their plots located right in their yards.

However, the case that attracted our attention is connected precisely to multi-story buildings. In one of the most industrialized districts of Kharkiv (Nemishlyansky), in the courtyard of several twelve-story buildings, in the spring of 2022, a resident planted a small garden with several beds. Cucumbers, tomatoes, potatoes, zucchini, and pumpkins were planted on the beds (Fig. 1–4).

It is noteworthy that this micro-district was not outlying, that is, it did not belong to the most shelled, but it was not safe («quiet») either: positions of Ukrainian troops were located near the described courtyard; Russian troops repeatedly launched rocket and artillery strikes on them. Taking into account the tensest situation, almost the only available method of collecting research information was to observe how the farming in this garden was carried out. Here are the results of this observation.

1) The owner of the garden did not stop working it, regardless of the dynamics of the military threat,



Fig. 1



Fig. 2



Fig. 3



Fig. 4

and during periods of aggravated missile and artillery danger, he did not leave his activity. 2) All crops grown in the beds gave fruit, that is, farming was efficient, although the beds were planted in the land of an ordinary city yard, which did not have the necessary agricultural characteristics. 3) Since most of the townspeople left Kharkiv due to intense shelling, the garden was almost not threatened by inattentive pedestrians (although the beds were not under the windows of the first floors in flowerbeds, but behind the access road, directly along improvised paths crossing the courtyard).

Repairing work with water and heating pipes became a real threat to the garden. However, they began after the decrease in the intensity of shelling, in the summer, when it was already possible to harvest from most of the beds.

The volume of the harvest obtained from the observed vegetable garden was not sufficient to feed even one person with this product. Therefore, it is impossible to consider the vegetable garden in our case as complete compensation for the food shortage. However, at the same time, this garden undoubtedly covered a significant part of the shortage of fresh vegetable products that were not included in the humanitarian packages that local authorities, international organizations and volunteers gave out to residents of shelled Kharkiv. Covering this deficit provided not only the simple satisfaction of the minimum requirements for food but also the requirements for vitamins. Even in peacetime, products from their garden for Kharkiv residents were significant as guaranteed environmentally friendly products, more useful than purchased ones (grown with the use of industrial fertilizers, pesticides, etc.). In wartime, their own garden became the only source of such products for a resident of a multi-story building.

Finally, in addition to the direct effect – the satisfaction of basic food needs – the garden has become an important tool for psychological relief, and self-rehabilitation. In the conditions of fading social life in the shelled city, the lack of opportunities to plan even the near future in any way, and the full uncertainty of prospects (that is, the maximum increase in social entropy), gardening partially stabilized the unstable everyday life of a Kharkiv citizen. The understandable regularity of the garden

activity acted as a compensatory alternative to the large-scale alarm caused by the constant threat of shelling, the immediate and inevitable threat to life.

Conclusions and perspectives. Of course, the information obtained as a result of observing one case does not give grounds for any conclusions. However, it allows us to outline promising directions for the necessary sociological research in the field we have designated. The case we have reviewed suggests that the impact of the military factor on the food practices of the inhabitants of a large city leads to the following areas of practice transformation:

- reorientation to self-sufficiency using urban land resources due to the collapse of urban food logistics;
- maintaining a farm (garden) economy near housing (including in the yards of multi-story buildings) to ensure physical security in the face of shelling;
- coming to the forefront of food survival as the main food strategy;
- the use of urban farming as a means of psychological relief in the context of continued hostilities.

Each of these directions opens up sufficient research space in microsociology for the application of primarily qualitative methods, such as observation, in-depth narrative and focus group interviews. However, the potential of problems of the military factor of food security in a large regional center is not exhausted by microsociological aspects. Such areas as self-organization of the population within the framework of collective practices for ensuring food security in military conditions; development of alternative logistics solutions within the boundaries of microdistricts; the spread of structured and organized volunteer practices, up to the institutionalization of the volunteer supply of humanitarian food aid, are of undoubted interest for meso- and macrosociological research. The prospects for comparative analysis are opening up: for example, studies of the transformation of food practices of various social groups (especially groups with high vulnerability and special needs); comparison of the characteristics of individual and collective practices of food survival; study of the factorial conditionality of the difference in the effectiveness of new food practices in different parts of the city. Even a simple list of these areas gives us sufficient grounds to state the high sociological potential of the problem field, outlined in the article and the need for the active development of this promising and acute topic for domestic and global sociology.

References:

1. Shevchenko O. (2021) Ekolohichna ta prodovolcha bezpeka yak skladovi zabezpechennia ekonomichnoi bezpeky Ukraine and strategy formati [Environmental and food security as components of ensuring economic security of Ukraine in strategic format]. *Naukovyi Visnyk Uzhhorodskoho nationalnoho university. Serii: Pravo* [Scientific bulletin of Uzhhorod National University: Series: Law], vol. 68, pp. 110–117. Available at: <http://visnyk-pravo.uzhnu.edu.ua/article/view/253935/251195> (accessed 30 October August 2022). (In Ukrainian).
2. Starychenko Ye. (2018) Prodovolcha bezpeka Krainy yak sotsialno-ekonomichna catehoria [Food security of the country as a socio-economic category]. *Ahrosvit* [Agrosvit], vol. 13, pp. 42–48. (In Ukrainian).
3. Skydan O., Hrynyshyn V. Risks and threats to ensuring food security of Ukraine: methodological foundations and practical evaluation. *Economics & Education*. 2020 Vol. 5. No 2. R. 96–101
4. Verkhovod L. (2020) Viina ta economics: lehalni ta nelehalni praktyky otrymannia dokhodiv [war and economy: legal and illegal practices of income generation]. *Scientific and theoretical almanac «Grani»*, vol. 23(8), pp. 14–25. DOI: <https://doi.org/10.15421/172071>
5. Koshlatyi AB, Kariuk AM, Mishchenko RA (2018) Ahropromyslovi pidpriemstva novoho typu – vertykalni fermi [New types of agro-industrial enterprises are vertical farms. Interagency scientific and technical bulletin construction production, no. 64, pp. 33–38.
6. Ackerman, K. (2012). *The Potential for Urban Agriculture in New York City: Growing Capacity, Food Security & Green infrastructure*. Urban design Lab, Earth Institute Columbia University.

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GENRE-STYLE INNOVATIONS IN THE OEUVRE OF MODERN UKRAINIAN COMPOSERS

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Abstract. The article is devoted to the genre and style features of contemporary oeuvre of Ukrainian composers. It was determined that genre and style, which are closely interrelated, is the representation of the author's individuality. It is emphasized that it is impossible to characterize the work of artists without understanding the specified categories. Therefore, the reference to the categories of genre and style is not accidental. The analysis of the oeuvre by O. Kozarenko, L. Dychko, L. Kolobud, and Ye. Stankovych allows us to conclude about the inherent features of contemporary Ukrainian musical art, namely: the synthesis of genres, in particular, a symphony and a concerto, the introduction of elements of choreography into the symphony genre, and the resort to various style directions, including musical models of the baroque, new folk wave, and jazz intonations. The mentioned features are successfully combined with modern compositional techniques, such as serial technique, aleatoric music, and sonorism.

Key words: genre, style, symphony, chamber symphony, concerto, neo-folklorism.

Introduction. The modern music culture of Ukraine is among the priority research interests. Thus, musicologists highlight its features: genre-style modifications, expansion of the range of expressive means observed in the oeuvre of domestic artists, intertextuality and synthesis of arts, which enriches different genre forms, a combination of national and foreign compositional means, sacred and secular art. The pleiad of Ukrainian composers of the late 20th and early 21st centuries consists of O. Kozarenko, L. Dychko, V. Sylvestrov, Ye. Stankovych, and others. Their various-genre works are well-known both in Ukraine and abroad and are part of the repertoire of the most famous modern national and world orchestras.

The purpose of the article is to determine the genre-style innovations exemplified by the oeuvre of domestic composers of our time. The following *tasks* are set to achieve the goal: to consider current musicological approaches to the concepts of genre and style in domestic science; to generalize theoretical and methodological approaches to the study of the mentioned issues; to identify the genre-style features of the oeuvre of modern composers.

Materials and research methods. The authors used a historiographic method which allowed examining the oeuvre of Ukrainian composers in chronological sequence; a historical and style method which assisted in specifying the style characteristics of works; a genre-nominative method which contributed to identifying traditional and innovative features of the genre.

Aspects of genre and style are one of the most studied topics in musicology. They are elucidated in substantial contributions by O. Kozarenko (Kozarenko, 2000), S. Korobetska (Korobetska), I. Kokhanyk (Kokhanyk, 2002), O. Samoilenko (Samoilenko, 2004), I. Tukova (Tukova, 2004), and S. Shyp (Shyp, 1998). The poetics of works of modern composers were considered by N. Dovhaleiko (Dovhaleiko, 2015), L. Kyianovska (Kyianovska, 2007) B. Siuta (Siuta, 2006), and others. The issues of genre-style definition of modern music culture remains open despite numerous studies.

Style and genre are music categories without which it is impossible to understand the artistic text. In modern musicology, there are two approaches to determining style: theoretical, which involves the analysis of features and techniques of a particular style, and historical, which examines style in chronological terms.

Despite the diversification of interpretations of the style definition, one can distinguish its stable positions. Therefore, according to the researchers, style is the personification of artistic integrity. For example, S. Tyshko emphasizes that “style in music is a system of stable signs of musical phenomena, the way of their differentiation and integration at different levels (author’s individuality, direction and school, historical era, national specificity, etc.), the transition of their semantic fields into specific systems of expressive musical means” (Tyshko, 1993: 5). V. Moskalenko renders the style of musical oeuvre as “the specifics of an artist’s worldview and musical thinking expressed by the system of music and speech resources for composing, interpreting and performing a piece of music” (Moskalenko: 211).

It is worth mentioning that style is a multifaceted formation. This fact is confirmed by much music research. In particular, it is about epochal, historical, and national schools. Thus, a contemporary researcher I. Kokhanyk stresses that “the style of the epoch is a set of all important moments of the system of artistic thinking, the aesthetic attitudes of the schools and directions of the time, which are implemented in an infinite variety of individual artistic concepts and social-artistic practice” (Kokhanyk, 2002: 88). A. Lihus defines style as an excellent quality of musical masterpieces which are part of a particular genetic commonality (the composer’s heritage, school, directions, epochs, etc.), which allows one to feel, cognize, and establish their evolution; it is manifested in the totality of all properties of music united in a holistic system behind distinctive features” (Lihus, 7: 130).

Individual style is a combination of specific features of the composer’s oeuvre, which is determined by inherent particularities of musical language, expressive means, melodic configurations, metro-rhythmic complex, and the method of articulation. In this context, different periods of an artist’s work (early and late styles) characterized by excellent style qualities are distinguished.

Genre performs two important functions, i.e., structuring, which is directly related to the structure of a composition and its form, and semantic, which is represented by unique content. A Ukrainian musicologist S. Shyp associates the definition of music genres with an understanding of style. In his opinion, “music genres are classes (or a set) of compositions and forms of music-making, which are ascertained by the functions of music pieces in the culture of society, the conditions of their genesis and artistic existence and characterized by their styles (systems of semantic and formal expressive features)” (Shyp, 1998: 347).

The categories of genre and style are in constant interaction. In particular, researcher O. Lihus highlights their dialectical combination and the phenomenon of “genre style” (Lihus, 7: 130). I. Tukova, who also investigated the phenomenon of genre style, notes that “the fixation on typification is changed by the fixation on individualization” (Tukova, 2004: 29). She holds that the basis for genre style entails the presence in the artist’s oeuvre of a “monographic” genre to which the composer systematically resorts and which specifies genre content and characteristic genre semantics; availability in genre of the “author’s layer” which indicates its importance within the framework of genre evolution as the final goal of the individual work of an artist (Tukova, 2004: 29). O. Samoilenko interprets the interaction between music style and genre following the interrelation

of concepts: symbolism and semantics, “authoritarianism” and “persuasiveness”, “aesthetic” and “ethical” (Samoilenko, 2004: 4, 11).

K. Bila conveys a genre-style model as a universal system which conveys the particularities of a complex of expressive means of a specific genre (genre model) given belonging to a particular style. This concept is regarded as a tool for identifying the specifics of compositional interpretation (Bila, 2011: 9).

Analysis of musicological sources allows us to conclude that the categories of genre and style are crucial factors in musical works. Genre, which is the groundwork for style diversity, expands the scope of interpretation and contributes to the search for new style solutions. Style, as an essential artistic factor, clarifies the content of compositions and renders expressive techniques through the historical prism.

Results and discussions. At the end of the 20th – the first quarter of the 21st century, composers had increased attention to genre searches. N. Herasymova-Persydska marks the dynamism of modern composer activities (Herasymova-Persydska, 1988: 32). Analyzing the phenomenon of modern domestic art, V. Kozarenko notes that “for thirty years, it was inevitably and forcedly focused on itself, being “blocked” towards evolution by the method of socialist realism” (Kozarenko, 2001: 16). The following is distinguished among the features of the oeuvre of domestic composers of the period concerned: genre-style metamorphoses, saturation of works with folklore intonations, polystylistics, techniques of aleatory music, pointillism, sonorism, and others.

It should be mentioned that the free use of genre models applies to all musical categories. One of the courses is the process of integration of symphony and instrumental concerto (Symphony concerto for violin with an orchestra of Ye. Stankovych and V. Hubarenko), a concerto for an orchestra (“Carpathian Concerto” by M. Skoryk), with an opera (“The Death Squadron” and “Revived May” by V. Hubarenko), ballet (“Olga” by E. Stankovych, “Assol” V. Hubarenko), literary and dramatic theater (“Sea” by L. Grabovsky for the reader, choir and orchestra).

Symphony is defined as the large-scale genre of a great theme, which reveals deeply dramatic, philosophical, and social embodiments. The modernization of its models widely spread in the 20th century. It is worth remarking that the chamber tendency was one of the development vectors of the symphony in the 20th century. V. Hubarenko introduced the genre of chamber symphony in the Ukrainian composer tradition. The oeuvre of the Kharkiv author has five chamber symphonies, which are characterized by a diverse instrumental composition:

- chamber symphonies No. 1 and No. 2 were composed for violin and orchestra;
- chamber symphony No. 3 – for two violins and orchestra;
- chamber symphony No. 4 – for cello and string orchestra;
- “Canto ricordo” – chamber symphony No. 5, composed for violin and mixed choir a cappella.

Together with V. Hubarenko, V. Bibik, Ye. Stankovych, and I. Karabyts also addressed the genre of chamber symphony. In his turn, V. Bibik created four samples of the relevant genre. Fifteen chamber symphonies of Ye. Stankovych continue the reference of Ukrainian composers to the genre tradition. The number of works confirms his deep interest in the genre under consideration. The oeuvre of the above composers is characterized by saturation with dramatic events of the era, emotional fullness, refusal of the sonata form within chamber symphony, and the polyphonic texture, which requires thinned sound fabric and reduction of the instrumental composition of a piece, is often used instead of the homophone-harmonic texture one. The genre also amplifies the style palette of modern techniques of assimilation of dodecaphony, pointillism, aleatory music, and sonorism. Composers pay special attention to the expansion of the sound spectrum in a composition and the desire to combine traditional and modern elements.

Chamber symphonies of Ye. Stankovych are marked by a characteristic use of unconventional instrumentation:

- flute, clarinet, trombone, harp, piano, violin in Chamber Symphony No.1;
- Chamber Symphony No. 2 “Meditation” was composed for two flutes, oboe, clarinet, bassoon, piano, percussion and string instruments;
- the instrumental palette of Chamber Symphony No. 3 is represented by flute and string orchestra;
- baritone, piano and string orchestra – Chamber Symphony No.4 “In Memory of the Poet” with lyrics by Pushkin;
- Chamber Symphony No. 5 “Secret Calls” was composed for clarinet and strings;
- Chamber Symphony No. 6 “Alarms of Autumn Days” was composed for French horn and chamber orchestra;
- instrumental set of Chamber Symphony №7 – violin, harpsichord, celesta, piano and chamber orchestra;
- Chamber Symphony No. 8 was composed for vocal, flute, clarinet, violin, cello, piano and percussion instruments;
- Chamber Symphony No. 9 “Quid pro quo” – for solo piano and string chamber orchestra;
- Chamber Symphony No. 10 “Dictum No. 2” was written for piano and string orchestra.

The presence of the soloist and the dialogue between the soloist and the orchestra allows concluding that these works combine the features of a concerto and symphony. For example, Symphony No. 5 – “Symphony of Pastorales” – unites the features of a concerto with a dramatic dialogue-competition between violin solo and orchestra with the large-scale sharp drama of symphony. In Chamber Symphony No. 1, different timbres act interchangeably as solo instruments: violin, piano, harp, flute and violin, xylophone and violin, piano and harp. Flute in G is a solo instrument in Chamber Symphony No. 2, flute – in No. 3, clarinet – in No. 5, violin – in No. 7, and piano – in No. 9. The principle of timbre dialogue is laid down in the second part of Chamber Symphony No. 1. Its texture is divided into voice leading (mainly violin, which is briefly changed by flute and clarinet) and piano accompaniment. These strata form a polyrhythmic complex. Intonation-rhythmic elements from the first three micro-preludes of the first part are modulated in the third part: a repetition of one sound, decomposed chords in a part of piano and harp.

Chamber music is central in the O. Kiva oeuvre in which a pride of place is held by the Chamber Symphony based on the lyrics by T. Shevchenko (1989, 2006 edition), which was dedicated to the composer’s father. The original sound of the composition is due to distinctive instrumentation – vocal voice, flute, clarinet, oboe, string quartet, piano, celesta and percussion instruments – timbals, bells, and triangle. The symphony covers a wide range of tragic colors, and the composer mixes lyric-epic poetry with dramatic intonation. The author’s idea of the O. Kiva work is realized by a three-part structure unconventional for a chamber symphony. A solo folk voice brings the symphony closer to the cantata genre. Kiva chooses the intonation complex as the basis of musical thought, which renders the Ukrainian melodies, as evidenced by the traditional third-six licks with subsequent smooth filling.

It is worth noting that the end of the 20th – the beginning of the 21st century is a time of rapid development of the concerto genre. A synthesis of concerto and symphony and using modern composition techniques, such as aleatory music and noise techniques, are among its distinctive features. “Changes affected metaphoric content, style signs, dramaturgy, composition, writing techniques, texture, and some other means of musical activity”. Consequently, it resulted in the “pluralism of creative focuses”: the first tendency – reliance on the “tradition of romanticism and classicism with the preservation of basic expressive means (melodic lines, the logic of harmony motion, textural diversity, multifunctionality”); the second tendency – orientation “to reach “new” music, thus the leading role is played by timbre-sonorant phonism, a graphic drawing, the level of sound integrity, an innovative understanding of space and time, and the factor of pitch level” (Hurkova, 2016).

Ukrainian composers differ in their interpretation of the modernity of the concerto genre. Therefore, Concerto No. 2 by I. Karabyts has a vague genre embodiment. Its definition has several meanings.

In particular, it is a three-part concert with external signs of the sonata-symphonic cycle, as well as a one-part composition. According to another version, a wave-like type of development is peculiar to Concerto No. 2 by I. Karabyts. In addition, musicologists propose to understand it as a combination of features of a one-part and traditional concert three-part cycle (Hurkova, 2016).

Concerto for violin with orchestra No. 2 by Ye. Stankovych is classified as a masterpiece of modern Ukrainian music. The composer interprets the genre of concerto following post-romanticism traditions of the 20th century, which include the rejection of a three-part composition in favor of a single-part, full symphony orchestra with harp and percussion instruments, that is evidence of the genre's symphonization.

Suites hold a valuable place in contemporary music culture. In particular, this genre is represented by the creative works of L. Kolodub, M. Skoryk, B. Filts, and other artists. The suite genre synthesizes various innovations. For example, it is about the combination of stylistic landmarks such as neo-Baroque and neoclassicism, neo-folklorism, and genre traits such as a suite, poem, sonata, etc.

Analysis of the style references of modern Ukrainian composers allows us to conclude on the combination of different style references. O. Berehova draws attention to the fact that "the late 80s – 90s of the 20th century is a period of historical breakdown, pivotal social changes: the collapse of the Soviet Union and the birth of an independent Ukrainian state. It is the time of denial of the former ideological priorities characterized by a surge in national revival and expansion of the vector of creative searches: "cultural and public life is revitalized: the repertoire of theater and concert organizations is updated and enriched, traditional reviews of musical works lose their administrative and official character, and numerous music festivals appear to replace them" (Berehova, 2015: 54).

The oeuvre of B. Filts, I. Karabyts, O. Kozarenko, Ye. Stankovych, and others is the embodiment of the synthesized nature of the style, a combination of innovative ideas, musical technique, and personification of timbres. For example, the timbre palette of the symphony opuses of Ye. Stankovych often becomes the basis for accompanying sound, both in chamber and grand works. Thus, in the first part of Chamber Symphony No. 6, it is used to present a picture of the morning and awakening of nature. The picture of the landscape in the "Symphony of Pastorale" is rendered by the timbre means of the violin voice, which corresponds to tone cluster in the parties of vibraphone and celesta, which symbolizes the awakening of nature.

One of the modern style particularities is composers' appeal to ancient genres, involving "neo-baroque ideas of the revival of instrumental traditions of the 17th-century genre system" (Tukova, 2004: 6). The mentioned fact is confirmed by Ye. Stankovych's Chamber Symphony No. 7 "Paths and Steps" for violin, harpsichord, celesta, piano, and chamber orchestra. It is a lyric-psychological drama consisting of three parts – "Paths and Steps", "Several Replicas", and "Once Visiting Great Vivaldi". The harpsichord, which is not typical of chamber symphony, adds a bright color and is an allusion to the Baroque style. In the third part "Once Visiting Vivaldi", the author conventionalizes the famous concertos of A. Vivaldi. Appeal to concerto opuses of A. Vivaldi seems natural, given Stankovych's attraction to the concerto in his chamber symphonies. The musical and expressive features of the symphony's third part consist of a competition between the soloist and orchestra, the game of major-minor, a dense and thin texture, metrics and rhythmic, and "friend-or-foe". The latter is realized through modern musical language and quasi-quotes, which the composer borrows mainly from the first two concertos of the "Seasons" cycle – "Spring" (Concert E-dur, op. VIII, No. 1) and "Summer" (Concert g-moll, op. VIII, No. 2).

The synthesis of style models is found in the oeuvre of M. Skoryk. In particular, "Diptych" for a string quartet, which is dedicated to an American patron of Ukrainian origin I. Stetsiura, is grounded on the tradition of the Baroque cycle and postmodern trends. Musicologists also highlight allusions to different styles in the composer's works (for example, the descending second intonation inher-

ent in the Baroque tradition, the tone semantics of “Requiem” B. A. Mozart – d-moll, “a specific romanticist type of Schumann piano cycles with their constant thematic allusions and intonation connections between parts”, and features of jazz music). Such a style play, thematic complexity, and “the metaphoric and meaningful essence of M. Skoryk’s oeuvre” is explained by “the juxtaposition of the polar facets of human existence, and the personal drama of the hero, intensified by the restlessness and contrasts of life whirlwind, acquires a truly tragic sound” (Hurkova, 2016).

Neo-folklorism, as a style direction of modernity, is justified by heightened composer attention to national origins and reinterpretation of folklore intonations through the prism of modern composition methods. The prominent examples of the style are represented by “Carpathian Fresco” in seven parts for piano, cantata “In Kyiv Dawns” by L. Dychko, “Ukrainian Poem” for violin and piano by Ye. Stankovych, “Holiday Kyiv” by I. Karabyts, and others. Symphony No. 3 “In the Style of the Ukrainian Baroque” by L. Koloduba is an interesting example of stylistic synesthesia. It combines various style strata: urban folklore, traditions of the Ukrainian music of the late the 17th – 18th century, and Baroque European music. All the above is supplemented by the techniques of modern composition, including seriality, aleatoric music, and sonorism. The oeuvre of composer L. Dychko impresses with the universalism, scale and depth of creative thinking, and genre diversity. “In developing the stylistic and semantic properties of folklore genres, L. Dychko deepened symbolic and metaphorical aspects of poetic texts and added them to timbre complexes, which subsequently acquired constructive functions” [130, p. 11].

O. Kiva’s chamber symphony was also written using neo-folklore trends. First of all, it is about the use of intonations of long lyrical songs and crying-keening, imitation of folk instruments in the orchestra (sopilka in the first part) and a folk voice as a soloist. Kiva’s chamber symphony is characterized by genre-typical aggravated psychologism and a concentration of synthesis of tragic and lyrical intros. General dramatism is formed by lamento intonations, an ascending melodic line, small-second delays, and reduced harmony in important semantic points of the story.

Modern genre and style trends are present in the oeuvre by O. Kozarenko. The panorama of his works is quite diverse: symphonies, instrumental compositions, choral and vocal music. It combines neo-folklore intonations and Baroque and jazz motifs and synthesizes the elements of academic music and modern trends. In particular, the first part of “Sinfonia Estravaganza” mixes jazz motifs with elements of kolomyikas. The second part is saturated with song intonations, which are also available in the third part. The combination of music and choreography complemented by the musical accompaniment is pioneering for the symphony genre.

“Chaconne” (Ciacona) for grand orchestra by O. Kozarenko is a cycle of variations. The work is an allusion to “Crucifixus” from J. S. Bach’s “High Mass”. The theme is genre-modified throughout the composition. Its intonations conceal the melodies of such folk songs as “Winds are Blowing” and “My Evening Star” (Zore moia vechirniaia). In addition, the composer uses the features of the Baroque lament aria.

Conclusions. The late 20th century is an epoch of experimental searches in music art associated with the development of genre modifications. In particular, one of the most popular branches of symphonic music is chamber symphony, the synthesis of concerto and symphony genres, and the introduction of choreographic elements in a composition. With the expansion of functional relations between expressive resources, the traditional semantic meanings of the elements of the musical whole (melody and harmony) change their identifier. Spectrum spreading is also evident in style. Baroque, neo-folklore, and modern techniques laid the groundwork for modern compositions. A striking example of modernity is the oeuvre by Ye. Stankovych. Genre dualism is among the essential features of Ye. Stankovych’s interpretation of chamber symphony. In addition, the composer combines the elements of symphony and concerto. O. Kozarenko skilfully synthesizes the features of Baroque, neoclassical and jazz traditions and motifs of folklore, which are combined

with choreography. A diverse palette of works by L. Dychko and I. Karabyts vividly renders stylistic synaesthesia. Analysis of the contributions of modern composers makes it possible to conclude that each of the composers has a signature style, which involves genre synthesis and appeals to different styles. It is worth noting that the mentioned substantiates another modern trend, namely, autonomous composer poetics. Its multiplicity proves the inexhaustible wealth of Ukrainian art. Promising development areas provide for studying the interpretation of the genres of opera and ballet by modern Ukrainian composers.

References:

1. Bila, K. S. (2011). Zhanrovo-stylova model instrumentalnoho kontsertu ta kontseptsii zasady kompozytorskoj interpretatsii (na prykladi tvoriv L. M. Koloduba) (Genre-style model of an instrumental concert and conceptual principles of compositional interpretation (based on the works of L. M. Kolodub). Retrieved from: <http://dspace.nbuv.gov.ua/bitstream/handle/123456789/27612/15-Bila.pdf?sequence=1>
2. Berehova, O. M. (2015). Osoblyvosti kompozytorskoho stylu Ivana Karabytsia v konteksti ukrain-skoj kultury (Peculiarities of Ivan's compositional style Karabytsia in the context of Ukrainian culture). *Chasopys Natsionalnoi muzychnoi akademii Ukrainy imeni P. I. Chaikovskoho*, 2. S. 46–61. (in Ukrainian).
2. Dovhaleiko, N.S. (2015). *Ukrainska suchasna muzyka. Portrety i landshafty* (Ukrainian modern music. Portraits and landscapes). Odesa: Druk Pivden. 236 s. (in Ukrainian).
3. Herasymova-Persydska, N.O. (1998). Nove v muzychnomu khronotopi kintsia tysiacholittia (New in the musical chronotope of the end of the millennium). *Ukrainske muzykoznavstvo*, 28, 32–39. (in Ukrainian).
4. Hurkova, O.M. (2016). Tvorchist I. Karabytsia v konteksti zhanrovo-stylovykh tendentsii v ukrain-skii muzytsi ostannoji trytyni KhKh stolittia (Creativity of I. Karabytsia in the context of genre and style trends in Ukrainian music of the last third of the 20th century). Retrieved from: <https://docplayer.net/70484859-Tvorchist-i-karabicya-v-konteksti-zhanrovo-stilovih-tendenciy-v-ukrayins-kiy-muzyci-ostannoyi-tretini-hh-stolittya.html>
5. Kyianovska, L.O. (2007). *Halytska muzychna kultura KhKh-KhKh st.* (Galician musical culture of the 19th-20th century): navchalnyi posibnyk. Chernivtsi. 424 s. (in Ukrainian).
6. Kozarenko, O.V (2000). *Fenomen ukrainskoj natsionalnoi muzychnoi movy* (Phenomenon of the Ukrainian national musical language). Lviv. 284 s. [in Ukrainian].
7. Korobetska, S. V. Zhanrovo-stylovyi syntezy yak oznaka suchasnoji vitchyznianoji orkestrovoi muzyky (Genre-style synthesis as a feature of modern domestic orchestral music). Retrieved from: <http://enpuir.npu.edu.ua/bitstream/handle/123456789/4745/Korobetska.pdf?sequence=1&isAllowed=y>
8. Kokhanyk, I.M. (2002). Muzychnyi tvir: vzaiemodiiia stabilnoho i mobilnoho v aspekti stylu (Musical composition: the interaction of stable and mobile in the aspect of style). *Naukovyi visnyk Natsionalnoi muzychnoi akademii Ukrainy im. P. I. Chaikovskoho*. Kyiv. Vyp. 20. S. 44–51. (in Ukrainian).
9. Kozarenko, O. V. (2001). Ukrainska natsionalna muzychna mova: geneza ta suchasni tendentsii rozvytku (Ukrainian national musical language: genesis and modern development trends). *Natsionalna muzychna akademiia Ukrainy im. P. I. Chaikovskoho*. 23 s.
9. Lihus, O.M. (2016). Teoretychni aspekty spivvidnoshennia muzychnoho stylu i zhanru (Theoretical aspects of the relationship between musical style and genre). *Visnyk KNUKIM*, 35, 129–137. (in Ukrainian).
10. Moskalenko, V.H. Lectures on musical interpretation (Lectures on musical interpretation). Retrieved from: <https://knmau.com.ua/wp-content/uploads/V.-Moskalenko-Lektsiyi-z-muzichnoyi-interpretatsiyi-Navchalnij-posibnik.pdf>
11. Samoilenko, A. I. (2004). Styl yak muzychno-kulturna katehoriia u svitli teorii dialohu M. Bakhtina (Style as a musical and cultural category in the light of M. Bakhtin's dialogue theory). *Kyiv*, 37, 3–13. (in Ukrainian).

12. Siuta, B.O. (2006). *Muzychna tvorchist 1970–1990-kh rokiv: Parametry khudozhnoi tsilisnosti* (Musical creativity of the 1970s–1990s). Kyiv, 255 s.
13. Tyshko, S.V. (1993). Problema natsyonalnoho styliia v russkoi opere. Hlynka. Musorhskiy. Rymtskyi-Korsakov (The problem of national style in Russian opera. Clay Mussorgsky. Rimsky-Korsakov). Kyev, Muzynform, 120 s. (in Russian)
14. Tukova, Y.H. (2004). O poniaty «zhanrovii styl» (On the concept of "genre style"). Ukraine named after P. I. Tchaikovsky. *Nauch. vestn. Nats. muz. akad. Ukrayny imeny P. Y. Chaikovskoho*, 38, 27–33.
15. Shyp, S. V. (1998). *Muzychna forma vid zvuku do styliu* (Musical form from sound to style: a study guide): navchalnyi posibnyk. Kyiv, Zapovit, 368 s. (in Ukrainian).

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THE PROBLEM OF SUCCESS IN THE FOCUS OF THE PERSONALITY OF A PRIMARY AND SENIOR SCHOOL PUPIL

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Abstract. The article is dedicated to the problem of success in the focus of the personality of a modern pupil of a general secondary education institution. The tasks of the research are the analysis of theoretical data and the highlighting of the results of empirical research concerning the content of the phenomena of success and social success, the content characteristics of the socially successful personality of the pupil, as well as the generalization of the results. In the research process, theoretical methods (analysis, reinterpretation and generalization of data, content analysis) and empirical methods (conversation, blitz survey, method of unfinished sentences) were applied. The author justified the difference between the concepts of «success» and «social success», emphasized the qualities and skills of primary and senior school pupils necessary for social success, and emphasized the importance of creating conditions in the educational environment that contribute to the formation of a socially successful personality.

Key words: phenomenon of social success, portrait of a socially successful pupil, teenager, young man, educational environment.

Introduction. In the conditions of a crisis society, there is a growing need for a socially mature, creatively active individual, who should be oriented towards positive self-realization and socially significant successes and is able not only to adapt to the changing reality of today, but also to creatively transform it and bear responsibility for choosing and implementing one's own life path. That is why the problem of success is gaining special relevance in all spheres of life of a modern person. Currently, the concepts of success and individual success have entered into both everyday life and the conceptual apparatus of psychological and pedagogical science. This is due to the fact that in modern life realities, many scientists consider the individual's focus on achieving success as one of the key conditions for personal development and an important factor in achieving the stability of society as a whole.

Therefore, in the modern pedagogical space, there is a growing need to educate a socially active, proactive, creative, mobile personality with a high level of formation of those qualities that contribute to the productive solving of various life tasks and social success. Adolescence and youth age are sensitive for the formation of qualities and competencies that ensure the social success of an individual, his self-realization and effective socialization, since it is in elementary and senior school that the intensive formation of the image of the social «I» takes place, the issues of self-affirmation of pupils, their social orientations and attitudes, vital self-determination of a growing individual become especially significant. At the same time, in the speech culture of modern teenagers and senior school pupils, «success» is one of the most used concepts, and social success is one of the most desired and proclaimed values.

The purpose and tasks of the research. Based on the above, the main goal of our article is to study the problem of success in the focus of the personality of a modern pupil of a general secondary education institution. Accordingly, our tasks are the analysis of theoretical data regarding the term-

nological clarification of the concepts of «success» and «social success of the pupil» and the highlighting of the results of empirical research based on experimental educational institutions regarding the content of the phenomena of success and social success, the content characteristics of the socially successful personality of the pupil, as well as the generalization of the obtained results.

Research methods. To achieve the goal and implement the research tasks, we used a complex of various psychological and pedagogical methods. As theoretical methods, the analysis of psychological and pedagogical literature was chosen to clarify the essence of the basic concepts of research «success» and «social success of a pupil», reinterpretation and generalization of data obtained during work with teachers and pupils of elementary and senior school, content analysis of reports of experimental institutions of general secondary education. Conversations, blitz surveys, and the method of unfinished sentences became empirical methods.

The research covered 219 teachers and 458 pupils of general secondary education institutions (282 elementary school students and 176 senior school pupils) in Kyiv City, Kyiv, Vinnytsia, Lviv, Ternopil, and Odesa regions.

Research results. The analysis of the content of domestic and foreign scientific sources dedicated to the phenomenon of success and the concept of social successfulness made it possible to obtain the following results. A person's awareness of the essence of success depends on the social and historical context. During different historical periods of human development, each political, economic, and scientific system had its own criteria for success. This concept has always occupied a prominent place in the value system of society and was interpreted mainly as the achieved result of certain activities, life aspirations and perspectives of the individual.

Recently, the concept of success has gained considerable popularity, both in mass communication and in the circulation of philosophical, sociological, psychological and pedagogical sciences, and its wide use in various contexts, which has led to difficulties in understanding the essence and content of this phenomenon. We consider it worth noting that representatives of pedagogical science (Absatova, Ussenova, Seitenova, Nurpeissova, Goncharov, 2016; Garsia, 2019; Klimkowska, 2012; Mateiuk, 2012; Mykhailyshyn, Dovga, 2017) emphasize the fundamental difference between the concepts of «success» and «successfulness». In modern foreign psychological and pedagogical studies, success is understood as:

- a life mission that meets the individual's needs for self-development and self-realization (Hildebrandt-Wypych, 2011);
- a positive result of activities aimed at achieving goals significant for a person, which reflect the social orientations of society (Kobzeva, Tuzova, 2020);
- a certain result expected by a person and society from external (visible to other people) and internal (self-development and self-education) activity of a person, which is accompanied by his positive emotions and an increase in the level of self-esteem and self-respect (Dries, Pepermans, Carlier, 2008);
- individual quality standard (Geisler, Allwood, 2015);
- a characteristic of a person's activity and an indicator of the specificity of his social connections and relationships (Greenaway, Kalokerinos, 2017).

Success is evaluated both by the person himself and by his immediate environment. That is why representatives of domestic psychological and pedagogical science emphasize the balance of social and personal identities of a person, which is necessary for realizing success. In this context, success can be understood as the maximum manifestation of one's individuality (Mateiuk, 2012) and the result that an individual has achieved in the process of realizing goals important to him and society due to self-efficacy and self-improvement (Mykhailyshyn, Dovga, 2017). We share the opinion of the Ukrainian researcher Yarema that «success can be defined as a set of individual, but at the same time socially recognized achievements that provide individuals with stable and (or) growing resources. In

this sense, success is a key link connecting the personal and the social, a certain «gene of sociality» which the entire hierarchy of norms and values of society is «encrypted» in (Yarema, 2010: 94–95).

Therefore, let's clarify the concept of «*success*» as a complex category and an essential characteristic of a person's activity, which is based on his obtaining positive results in a certain field of activity and contains a personal level associated with the subjective perception and assessment of one's own achievements, and a social level that accompanied by social approval or recognition.

Note that the main conceptual positions of success pedagogy nowadays are related to humanistic pedagogy and psychology and involve the use of an individual approach in interaction with pupils. In the results of the conversation dedicated to the problem of success in the life of a modern pupil, which was held with representatives of the administrations of experimental institutions of general secondary education and creative initiative groups of teachers, the participants noted that personally oriented education and upbringing should be aimed at the development and self-development of the student, his formation as a personality, taking into account individual characteristics, interests and abilities. According to practicing teachers, the educational process must be built in such a way that each growing individual has the opportunity to realize his potential, which determines the achievement of success and the prospect of his social success. They also emphasized the necessity to educate an active, proactive, creative personality in educational institutions and the importance of developing humanistic interaction in the educational environment, forming life optimism and motivation for success in pupils as the primary basis for their progressive growth and social success.

Today, in psychological and pedagogical science, there is a lack of an unambiguous position regarding the content load of the concept of «social successfulness». Social successfulness is considered as a social quality; one of the social parameters of the personality; an integral component of studying effective communication, professionalism, motivation for self-development of the individual; a kind of indicator of a person's authority in society, etc. In the scientific studies of recent years, social successfulness is considered as an indicator of a person's social status, which is the basis for building relationships with others and allows him to effectively solve various life tasks and contributes to his effective socialization. Scientists call one of the conditions for achieving social success the acquisition of internal freedom of the individual, which is accompanied by the expansion of the sphere of its interaction with society (Kobzeva, Tuzova, 2020; Osman, Ydhag, Månsson, 2021). Australian researchers emphasize that social successfulness depends on a person's adequate emotional reactions to external irritants and his ability to adapt to changing environmental conditions (Greenaway, Kalokerinos, 2017).

The scientific position of Kazakhstan scientists is unanimous, according to it social successfulness can be considered as «a measure of personal maturity, which is characterized by the absence of contradictions between the thoughts, feelings and actions of an individual, his ability to analyze life situations, in particular, in the activities of various social institutions, and the ability to regulate his own behavior» (Absatova, Ussenova, Seitenova, Nurpeissova, Goncharov, 2016: 1445). According to the scientific conclusions of American scientists, social successfulness is a dynamic construct closely related to the social nature of a person, his social experience (Dries, Pepermans, Carlier, 2008: 256).

According to German researchers, social success has an indirect positive relationship with life satisfaction, based on social comparisons (drawing parallels between one's own and other people's achievements, evaluation of success from the point of view of others) and individual standards (self-referential evaluations of one's success in society, satisfaction by own achievements) (Abele, Hagmaier, Spurk, 2016: 1615). According to the scientific position of domestic scientists, social successfulness is based on the achievements of the individual, which were recognized by society in accordance with certain existing standards in it (Rosiichuk, 2010; Yarema, 2010).

It should be noted that in the domestic psychological and pedagogical literature, the concept of «social successfulness» is considered ambivalent, dynamic, chronotopic, culturally marked, «which

includes repeatedly verified life experience, ...which is based on the motivation to achieve a set goal through purposeful activity, the desire to develop harmoniously» (Babyna, Yershova, 2010; Mykhailyshyn, Dovga, 2017). Also, domestic researchers consider social successfulness as an internal state of the individual, which is achieved through regular concentration on one's key desires and active actions for their realization (Romanovskyi, 2011).

So, in modern psychological and pedagogical researches, there is a variety of theoretical approaches to the definition of social successfulness, which is presented both as a content-creating factor of sociality, and as a social parameter of the individual, and as a criterion indicator proposed by society as a certain ideal, and as a certain lifestyle of a person, potentially able to harmoniously coexist in society with other people. All definitions are united by such a feature of social successfulness as its duration in time: unlike success, which can be a single result of a certain activity and be a random phenomenon, social successfulness is a systemic and permanent phenomenon, based on the continuous self-improvement of a person and long-term development of qualities and competencies necessary for sustainable successful results in the chosen field of activity.

Currently, there are many such areas: science, politics, health care, production, business, sports, culture, agriculture, education, etc. In addition, a modern person strives for multi-success, trying to find himself simultaneously in the field of professional self-realization, and in the socio-economic plane, and in the spheres of physical health and spiritual self-development, etc. However, it is in the educational institution, as a kind of model of society, that a growing individual first learns and realizes the demands of society, first begins to interact with people of different age and social groups on a personal and business level, and thus receives the first attempts at effective socialization.

Therefore, his stay in the educational environment acquires a purposeful character, her capabilities are evaluated by the environment, her activity becomes socially significant. In an educational institution, a person first gets the opportunity to experience social success or failure, establishing causal relationships between success and certain personal qualities, types of behavior, ways of responding to situations. The state of social success is important at all stages of a person's life and in all areas of his life, but it acquires special importance at school age and in the educational environment, «because the saturation of school life with evaluative attributes has a significant impact on the self-actualization of the potential opportunities of a growing personality» (Kyrychenko, Necherda, 2020: 106).

That is why we considered it necessary to offer pupils and teachers of experimental institutions of general secondary education to submit their own definition of social successfulness. For this purpose, the method of incomplete sentences was implemented in the work with groups of respondents. The results of the survey showed that for elementary school pupils, social successfulness is mostly associated with pragmatism and individualism. According to the respondents' answers, social successfulness is material well-being; self-satisfaction; popularity; the opportunity to realize all your dreams; the presence of friends and like-minded people; family support; receiving prestigious things. Instead, for senior school pupils, social success is a successful career; favorite work; an interesting and unusual hobby; the opportunity to decide one's own destiny. Therefore, according to senior school pupils, social success depends to a greater extent on the individual, on his own ideals, motives and actions, and to a lesser extent on the influence of his environment.

We associate this difference in the perception of the phenomenon of social success between primary school pupils and senior school pupils with the socio-psychological characteristics of adolescence and young adulthood. Adolescence is the most active and at the same time the most difficult period of personality formation. Due to the dynamics and complexity of qualitative and quantitative changes in human development, this period is also called «critical». In adolescence, the individual does not yet have enough moral experience, so his moral beliefs are in an unstable state, selfishness in achieving his own interests, conflict, indifference to the needs of others and, at the same time, anxiety and vulnerability, at the same time, communication with peers and authority among them and

harmony in family relationships become more significant. At a young age, the formation of strategic and tactical life goals begins, the level of awareness of one's own responsibility for the immediate and distant consequences of one's actions and the desire for self-realization in the intimate and personal sphere, creative and substantive activities increases, aggressiveness and instability decrease, flexibility in relations with others becomes more pronounced.

The obtained survey data of teachers demonstrated that social successfulness is understood by them as recognition of a person by others; self-realization; material independence; the ability to influence others; high status in society. It should be noted that the method of incomplete sentences made it possible to obtain answers that testified to the connection of social success with personal happiness, professional categories, and social relations.

Since social successfulness in the respondents' perceptions is associated, first of all, with personality, we considered it appropriate to offer pupils and teachers a blitz survey «Portrait of a socially successful pupil». We grouped the obtained characteristics of a socially successful pupil into three categories: personal traits, «professional» qualities, and the ability to have productive social relationships. The answers of primary and senior school pupils were similar and indicated the preference for such personal traits as optimism, independence, sociability, activity, self-confidence and such «professional» pupil qualities as work ability, adequate self-esteem, non-conflict, the ability to find a favorite business, put and achieve goals. Regarding social relations, teenagers and young men in the majority of responses noted that a socially successful pupil has high authority among peers and mutual understanding with others.

The «Portrait» proposed by primary and senior school pupils has common features with the image of a socially successful pupil presented in the scientific studies of the Polish scientist Hildebrandt-Wypych. The researcher emphasizes that European youth understands a socially successful person as one who is aware of his own abilities and uses them to the maximum, has the motivation to be successful, knows how to set goals, and is also characterized by diligence and ability to work on the way to a self-determined goal (Hildebrandt-Wypych, 2011: 130).

In contrast to teenagers and young men, teachers considered a socially successful pupil who possesses such personal qualities as conscientiousness, caring, selflessness, tolerance, politeness, generosity, which testifies to the desire of teachers to see a socially successful pupil as a pro-social personality whose success is based on strict moral imperatives and involves long hard work for one's own good and the good of others and society. The «professional» qualities of a socially successful student, according to teachers, are discipline, responsibility, diligence. We are convinced that such an understanding of a socially successful pupil is caused, first of all, by the assessment practice of general secondary education institutions, in particular, by equating academic success and social success, an excellent pupil and a socially successful pupil, which contradicts the content of the phenomenon of social successfulness, its defining feature is the involvement of the individual in the system of productive social ties. Characterizing the social relationships of a socially successful pupil, most teachers noted his social activity, flexibility in interaction with adults and peers, and cooperation.

It should be noted that such a difference in «portraits of a socially successful pupil» between pupils and teachers is caused, in our opinion, by the difference in cultural values: in the younger generation, the «portrait» is formed on the basis of the latest social trends and social changes, in the adult generation – on the basis of the traditional educational environment approach to pupil success. That is why we consider it necessary to build an environment of success in the educational institution, taking into account the new socio-pedagogical paradigm of upbringing and the trends of the modern educational process.

According to the results of the theoretical analysis and the obtained empirical data, let's clarify the concept of «*pupil's social successfulness*» as a stable state of the pupil's personality based on positive thinking, which reflects the recognition of his achievements in the school team and the closest

social environment and the student's ability to perform various social roles, set and achieve educational and social goals, harmonizing the principles of rivalry and cooperation, personal and public interests in their activities.

Discussion. Therefore, the study of the phenomena of success and social successfulness is an urgent problem of modern psychological and pedagogical science. Note that in the world scientific discourse, scientists have paid sufficient attention to the origins of success and the mechanisms of its achievement, to the study of its determinants, conditions, objective and subjective indicators, features of the process of achieving success (Babyna, Yershova, 2010; Mykhailyshyn, Dovga, 2017; Rosiichuk, 2010; Geisler, Allwood, 2015; Greenaway, Kalokerinos, 2017).

At the same time, we note the insufficient number of domestic and foreign psychological and pedagogical studies dedicated to the content of the concept of «pupil's social successfulness». However, some aspects of this issue have been analyzed in our previous individual works and investigations in co-authorship, in particular, the stimulation of prosocial behavior as a strategy for the formation of social successfulness has been considered (Kyrychenko, Necherda, 2021), the basic provisions for the formation of a pupil's social success in the system of general secondary education have been outlined (Kyrychenko, Necherda, 2020), the problematic field of the formation of a socially successful personality of a teenager in a crisis society is indicated (Necherda, 2022 a), and scientific approaches to the formation of a student's social success are highlighted (Petrochko, Kyrychenko, Necherda, 2022) and effective technologies for the formation of social successfulness are highlighted (Necherda, 2021; Necherda, 2022 b).

The content analysis of the reports of experimental institutions of general secondary education of the laboratory of physical development and healthy lifestyle of the Institute of Problems on Education of the National Academy of Educational Sciences of Ukraine proved the importance of partnership interaction between educational institutions and public organizations in the development of the qualities and competencies of a socially successful pupil personality: the participation of primary and senior school pupils in the activities of public organizations promotes their interest in the problem of social success, better adaptability of teenagers and young men in the environment of peers, increasing the level of social activity and social responsibility of pupils, increasing their attention to self-development and finding their place in life and striving for self-realization.

It should be noted that the American scientist Cantwell emphasizes the significant responsibility of educational institutions and their social partners in shaping the social success of students and emphasizes the systemic nature of this problem, its solution should involve all the resources of the educational environment and the community, which will allow a comprehensive approach to the development necessary for social success qualities, abilities and skills of the pupil (Cantwell, 2018: 8). Kazakhstani scientists also insist that this problem is not an individual problem of a growing personality, and cite the conclusions of an empirical study, according to it pupils consider self-confidence and perseverance in achieving a goal to be the leading qualities of a socially successful person, while the respondents emphasized much less on the importance of effective communication, tolerance and flexibility for the formation of a socially successful personality (Absatova, Ussenova, Seitenova, Nurpeissova, Goncharov, 2016: 1445). In the conclusions of the research, Kazakh scientists noted the expediency of implementing those forms and methods of working with pupils that would contribute to the formation of their social activity, mobility in various situations of social interaction, skills of cooperation and conflict resolution.

Agreeing with this scientific position, we note the importance of developing such a skill of a socially successful personality as proactivity, because socially successful people «direct their energy to what is under their influence, which expands their opportunities to achieve success in the chosen field of activity» (Kovi, 2012: 86). «To be proactive means that a person has realized his deep values and goals, acts according to his life principles, regardless of conditions and circumstances, freely disposes of freedom of choice, is effective in achieving success, responsible for his own life, his mood, his achievements and mistakes» (Petrochko, Kyrychenko, Necherda, 2022: 199).

We agree with the scientific views of the Polish researcher Klimkowska, who insists on the importance of concrete results of human achievements in a certain field of activity in understanding the phenomenon of social successfulness (Klimkowska, 2012: 33). There is a unanimous opinion of Swedish scientists, who emphasize that only a person who is competent in decision-making and able to bear responsibility for their results can be socially successful (Geisler, Allwood, 2015), precisely the specific results of the activities of domestic scientists (Borovyńska, 2020: 71; Kozmenko, 2020: 42) consider a significant factor in a person's obtaining a high social status and his transition to a new level of self-improvement. The desire for self-improvement and a person's ability to self-develop are defining characteristics of a socially successful personality, according to the scientific position of scientists of the Philippines (Garsia, 2019). The necessity of education and self-education in the formation of a socially successful personality is emphasized by Swedish researchers (Osman, Ydhag, Månsson, 2021). Summarizing the abovementioned, we note that the problem of success in the focus of the pupil's personality is being more thoroughly rethought every year in the research of domestic and foreign scientists and currently intersects with a number of psychological and pedagogical categories.

Conclusions. Based on the results obtained during the research, we came to conclusions concerning the importance of the problem of success and social successfulness in the formation of the personality of a modern primary and senior school pupil. In the conditions of the educational environment of a general secondary education institution, it is quite possible to create conditions that promote the emergence of a successful personality, to create a platform for its successful social start. In our opinion, the implementation of personally oriented and acmeological approaches to the education of pupils, as well as the development of methodical and technological support for the formation of social success of pupils in institutions of general secondary education, will contribute to the solution of this task. The prospects for further research in this direction are the creation of a structural and functional model of educating a socially successful personality of a primary and senior school pupil.

References:

1. Abele, E., Hagmaier, T., Spurk, D. (2016). Does Career Success Make You Happy? The Mediating Role of Multiple Subjective Success. *Evaluations Journal of Happiness Studies*, 4, 1615–1633.
2. Absatova, M., Ussenova, A., Seitenova, S., Nurpeissova, T., Goncharov, L. B. (2016). Methodical Development of a System of Social Success of the Future Teacher. *International Journal of Environmental & Science Education*, 11 (7), 1443–1449.
3. Babyna, T. H., Yershova, O. P. (2010). Uspishnist yak bahatovymirnyi fenomen [Success as a multidimensional phenomenon]. *Uspishnist osobystosti: potentsial ta obmezhenia: tezy dopovidei Mizhnarodnoi naukovo-praktychnoi konferentsii*, 25–27 [in Ukrainian].
4. Borovyńska, I. (2020). Społeczne i psychologiczne strategie sukcesu życiowego osób wewnątrznie przesiedlonych: analiza porównawcza. *Knowledge, Education, Law, Management*, 5 (33), 1, 70–79.
5. Cantwell, B. (2018). Student Success as a Social Problem. *International Journal of Chinese Education*, 7, 6–21.
6. Dries, N., Pepermans, R., Carlier, O. (2008). Career success: Constructing a multidimensional model. *Journal of Vocational Behavior*, 73 (2), 254–267.
7. Garsia, L. L. (2019). Walking through a Successful Life: A Case Study. *Naresuan University Journal: Science and Technology*, 27 (4), 87–97.
8. Geisler, M., Allwood, C. M. (2015). Competence and Quality in Real-Life Decision Making. *PLoS ONE*. Retrieved from: <https://journals.plos.org/plosone/articleid=10.1371/journal.pone.0142178>
9. Greenaway, K. H., Kalokerinos, E. K. (2017). Suppress for success? Exploring the contexts in which expressing positive emotion can have social costs. *European Review of Social Psychology*, 28 (1), 134–174.
10. Hildebrandt-Wypych, D. (2011). The social construction of life success among German youth. Contemporary Learning Society. *A quarterly of social and educational ideas*, 129–142.

11. Klimkowska, K. (2012). Students' Opinions on Their Competences for Reaching Life Success. *Procedia – Social and Behavioral Sciences*, 55, 32–38.
12. Kobzeva, O., Tuzova, O. (2020). Assumptions on social success in youthful age. *The European Proceedings of Social and Behavioural Sciences*, 1, 575–581.
13. Kovi, S. R. (2012). *Sim zvychoh nadzvychnaino efektyvnykh liudei: Potuzhni instrumenty rozvytku osobystosti* [Seven habits of extremely effective people: Powerful tools for personal development]. Kharkiv: Klub simeinoho dozvillia [in Ukrainian].
14. Kozmenko, O. (2020). Uspikh u vyshchii osviti SSHA (retrospektyvnyi analiz) [Success in US higher education (retrospective analysis)]. *Knowledge, Education, Law, Management*, 4 (32), 1, 41–46 [in Ukrainian].
15. Kyrychenko, V. I., Necherda, V. B. (2020). Partnerska vzaiemodiiia yak zasib prymnozhennia resursiv formuvannia sotsialno uspishnoi osobystosti starshoklasnyka [Partnership as a means of increasing the resources of forming a socially successful personality of a high school student]. *Suchasnyi vykhovnyi protses: sutnist ta innovatsiynyi potentsial: materialy Zvitnoi naukovo-praktychnoi konferentsii Instytutu problem vykhovannia NAPN Ukrainy za 2019 rik*, 104–108 [in Ukrainian].
16. Kyrychenko, V. I., Necherda, V. B. (2021). Stymulowanie zachowań prospołecznych uczniów jako strategia kształtowania osoby odnoszącej sukcesy społecznie. *Knowledge, Education, Law, Management*, 3 (39), 1, 53–57.
17. Mateiuk, O. A. (2012). Uspishnist osobystosti: sutnist ta zmist fenomenu [Personal success: the essence and content of the phenomenon]. *Visnyk natsionalnoi akademii Derzhavnoi prykordonnoi sluzhby Ukrainy*, 4, 12–15 [in Ukrainian].
18. Mykhailyshyn, H. Y., Dovga, M. M. (2017). *Uspishnist osobystosti: filosofskiy ta psykholoho-pedahohichnyi kontekst* [Personality success: philosophical and psychological-pedagogical context]. *Naukove myslennia: zbirnyk statei uchasnykiv Deviatoi vseukrainskoi praktychno-piznavalnoi internet-konferentsii «Naukova dumka suchasnosti i maibutnioho»*, 50–56 [in Ukrainian].
19. Necherda, V. B. (2021). Rol hromadskykh orhanizatsii khortynhu u formuvanni sotsialno uspishnoi osobystosti starshoklasnyka [The role of horting public organizations in the formation of a socially successful personality of a high school student]. *Teoretyko-metodychni problemy vykhovannia ditei ta uchnivskoi molodi*, 25, 2, 15–29 [in Ukrainian].
20. Necherda, V. B. (2022 a). To the problem of education of growing personality in a crisis society. *Education and science of today: intersectoral issues and development of sciences: Proceedings of the III International scientific and practical conference*, 245–247.
21. Necherda, V. B. (2022 b). Formuvannia sotsialno uspishnoi osobystosti zasobamy «sase-study» u partnerstvi zakladiv osvity iz hromadskymy orhanizatsiiamy [Formation of a socially successful personality by means of «case-study» in partnership of educational institutions with public organizations]. *Věda a perspektivy. Multidisciplinárni mezinárodní vědecký magazin*, 1 (8), 142–152 [in Ukrainian].
22. Osman, A., Ydhag, C. C., Månsson, N. (2021). Recipe for educational success: a study of successful school performance of students from low social cultural background. *International Studies in Sociology of Education*, 30, 422–439.
23. Petrochko, Zh. V., Kyrychenko, V. I., Necherda, V. B. (2022). Formation of social success and life optimism in pupils in crisis conditions. In: *Innovations for Achieving the Sustainable Development Goals: Science, Education and Economics: Collective monograph*. Slovenia, Ljubljana: Ljubljana School of Business, 185–204.
24. Romanovskyi, O. G. (2011). Pedahohika uspikhu: yii sutnist ta osnovni napriamy vyvchennia [Pedagogy of success: its essence and main directions of study]. *Teoria i praktyka upravlinnia sotsialnymy systemamy*, 2, 3–8 [in Ukrainian].
25. Rosiichuk, T. A. (2010). Determinanty uspishnosti u vykhovanni osobystosti [Determinants of success in personality education]. *Mizhnarodna naukovo-praktychna konferentsiia «Uspishnist osobystosti: potentsial ta obmezhenia»*: *Tezy dopovidei*, 58–61 [in Ukrainian].
26. Yarema, A. I. (2010). Fenomen uspikhu v sotsiolohichnomu vymiri [The phenomenon of success in the sociological dimension]. *Visnyk Lvivskoho universytetu: Serii sotsiologiiia [Bulletin of Lviv University: Sociology Series]*, 4, 92–99 [in Ukrainian].

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OCCURRENCE OF FREEDOM OF WILL IN THE CONTEXT OF THE RIGHT TO LIFE

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Abstract. The article examines the moment of the emergence of free will in the context of the right to life. The author defines the notion and concept of freedom of will. The article examines the influence of the right to life on freedom of will. The author emphasises that free will and the right to life are fundamental concepts on which law is based. The work states that thanks to free will, people can make decisions and bear responsibility for them, exercise rights and create obligations. The scientist proves that free will arises at the moment of the emergence of the right to life. The article demonstrates that the right to life and free will arises only from the moment of birth. The author substantiates the thesis that the scope of free will changes throughout life. The research examines cases in which the amount of free will can increase due to intellectual development, change in a legal capacity and legal status. It is noted that the amount of freedom of the will may decrease in case of limited legal capacity, change in legal status or case of recognition of a person as incompetent.

Key words: freedom of will, the autonomy of will, right to life, human rights, civil law, legal capacity.

Introduction. Freedom of will and the right to life are fundamental concepts on which law is based. Thanks to free will, people can make decisions and bear responsibility for them, exercise rights and create obligations. Civil legal relations cannot exist without free will. However, all rights are based on the right to life. It is the starting point of legal capacity and the beginning of all other rights. The moment of emergence of free will is directly related to the right to life. Determining the moment of emergence of free will in the context of the right to life will allow us to establish when a person becomes a participant in legal relations. Only by determining when there is an opportunity to make decisions, dispose of one's rights and perform duties will we be able to talk about legal capacity, human rights and civil relationships.

State of scientific development. The scientific doctrine has studied the right to life as a personal non-property right. Among the leading scientists who studied the right to life, we should be noted R. Dworkin (*Life's Dominion: An Argument about Abortion and Euthanasia*), D. McGoldrick (*The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights*), L. Hannikainen (*Peremptory Norms (Jus Cogens) in International Law: Historical Development, Criteria, Present Status*), P.G. Lauren (*The Evolution of International Human Rights: Visions Seen*), J. Morsink (*The Universal Declaration of Human Rights: Origins, Drafting, and Intent*), E. D. Novak (*The Sanctity of Human Life*) G. Williams (*The Sanctity of Life and the Criminal Law*), E. Wicks (*The Right to Life: Religious, Philosophical, and Legal Origins*), K. Wiredu (*An Akan Perspective on Human Rights*). Also, the understanding of the right to life is based on the fundamental works of Y. S. Gambarov, D. D. Grimm, K. D. Kavelin, M. M. Korkunov, D. I. Meyer, S. A. Muromtsev, K. O. Nevolin, G. F. Shershenevich, M. M. Agarkov, S. S. Alekseev, S. M. Bratus, L. O. Krasavchikov, S. N. Landkof, and others. Modern Ukrainian scientists also paid considerable attention to this issue. In particular, it was revealed in the studies of T.V. Bodnar,

V.I. Borisova, O.V. Dzera, A.S. Dovgert, I.V. Zhilinkova, V.I. Kisil, V.M. Kossak, O.V. Kokhanovska, O.D. Krupchan, N.S. Kuznetsova, V.V. Luts, R.A. Maidanik, O.A. Podoprygora, O.A. Pushkin, Z.V. Romovska, M.M. Sibilev, R.O. Stefanchuk, E.O. Kharitonov and others. At the same time, there is a lack of research on free will. The relationship between free will and the right to life is not at all revealed by scientific doctrine.

The aim of the study. Determine the moment of emergence of free will in the context of the right to life.

Research methods. General scientific and unique scientific methods of cognition are applied: logical (deduction and induction, analysis and synthesis, abstraction and comparison); hermeneutic (regarding the understanding of scientific texts); formal-dogmatic and comparative-legal.

Results of the study. In the context of the development of the paradigm of the perception of law, the vector of the development of legal institutions shifted in the direction of the observance of human rights. National and international law should protect the right to life and freedom of will to protect human rights. They are the basis for all other rights and social processes.

The legislation is not directly enshrined problems of free will. However, the right to life refers to a person's personal and property rights. Legal norms and practices have confirmed this approach. For example, in Article 3 of the Civil Code of Ukraine, personal non-property rights are divided into two groups: 1) personal non-property rights that ensure the natural existence of a natural person; 2) personal non-property rights that ensure the social existence of an individual. In general, personal non-property rights include the right to life, the right to health care, the right to a safe environment for life and health, the right to freedom and personal integrity, the right to the integrity of personal and family life, the right to respect for dignity and honour, the right to secrecy of correspondence, telephone conversations, telegraphic and other equality, the right to inviolability of housing, the right to freely choose a place of residence and freedom of movement, the right to freedom of literary, artistic, scientific and technical creativity (Civil Code of Ukraine, 2003).

The first category of personal non-property rights reveals the content of the rights that ensure the natural existence of a natural person. These include the right to life, the right to eliminate the danger that threatens life and health, the right to health care and medical assistance, the right to information about one's health, and the right to secret, the rights of a natural person undergoing inpatient treatment in a health care facility, the right to freedom, the right to personal integrity, the right to donation, the right to a family, the right to custody or care, the right to safe life and health. These rights are based on free will, substantiated in detail in other research.

It is logical to assume that all human rights will have no meaning without the right to life. This thesis becomes especially important in times of active development of society and transformation of legal institutions. Moreover, the emergence of all other human rights is connected with the moment of the emergence of the right to life. Because of this, it should be assumed that free will also arise from the moment of birth.

Art. 3 of the Constitution of Ukraine declares that a person, his life and health, honour and dignity, inviolability and security are the highest social value in Ukraine (Constitution of Ukraine, 1996). Enshrining this norm based on constitutional rights creates a vector in which all legislation and civil legal relations declare the protection of the right to life.

In the legislation of individual states, you can see a similar position regarding establishing the right to life. For example, Art. 2 of the Constitution of the Federal Republic of Germany stipulates that everyone has the right to life and personal integrity, individual freedom is inviolable, and interference with these rights is permissible only based on the law (Basic Law for the Federal Republic of Germany, 1949).

O. Miroshnychenko concludes that the Universal Declaration of Human Rights of 1948 was the first universal international document which enshrined every person's right to life. However, the norm of the Declaration characterises the right to life as somewhat generalised, without revealing its entire

content. The mentioned norm is a customary norm of international law, which all states must observe. It is also an imperative norm of general international law, deviations from which are not allowed. (Miroshnychenko, 2005: 9). The right to life is a norm guaranteed in international law and conventions. It is a right which has a character of *jus cogens*. It has many facets, and violations thereof may take various forms. Care must therefore be exercised when dealing with international responsibility for gross right violations (Ramcharam, 1985: 28).

The legislation of many countries enshrined the right to life. These are usually variants of the implementation of the norm of the European Convention on Human Rights. For example, Article 2 of the Human Rights Act of the UK protects your right to life. This means that nobody, including the Government, can try to end your life. It also means the Government should take appropriate measures to safeguard life by making laws to protect you and, in some circumstances, by taking steps to protect you if your life is at risk (The Human Rights Act, 1998).

O. Rogova rightly points out the right to life is the freedom of a person to directly realise the opportunities that he has as a *Homo sapiens* and to satisfy the essential and qualitative biological, social, spiritual, economic and other needs indivisible with the person himself, which should be universal (Rohova, 2006: 4). In a broad sense, the right to life is a normatively established opportunity to live. The primary purpose of this right is not simply to establish a fact but to implement a mechanism to protect this right. The lack of normative consolidation of the right to life would not affect the real possibility of its realisation. People would live even without the right to life. The primary significance of this right lies in determining the circle of bearers and the state's duty to protect this right. Today we understand that all people have the right to life. The right to life does not depend on gender, age, religion, place of residence or legal status. However, during slavery, only free people had the right to life. Enslaved people had the status of a thing. This legal regime is close to today's understanding of the legal status of animals as objects of law.

The central issue of the right to life determines the moment of its occurrence. A comprehensive analysis of the legal and medical literature allows us to distinguish three approaches to the emergence of the right to human life: the emergence of the right to life from birth, the moment of conception or at other intrauterine development.

According to the current legislation of Ukraine, the right to life arises from the moment of birth. The recognition of live birth qualifies the moment of birth. These concepts are only theoretical because the legal origin of the right to life is clearly defined. Art. 269 of the Civil Code of Ukraine stipulates the emergence of personal non-property rights from birth or by law. According to the Order of the Ministry of Health of Ukraine, "On the approval of the Instructions for determining the criteria for the perinatal period, live birth and stillbirth, the Procedure for registering live births and stillbirths", live birth is the expulsion or removal from the mother's body of the fetus, which after expulsion/removal (regardless of the length of pregnancy, the cut of the umbilical cord and whether the placenta has detached) is breathing or has any other signs of life, such as a heartbeat, pulsation of the umbilical cord, specific skeletal muscle movements. A newborn is a live-born child born or removed from the mother's body after the whole 22nd week of pregnancy (154 days after the first day of the last normal menstrual cycle) (Pro zatverdzhennya Instruktsiyi z..., 2006).

According to the Criteria of the perinatal period, live birth and stillbirth, a newborn who is born alive are a newborn with at least one of the following signs: $\frac{3}{4}$ of the breathing, $\frac{3}{4}$ of the pulse, $\frac{3}{4}$ of the pulsation of the umbilical cord vessels, and $\frac{3}{4}$ of the skeletal muscle movements. (Pro zatverdzhennya Instruktsiyi z..., 2006).

This approach is the only correct one from the point of view of law because the right to life can arise only in an existing person.

The legislation does not enshrine the "right to free will", delineating it only as a requirement and element of other rights, applying it as a principle in the composition of the other tenets and legal

relations. In this context, the question arises about the moment of the emergence of free will. If free will is associated with the awareness of one's actions, then the possibility of committing such acts by a newborn child raises doubts.

We can assume that free will arises from birth, but its scope changes with the development of the individual's capabilities.

This approach makes it possible to compare the scope of free will with the size of civil capacity. Thus, the amount of free will can also change within a specific civil capacity. For example, juveniles can participate in civil legal relations only within the limits of partial legal capacity. For fourteen years, juvenile law status was constant. But the level of juvenile freedom of will was continuing to increase.

Civil Law confirms this thesis. Juveniles have the following rights: 1) independently performing small household transactions. A deed is considered a minor household act if it satisfies the household needs of a person, corresponds to his physical, spiritual or social development and concerns an object that has a low value; 2) exercises personal non-property rights to the results of intellectual and creative activity protected by Law (Civil Code of Ukraine, 2003: art.31). We can draw two conclusions from this. First, the ability to perform small household tasks is directly related to the level of freedom of will. The older and more developed the child, the more extensive the list of transactions in which he has the right to participate. Of course, a newborn child cannot participate in transactions of his own free will. But a newborn child is still endowed with partial legal capacity. In particular, Art. 31 of the Civil Code of Ukraine contains this idea.

Civil capacity presupposes an awareness of one's actions. This rule is a necessary condition for the ability to acquire civil rights for oneself by one's actions and to exercise them independently, as well as to have the ability to create civil obligations for oneself by one's actions, to fulfil them alone and to bear responsibility. At the same time, civil legal capacity is not related to awareness of one's actions. The civil legal capacity allows only having civil rights and obligations. This type of ability includes the possibility of having all personal non-property rights. Understanding this is important to the issue of free will. We will demonstrate this below.

Guided by his free will, a juvenile can exercise personal non-property rights related to creative activity. For example, when a baby says "goo" or draws a line on a piece of paper, you can already ask questions about the intellectual and creative activity. Civil legislation also confirms that the civil legal capacity of a natural person arises at the moment of his birth. One can question the above example by emphasising that the child is unaware of his actions. For example, when a child exclaims a set of sounds without putting any meaning into them. Her lack of awareness of her actions must have no legal significance in this case. When a minor accidentally draws a line and is unaware of his actions, he exercises a personal non-property right to artistic creativity. When a juvenile accidentally draws a bar and is oblivious of his actions, he wields a personal non-property right to artistic creativity. In this case, we are talking about juveniles' rights in the concept of civil legal capacity, not civil capacity. As we mentioned above, awareness of one's actions is essential only for civil capacity.

In the same way, the emergence of intellectual property rights is not connected with awareness of one's actions. When an incapacitated (for example, mentally ill) person paints an abstract picture or sings a chaotic set of sounds, he becomes the bearer of intellectual rights. The presence of free will may not depend on the awareness of one's actions.

In addition, a juvenile can exercise his free will through legal representatives. So when a child asks his parents to buy a toy, he does so as a manifestation of his free will. In this way, the child makes decisions and makes his own choices. In turn, parents, exercising their own free will, enter into civil legal relations of purchase and sale for the benefit of the interests of the minor. Another example is when a minor participates in competitions or contests and wins a gift. In this case, through the manifestation of his own free will, the child becomes the property owner, creating rights and obligations for himself.

It would be logical to conclude that the freedom of will of a physical person arises from the moment of his birth, and its scope changes throughout his life. Freedom of will can increase due to intellectual development, a change in civil capacity and legal status, and a decrease in the case of limited civil capacity, a change in legal status or a person being declared incompetent.

At the same time, there are other concepts of the emergence of the right to life. In particular, we know the concept of determining the moment of impregnation as equivalent to the beginning of human life. This position is based on religious cultures which declare the value of human life.

We must agree with the E. Wicks. He thought that we could not ignore the contribution paid by religion to the development of a concept of a moral and legal right to life (Wicks, 2010).

The most well-known assertion of the sanctity of human life in both the Christian Bible and the Jewish Torah is to be found in the Ten Commandments, the sixth of which command 'Thou shalt not kill' (Wicks, 2010).

The sanctity of life in Islamic thought is regarded as having a divinely ordained purpose and destiny (Nanji, 2008)

In Hinduism, preserving and promoting human life, in particular by procreating, is regarded as a central aspect of dharma and thus is the duty of each individual Hindu (Menski, 2003).

The WMA Declaration of Oslo on Therapeutic Abortion also emphasises respect for human life from the moment of its conception (WMA Declaration of Oslo on Therapeutic Abortion, 1970). There are also provisions in separate regulatory legal acts that partially indicate the emergence of certain rights from impregnation. For example, a person can become an heir if conceived during the testator's life (Civil Code of Ukraine, 2003: art.1222). But we must understand that heir can realise this right only after birth. Only after the moment of live birth will a person have a real opportunity to participate in civil legal relations.

The third concept of the emergence of the right to life is related to different terms of intrauterine development. Medical criteria favour this idea, according to which even persons born before the average gestational age with a body weight much lower than the norm are considered viable. The preamble to the 1959 Declaration of the Rights of the Child states that the child, because of its physical and mental immaturity, needs special protection and care, including adequate legal protection before and after birth (Declarations of the child's rights, 1959). The obligation of such security is associated with the first heartbeat in the 4th week of pregnancy, registration of the electrophysiological activity of the brain in the 6th week, reaction to painful stimuli, etc. But in no way can we talk about an unborn child's conscious and intentional actions as a manifestation of free will.

On the one hand, we can talk about specific intrauterine movements of the fetus. On the other hand, such a "person" cannot participate in civil legal relations. This rule means that freedom of will, from the point of view of civil law, is absent in this case.

Conclusions. The conducted research allows us to draw certain conclusions. From the standpoint of civil law, the right to life and freedom of will arises only from the moment of birth. A person's free will emerges from the moment of his birth, but its scope changes throughout his life. The scope of free will can increase due to intellectual development, change in a civil capacity and legal status. In case of limited civil capacity, change of legal status or recognition of a person as incompetent, the scope of free will may be reduced. The legislation does not enshrine the "right to free will", delineating it only as a requirement and element of other rights, applying it as a principle in the composition of the other tenets and legal relations. The central conclusion of this research is the statement that free will arises from birth, but its scope changes with the development of the person's capabilities.

References:

1. Civil Code of Ukraine (2003). *Vidom. Verkhov. Rady Ukrayiny*, 40, Art. 356.
2. Constitution of Ukraine (1996). *Vidom. Verkhov. Rady Ukrayiny*, 30, Art. 141.

3. *Basic Law for the Federal Republic of Germany* (1949). [online]. Available at: http://www.gesetze-im-internet.de/englisch_gg/index.html [Accessed 20 Oct 2022].
4. Miroshnychenko O. (2005). *Pravo lyudyny na zhyttya: teoriya ta praktyka mizhnarodnoho spivrobitnystva* (The human right to life: theory and practice of international cooperation). Thesis abstract. 2005. 21 p. (in Ukrainian).
5. Ramcharam B.G. (ed.) (1985). *The right to life in international law*. Dordrecht: Martinus Nijhoff Publishers. 380 p.
6. *The Human Rights Act* (1998). [online]. Available at: <https://www.equalityhumanrights.com/en/human-rights/human-rights-act> [Accessed 22 Oct 2022].
7. Rohova O.H. (2006). *Pravo na zhyttya v systemi prav lyudyny* (The right to live in the human rights system). Thesis abstract. 2006. 21 p. (in Ukrainian).
8. *Pro zatverdzhennya Instruktsiyi z vyznachennya kryteriyiv perynatal'noho periodu, zhyvonarodzhenosti ta mertvonarodzhenosti, Poryadku reyestratsiyi zhyvonarodzhenykh i mertvonarodzhenykh: Nakaz MOZ Ukrayiny* (2006) (On the approval of the Instructions for determining the criteria for the perinatal period, live births and stillbirths, the Procedure for registering live births and stillbirths: Order of the Ministry of Health of Ukraine) [online]. Available at: <https://zakon.rada.gov.ua/laws/show/z0427-06#Text>. [Accessed 10 Oct 2022]. (in Ukrainian).
9. Wicks E. (2010). *'The Right to Life: Religious, Philosophical, and Legal Origins', The Right to Life and Conflicting Interests*. Oxford, 2010.
10. Nanji A. (2008). *Dictionary of Islam: The Definitive Guide to Understanding the Muslim World*. Penguin Books. 576 p.
11. Menski W. (2003). *Hindu Law: Beyond Tradition and Modernity*. OUP India. 648 p.
12. *WMA Declaration of Oslo on Therapeutic Abortion* (1970). [online]. Available at: https://nil.org.pl/uploaded_files/art_1585658421_wma-declaration-of-oslo-on-therapeutic-abortion.pdf [Accessed 14 Oct 2022].
13. *Declarations of the child's rights: Adopted by resolution 1386 (XIV) of the UN General Assembly* (1959). [online]. Available at: https://zakon.rada.gov.ua/laws/show/995_384#Text [Accessed 18 Oct 2022].

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IMPLEMENTATION OF INNOVATIVE MANAGEMENT FORMS IN THE HIGHER EDUCATION REFORM SYSTEM OF UKRAINE

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Abstract. The article presents theoretical research on the innovative reform of the public power of Ukraine as a priority task of European integration and ensuring social and economic stability in the conditions of post-war recovery. However, it is determined that the modern experience of reforming the management system of higher education indicates the presence of several problems that prevent their implementation in the field of public authority. The main contradictions related to the peculiarities of state management innovations are related to the environment of implementation, scale and resource provision, and readiness of authorities to carry out organizational changes. Based on the research on the theoretical and practical prerequisites for the application of innovative practices, system-wide, functional, and instrumental gaps were identified. The author noted the need to establish cooperation between institutions of higher education and institutions of civil society (public associations of various orientations, united territorial communities) as an important prerequisite for further reform. The organizational features of ensuring the effective work of education management bodies and higher education institutions in remote and remote cooperation conditions have been revealed. In the future, it is advisable to focus on monitoring the effectiveness of the implementation of the strategy for the development of higher education until 2032, the implementation of strategic goals, and priority directions.

Key words: public administration, higher education system, innovative management, strategic planning, management technologies, reforming the higher education system.

Introduction. Ensuring the innovative orientation of the development of higher education institutions guarantees the effective training of graduates, increasing the level of integration of educational services to the conditions of the modern unstable labor market. Following current socio-economic conditions, the strategy of public management of higher education institutions should be implemented taking into account the innovative potential of a specific institution. The relevance of the problem of implementing an innovative model of management of a higher education institution is determined by the constant growth of society's demands for education as a whole, the rapid development of high technologies, mutual integration of theoretical and applied tasks by globalization trends. Scientists call the main functions of managing the innovative model of a higher education institution informative, motivational, developmental, and coordinating. The modern educational process is impossible without innovative renewal, involvement of new technologies, approval, and adaptation of the content of education. Analysis of the educational systems of higher education institutions of Ukraine from the point of view of development potential and design of all components of the educational space is one of the most important directions and resources for the quality of modern education (Sokolova, 2021:176). A special role in the current stage of higher education management reform is played by the mechanism of overcoming difficulties in achieving modernization goals following European and global standards (Borodienko, 2022: 102). Overcoming the contradiction between the mass nature of education and its personally-oriented content, between the standards of education and the values of self-expression in the self-realization of future graduates, and their competitiveness in the labor market. At the diagnostic and conceptual stage of the research, an analysis of the

conceptual and categorical apparatus and terminology was carried out. Thus, according to the Law of Ukraine "On Innovative Activities" and the provisions "On the Procedure for Implementation of Innovative Educational Activities", the term "innovative management of educational institutions" is defined through the concepts of "innovation" and "educational innovation". The term "innovation" was first introduced by J. Schumpeter in 1912 in the work "Theory of Economic Development", that is, it is defined by an economic category (Schumpeter, 2011: 80). The most expedient in the context of the relationship between managerial educational processes and innovative activity is the use of the concept of "innovation" as a form of managed development and purposeful changes that introduce new stable elements into the environment. Thus, "innovative management" should be understood as new and (or) improved organizational and technical solutions of an administrative nature, which can significantly improve the functioning of the entire educational organization. Currently, the essence and content of the main theories, culture graduates, and their competitiveness organization, which are involved in the implementation of state policy and are widely used in global management practice, are widely covered in the scientific literature. Clarifying the essential and substantive evolution of the concept of "innovative management in the management of higher education institutions" requires providing an author's understanding of the forms of innovative management that can be applied in the management of the reform of the higher education system. Currently, there are numerous interpretations and definitions of the concept of "innovation management", which can be used depending on the context, scope, and research goals. It is enough to mention P. Mykytiuk's definition in the fundamental work "Innovation Management", which analyzed and clarified the general theory and methodology of the foundations of management of the processes of innovative development of the organization, the problems of forecasting, planning of life cycles taking into account external and internal factors (Mykytiuk, 2019: 340). The systematic nature of the reform of higher education in Ukraine is considered a purposeful way of introducing state-management innovations in the public authority, based on the sequential implementation of the stages of mastering innovations, mutual adaptation, implementation, and institutionalization of innovations (Kroitor, 2022: 52).

The main part of the article. The purpose of the article is a thorough analysis of important processes that are currently taking place in the system of public management of higher education at the expense of determining the role of innovative management forms and their application in conditions of uncertainty in the destabilization of the socio-economic situation of Ukraine, which was caused by armed aggression on the part of the Russian Federation (Vitrenko, 2022: 195). The article is devoted to solving current problems that currently characterize the entire system of higher education and searching for optimal ways to stabilize destructive internal processes. Achieving the main direction of reforming the higher education system is possible under the condition of joint and clearly defined activities of subjects of state management of higher education, public self-government bodies, and stakeholders, who currently have a powerful influence on society as a whole. However, currently, the management mechanisms for applying innovative forms of management in the restoration of higher education are insufficiently developed (Postupna, 2021: 53). The further complication of the functioning of higher education as an object of management in today's complex conditions necessitates the improvement of public management mechanisms to ensure optimal conditions for the development of the industry as a whole (Semenets-Orlova, 2014: 219). Revealing the essence and features of innovative management forms will make it possible to specify system-forming structural elements and follow the nature of interaction to determine the effectiveness of the proposed system (Shvets, 2012: 30). The formulation of the general definition of innovative management creates conditions for monitoring the transition to the definition of the concept of "innovative management in the management of higher education institutions" in domestic science.

Research material and methods. General scientific and special methods were used to implement the scientific goal of the research and to solve the created tasks, in particular, the method of structural

and functional analysis of the higher education system of Ukraine, the method of comparative analysis of reform directions by the European educational system, the method of content analysis of the latest domestic and European documents in the field of higher education, a method of modeling and forecasting to develop the main directions of reforming public management activities in the system of higher education. The theoretical and empirical basis of the research is the scientific works of domestic scientists and managers dedicated to the study of the reform of the higher education system of Ukraine, reference literature, and data of national statistics. Thus, the theoretical analysis carried out shows that the implementation of the innovative management model consists in determining promising directions of development by the specific conditions and features of the institution of higher education, putting the innovative potential into action, in the development and implementation of updated content, forms and means of the educational process. The emergence of new educational systems, in particular, credit transfer, degree, developmental, and profile) and the introduction of innovative components directly into the content of education can guarantee sustainable development for institutions of higher education.

Results and their discussion. The results of the study of the conceptual foundations of modern management revealed the low efficiency and weakness of authoritarian management methods, which still dominate the activities of organizational formations in the post-socialist space, where Ukraine is no exception. In our opinion, the following concepts are innovative for Ukrainian education, as well as those that have a certain perspective on the territory of our country: the liberal paradigm of education management, the axiological paradigm of education management V. V. Kryzhko (Kryzhko, 2005: 120) the synergistic paradigm of education management V. G. Kremin (Kremin, 2014: 202) the self-regulatory paradigm of education V.P. Bekh (Bekh, 2009: 376). The conceptual basis of the model of the innovative institution of higher education is based on the philosophy of education, which corresponds to the values of the "open society". The system of higher education should provide conditions for the development of a multicultural conscious citizen of a democratic society, which defines education, ethnicity, equality, and dignity as the highest values, constant factors of the rapid development of society. Integrating into the European and world educational space, Ukraine should take into account the achievements and characteristic features of the management process of the higher education system in other countries. Some of them can be considered not only as an example to study but also as an example to follow, of course, taking into account the national characteristics of the Ukrainian education system and the priorities it aims to achieve (Sychenko, 2020: 63). Such consideration should not involve blind copying of foreign experience but should assist in the development of the management system of a higher education institution, to ensure its transition to the state and public level. Public organizations, local self-government bodies, parents' associations, and educational institutions play a major role in this matter (Sychenko, 2019: 441). In the process of forming a modern educational environment in Ukraine, there is a need to find new models of building relations between "educational institution-society". The outdated paradigm does not allow higher education institutions to fully integrate into the European educational environment. As a result, the dynamics of changes are not high, and most reforms are not effective enough. Sociopolitical transformations acted as a driving force in transforming the relations of educational institutions. Modernization of management mechanisms regarding the practice of organizing the educational process allows educational institutions to open up for cooperation with other institutions (governmental and non-governmental), which ensures harmonious and sustainable development (Shorobura, 2021: 217). Especially relevant at the current stage is the issue of mutual relations and the establishment of cooperation between educational institutions and the public in the form of civil society institutions (public associations of various orientations, united territorial communities). Interaction makes it possible to expand the functional capabilities of the Ukrainian school and build a dialogue between the active public and young people. It should be noted that this is a new experience for Ukraine, although it is already

generally accepted in European countries. The reluctance of higher education institutions to cooperate with the public is due to various factors, but the situation requires drastic changes. It can be noted that the cooperation between modern institutions of higher education and the public acquires features of mutual benefit for the comprehensive solution of the issue of educational management and problems of organizational and managerial content (Sokolova, 2021: 136). Such interaction significantly expands the possibilities of an educational institution. If we summarize all of the above, we understand that the interaction of higher education institutions and the public is not just a direction of activity, it is an objectively necessary thing that is the basis of the school's development. This is indicated by the legal and social prerequisites, which are positioned as a result of the dynamic development of the educational environment. In turn, in our opinion, the following should be included among the tasks of cooperation between the institution of higher education and the public:

- establishment of structural and logical connections between theoretical knowledge and the practice of their application;
- expansion of students' knowledge and skills due to the acquisition of a greater complex of knowledge than is provided by educational programs (civil society institutions can share their experience gained abroad during training, internships, etc.);
- improvement of higher education institution management models (i.e. transition from a closed model to a partnership with the community on various issues of organization of the educational process);
- implementation of a system of advisory and educational measures for teachers (civil society institutions have the potential to improve the qualifications of scientific and pedagogical workers);
- integration of higher education institutions into the international environment (the active public has long had strong ties at the international level, which can be used to promote gifted students and study the positive experience of teaching certain academic disciplines);
- Search for sources of additional funding (civil society institutions can contribute to the search for grant funds for the development of the institution or a separate direction of its activity, fundraising).

Thus, cooperation between institutions of higher education and the public is mutually beneficial and allows for comprehensively solve not only issues of an educational nature, but also individual problems of organizational and managerial content. In the conditions of European integration, special attention is paid to strategic management in the field of education (Khytko, 2020: 203). This is a systematic accounting of data on social and pedagogical forecasting, which makes it possible to predict with a certain degree of probability which new phenomena and trends should be expected to develop in the coming years and decades. In the future, innovative management will be more and more actively implemented in the field of education, which is understood as the managerial influence of the state on the change of factors that determine the production of goods and services, including educational ones, to increase the efficiency of the activities of educational institutions. This can be achieved if there is, and therefore, training of management personnel capable of navigating the diversity of modern management ideas and the successful application of scientific achievements. These should be highly qualified specialists capable of developing and implementing state policy, effectively performing management functions, and promoting innovative processes in the educational field aimed at improving the quality of education. In the future, the social component in the public management of education will be strengthened. Prospects for the development of the system of public management of education are connected with the process of modernization of both the educational sector in general and the management process.

Discussion. The level of innovative management should be determined depending on the changes and their scale. The main tasks of implementing an innovative way of developing the management of a higher education institution include the development and implementation of an updated corporate strategy, mastering modern management technologies, implementation of measures to increase the

efficiency of employees of higher education institutions, and the creation of new organizational forms of management, forecasting of strategic development and sustainable functioning of the institution of higher education. The internal factors of the application of innovative management should include the need to increase the efficiency and effectiveness of the work of a higher education institution, the application of operations management solutions, rapid adjustment of plans, management of an educational organization as an open socio-economic system, attracting investments, ensuring stable functioning and sustainable development. As a result of the analysis of research on the problems of management of higher education institutions, we find the statement that the management process is formed depending on the level of generalization. According to the approach, which is widely presented in the scientific and pedagogical literature, we find a sequence of stages of management cycles, namely, a universal approach and specific management functions, among which we should note forecasting, the modeling stage, the organization planning stage, receiving feedback, maintaining high-quality information provision, analysis of received information, correction of data. Aspects of management are also considered, namely sociopsychological, economic, and legal. The main areas of innovative management activity are:

- conceptualize management and its intensification;
- adaptability of management;
- psychologization of administrative management;
- information provision of the management process;
- the process of studying the dynamics of the development of a higher education institution by all aspects of functioning;
- implementation of flexible management approaches and models;
- adaptability of the principles of public administration.

Management of a higher education institution should be based on the use of a local monitoring system. Local monitoring ensures inclusion in the process of preparation and management decision-making of all subjects of the educational process, as well as the improvement of management. A targeted approach to the formation of functions contributes to the development of management potential. Currently, the process of managing a higher education institution is characterized by a state-public character and is based on close cooperation between state bodies and public self-government bodies. The democratization of the higher education management process means a significant expansion of the rights of scientific and pedagogical workers. The above-mentioned aspect is manifested in the rejection of rigid centralization, regulation of all parties and stakeholders, further development of management collegiality, implementation of principles of reporting and election of managers, and replacement of administrative and command management methods with techniques of democratic discussion, coordination, and decision-making. One of the important ways to ensure the stability of the higher education management system is to increase the effectiveness of teamwork in the languages of remote cooperation, which is currently an urgent problem for managers of all levels of higher education institutions. To quickly create a system for managing the work of remote teams, the following components must be taken into account: the total number of employees, the organization of effective communication within the structural units to ensure the fulfillment of professional duties, compliance with deadlines, to provide for a planned transition to project management, the division of projects into phases, streams, individual tasks, adjust systems of subordination and delegation of authority.

Project management, which is used in the system of higher education institutions, is similar to the Waterfall system – cascading cycles, during which tasks are transferred sequentially, the approach is oriented to the conditions of strict restrictions on the sequence of tasks. Currently, we are also observing the use of innovative forms of management, in particular Scrum, Kanban, Agile, and Lean. Under the conditions of classical project management, 5 main stages are distinguished: initiation,

planning, development, implementation and testing, monitoring, and completion. Regardless of the chosen management strategy in the conditions of the remote regime, it is necessary to ensure compliance with such principles as the purposefulness of the management process, flexibility during the implementation of the plan, the reality of the plan taking into account objective and subjective factors capable of correcting the situation, coherence of measures, executors, resources, terms

In the first stage of managing remote teams, it is necessary to create a joint electronic calendar. Uniting the heads of structural divisions of the higher education institution on one calendar grid allows you to turn on the reminder mode about upcoming important events, tasks, and video meetings. The delegation strategy is extremely important for the remote mode of managing autonomous teams for making timely decisions and the ability of the team to respond to relevant changes. If delegation is not practiced, team members may lose work motivation, sense of involvement, and personal importance over time. There are many IT tools to optimize the delegation process for the manager. One of these is Trello, which provides shared access to lists and cards with priority tasks that can be delegated to team members as needed. On these cards, create a detailed list of actions, and execution time. The MeisterTask service also allows you to use shared access, engage employees, send them information regarding the completion of tasks, the ability to communicate in real-time using web access or mobile applications, provide streaming activity of team members, embed a widget to track time for processing delegated tasks. In the process of implementing tasks, it is necessary to ensure uninterrupted document flow, information exchange, and data sharing. OneNote will be useful for managing the flow of documents, important for providing relevant information to team members at the right time. Google Docs as a free network office package includes a text and table editor, a service for creating presentations. All documents are stored in the Google cloud or can be saved to a file. To intensify the work with large volumes of data, and statistical information, it is possible to use Dropbox online storage, which allows you to store all the necessary documents in one place and share them with team members.

To monitor the activities of employees, it is advisable to use the Hubstuff resource – it is a tool that allows you to manage the work process and productivity of the team, simplifies the organization of processes, and transparent monitoring. With the help of the time tracking service, the manager can monitor employees' attendance, activity level, and other organizational points. The Confluence service is known to the global community as an organizational internal portal with the ability to centralize information to synchronize actions. Confluence allows you to structure task information, create project plans or performance requirements, and specific instruction letters.

Video conferences, online meetings, and joint brainstorming are integral parts of the process of managing a higher education institution. To ensure remote communication, it is possible to use Cisco Webex, Google Meet, MyOwnConference, Zoom, and Skype. These convenient video services support international languages, which allows you to hold local and international meetings, in particular, hold conferences with international participation, and training for employees.

Thus, modern IT tools allow you to organize the work of a team at a distance, to work effectively and efficiently. Weekly video meetings allow you to establish comfortable relationships between all team members, interactive services with shared access facilitate the process of information exchange, time tracking services implement the principles of responsibility and activity monitoring. Innovative management in the management system of a higher education institution is possible in conditions of free initiative and offering ideas. The new paradigm of education development calls for the need, firstly, for changes in education management, the study of theoretical prerequisites, and the identification of the peculiarities of education management in market conditions. Public administration is a driving force aimed at the activation of human activity through the creation of optimal conditions for the manifestation and development of its creative potential.

Public management of educational processes is relevant, as is the management of the competitiveness of an individual educational institution. This necessitates the elimination of negative trends with the use of methodological business, the formation of which should be based on the use of indicators

of various research methods. The organizational structure of management is the composition and subordination of related organizational units or links of the system, which ensure the optimal and effective implementation of management functions. Management of education reflects all phenomena that occur both in the state and outside its borders.

Conclusion. The task of reforming the public management of education appears in the formation of a new vision of educational problems by all participants in the educational process. Integrating into the European space, Ukraine should take into account developments characteristic of the management of the educational sphere in other countries. This is, firstly, the need to take them into account for the development of the national education management system. No less acute is the problem of state regulation of the educational services market, in particular in the form of state orders for the training of specialists. At the same time, the study of the management of quality education (quality of education) involves the identification of strengths and weaknesses, competitive positions through the use of STEP-analysis, SWOT-analysis, and VRIO-analysis, which will make it possible to assess not only the quantitative and qualitative composition of personnel but also the quality of educational services, provided by teachers.

Improving the education management system is related to the search for optimal management options for educational systems that could be supported by citizens, in particular, territorial communities. Currently, centralized and decentralized management systems are dominant in the field of education. The transition from centralized to decentralized is carried out in the countries of Western Europe. It is with this process that many specialists associate the quality of education. In the countries of the European Union, decentralization is considered a progressive form of management. The model of decentralization in the educational sphere primarily involves the elimination of the system of management and financing through district and regional education management bodies, which are state bodies within the so-called "vertical of power". That is, regional departments of education and science, after receiving requests and tasks from the Ministry of Education, pass them on to regional education management bodies. Thus, as a component of humanitarian policy, the system of state management of education is inherent in any country. As a result of the analysis of the historical forms of the development of the education management system, it became clear that very similar processes have been taking place in different countries during the last decades. For Ukraine, updating the education system, ensuring its compliance with the most developed models and standards, and initiating structural reforms is a guarantee of stable evolution of the state, a determining factor in the development of an educated nation and the formation of an active civil society.

References:

1. Bekh, V. P. (2009). Samorehuliatsiina paradigm osvity yak kintsevyi produkt demokratyzatsii i humanizatsii upravlinnia haluzziu [The self-regulatory paradigm of education as the final product of democratization and humanization of management of the industry]. Instytut vyshchoi osvity Ukrainy [in Ukrainian].
2. Borodienko, O. V. (2022). Determinants rozvytku suchasnoho universytetu: pereosmyslennia roli partnerstv [Determinants of modern university development: rethinking the role of partnerships], Publichne upravlinnia ta administruvannia v umovakh viiny i v postvoiennyi period v Ukraini, materialy materialy Vseukrainskoi naukovo-praktychnoi konferentsii [Public management and administration in conditions of war and post-war period in Ukraine, Proceedings of the All-Ukrainian Scientific and Practical conference]. Kyiv, 102–106 [in Ukrainian].
3. Kremin, V. H. (2014). Synerhetyka i osvita [Synergetics and education]. Instytut obdarovanoi dytyny [in Ukrainian].
4. Khytko, M. M. (2020). Teoretychni zasady efektyvnoho derzhavnoho stratehichnoho planuvannia osvitnoho rozvytku [Theoretical principles of effective state strategic planning of educational development]. *Pravo ta derzhavne upravlinnia*, 1 (2), 202–208. doi: 10.32840/pdu.2020.1-2.31 [in Ukrainian].

5. Kroitor, V. A., Dehtiarova, I. O. (2022). Modernizatsiia pravovykh zasad rehuliuвання ekonomichnoho rozvytku Ukrainy v umovakh viiny ta postvoiennyi period [Modernization of the legal framework for regulating the economic development of Ukraine in the conditions of the war and the post-war period], *Publichne upravlinnia ta administruvannia v umovakh viiny i v postvoiennyi period v Ukraini*, materialy Vseukrainskoi naukovo-praktychnoi konferentsii [Public management and administration in conditions of war and post-war period in Ukraine, Proceedings of the All-Ukrainian Scientific and Practical conference]. Kyiv, 52–55 [in Ukrainian].
6. Kryzhko, V.V. (2005). Antolohiia aksiolohichnoi paradyhmy osvity [An anthology of the axiological paradigm of education]. *Osvita Ukrainy* [in Ukrainian].
7. Mykytiuk, P.P. (2019). Innovatsiinyi menedzhment [Innovation management]. *Ekonomichna dumka TNEU* [in Ukrainian].
8. Postupna, O. V. (2021). Publichne upravlinnia rehionalnymy osvitnimy systemamy v Ukraini [Public management of regional educational systems in Ukraine]. *Kharkiv : TOV «Oberih»*, 53–64 [in Ukrainian].
9. Semenets-Orlova, I. A. (2014). Suchasni tendentsii upravlinnia aktualnymy osvitnimy zminamy na prykladi zarubizhnoho dosvidu [Modern trends in the management of actual educational changes on the example of foreign experience]. *Universytetski naukovy zapysky*, 1 (49), 219–226 [in Ukrainian].
10. Shorobura, I. M. (2021). Osoblyvosti vprovadzhennia derzhavno-hromadskoho upravlinnia orhanamy vlady u sferi osvity [Peculiarities of implementation of state and public management by authorities in the field of education]. *Pedahohika formuvannia tvorchoi osobystosti u vyshchii i zahalnoosvitnii shkolakh*, 75 (3), 27–32. doi: 10.32840/1992-5786.2021.75-3.5 [in Ukrainian].
11. Shumpeter, Y. (2011). The Theory of Economic Development by Joseph Alois Schumpeter. Vydavnychi dim «Kyievo-Mohylianska akademiia» [in Ukrainian].
12. Shvets, D. Ye. (2012). Systema vyshchoi osvity v Ukraini: instytutsiina budova systemy upravlinnia ta napriamy yii reformuvannia [The system of higher education in Ukraine: the institutional structure of the management system and directions of its reform]. *Rynok pratsi ta zainiatist naseleunia*, 1, 30–33 [in Ukrainian].
13. Sokolova, E. T. (2021). Teoretyko-metodolohichni zasady doslidzhennia innovatsiinykh upravlinskykh form u systemi vyshchoi osvity Ukrainy [Theoretical and Methodological Principles of Research of Innovative Management Forms in the System of Higher Education of Ukraine]. *Modern Economics*, 29(2021), 176–181. doi:10.31521/modecon.V29(2021)-27 [in Ukrainian].
14. Sokolova, E. T. (2021). Upravlinnia profesiinym rozvytkom naukovo-pedahohichnykh pratsivnykiv u systemi vyshchoi osvity [Management of professional development of scientific and pedagogical workers in the system of higher education]. *Modern Economics*, 25, 136–141 doi:10.31521/modecon.V25(2021)-21 [in Ukrainian].
15. Sychenko, V. V., Marenichenko, V. V. (2019). Derzhavne upravlinnia rehionalnym rozvytkom na zasadakh yevropeyskykh standartiv [State management of regional development based on European standards]. *Publichne upravlinnia ta rehionalnyi rozvytok*, 4, 441–463. doi: 10.34132/pard2019.04.11[in Ukrainian].
16. Sychenko, V. V., Rybkina, S. O., & Sokolova, E. T. (2020). Suchasni tendentsii rozvytku orhanizatsiinykh struktur u systemi upravlinnia zakladamy vyshchoi osvity [Current trends in the development of organizational structures in the management system of higher education institutions]. *Publichne upravlinnia ta mytne administruvannia*, 4 (27), 63–68. doi: 10.32836/2310-9653-2020-4.11 [in Ukrainian].
17. Vitrenko, Yu. M. (2022). Instytutsiina avtonomiia zakladiv vyshchoi osvity yak skladova ekonomichnoho vriaduvannia v umovakh pisliavoiennoho vidnovlennia ta reformuvannia sfery vyshchoi osvity v Ukraini [Institutional autonomy of higher education institutions as a component of economic governance in the conditions of post-war recovery and reform of the sphere of higher education in Ukraine], *Publichne upravlinnia ta administruvannia v umovakh viiny i v postvoiennyi period v Ukraini*, materialy materialy Vseukrainskoi naukovo-praktychnoi konferentsii [Public management and administration in conditions of war and post-war period in Ukraine, Proceedings of the All-Ukrainian Scientific and Practical conference]. Kyiv, 195–197 [in Ukrainian].

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EDUCATIONAL SOFTWARE FOR THE DEVELOPMENT OF PRE-SERVICE PROFESSIONALS' SUBJECT COMPETENCE

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Abstract. The article presents the results of the approbation of the electronic textbook, which was created as a means of developing pre-service specialists' subject competence. The authors note that the e-textbook is an e-learning publication with a systematic presentation of learning content that corresponds to the educational program, includes digital objects of various formats and provides interaction. The advantages of electronic textbooks, features of development and use of Electrical Engineering electronic textbooks for vocational education were substantiated. The expediency of using an electronic book for the formation of pre-service specialists' subject competence in the electrical field of vocational training has been presented. The levels of formation of subject competence were determined, and the efficiency of using the e-learning tool, which increased the level of student's academic achievements, was proved. It was emphasized that the introduction of the developed Electrical Engineering electronic textbook gave grounds to state that the material offered in the book motivated the students to study and allowed them to solve learning problems successfully.

Key words: information technology, electronic textbook, distance learning, teaching, professional education, information and educational environment, digital learning, subject competence, electrical engineering.

Introduction. In today's society, when smart mobile devices are gaining popularity, the Internet is becoming a ubiquitous learning tool. Substantiation of the theory and methods of pedagogical activity for digital learning and flexible application of technological tools are key issues for distance education using modern information technologies. In recent years, various computer-based learning systems have emerged on the Internet and wireless technologies (Chiu, 2017:524–537). The ease of use and popularity of the Internet makes the application of digital educational materials quite promising and aimed at achieving a goal of national vocational education, namely forming a competitive specialist with a high level of professional competence. Currently, research on the implementation of mobile learning to ensure higher productivity of the educational process is quite active (Abdulla, 2019:12). Digital learning technology is the most convenient as a great number of students use portable devices because such a device is now available to everyone. Unlike the traditional mechanism for browsing the Internet, the user can connect to a server over the network to select digital learning materials for studying (Engbrecht, 2018:10). Tests will allow students to monitor their progress and the content of digital learning materials. The relevance of the material presented in the article is due, on the one hand, to the practical need to develop modern electronic learning tools and their implementation in the practice of vocational education, and, on the other hand – the presence of significant pedagogical

cal and technological problems for quality design of such tools (Bin, Islam, Gu, Spector, and Wang, 2020: 2359–2375). In addition, didactically balanced and appropriate use in the training process. In today's society, when mobile devices are becoming popular, the Internet is removing the limitations of time and space and is becoming a ubiquitous learning tool. Substantiation of the theory and methods of pedagogical activity with the use of digital learning and flexible application of technological tools are key tasks for the interaction of interactive subjects (Bilousova, 2012).

Every year, students of vocational (technical) education institutions become more technologically literate. Digital technologies permeate all aspects of their lives: during play, communication and learning. Growing up with digital devices, students are constantly waiting for new technology that will be integrated into their personal experiences most of them in the professional and social aspects of their lives (Titova, Luzan, Sosnytska, Kulieshov, and Suprun, 2021). It proves that they strive to integrate the latest technologies into their educational lives as soon as possible. The academic environment can be described as a constant choice between traditional and innovative education, in a balance between strengthening the role of innovation and traditional ways of acquiring knowledge.

The electronic textbook is interpreted as an electronic educational publication with a systematic presentation of educational material that corresponds to the educational program, contains digital objects of various formats and provides interaction in the Regulation on electronic textbook № 440, which was approved by the order of the Ministry of Education and Science of Ukraine on May 2, 2018, and developed under the current legislative field (Laws of Ukraine "On Education", "On General Secondary Education", "On Vocational Education", "On Higher Education").

The study and analysis of scientific sources suggest that the e-textbook is an e-book that contains educational material for teaching and learning, which uses the benefits of personal computers, smartphones, netbooks, and tablets in the ability to: organize and reorganize, and unify information, using different ways of presenting new concepts and material, adapt to the needs of a particular person. We understand an electronic textbook in its accessible form as a computer file or electronic document that contains an extended explanation of the material and is intended for studying the course in the basic mode. The electronic textbook while retaining all the features of textbooks, is fundamentally new, namely: 1. Update information very quickly (efficiency of publication and editing of material); 2. To involve in the educational process pupils and students who for one reason or another cannot attend classes; 3. Use on any of the gadgets (accessibility); 4. To carry out safe research of the electrotechnical equipment, using simulators. Among the main requirements for electronic textbooks for the educational process are the following: scientific, accessible, problematic, visual learning, and sensory perception of the studied objects (Balalaieva, 2014: 113–117).

To improve modern educational technologies, the government and enterprises have invested heavily in the research and development of digital learning platforms. Software and hardware have been developed, various materials have been created, and they have been actively implemented in educational institutions, which makes favourable conditions for students (Hernandez-de-Menendez, and R. Morales-Menendez, 2019: 713–728).

Subject competence in electrical engineering is a set of knowledge, skills and abilities within the subject, which allows an individual to solve problems through their attitude. The student's abilities and subject competence in electrical engineering, first of all, is a sign of the high quality of his/her educational skills, the ability to establish links between acquired knowledge of electrical engineering and the situation, and the ability to find a procedure (method) to solve the problem. Their skills formed during the study of electrical engineering as a discipline. The scientists state that the orientation of the educational process in electrical engineering in institutions of professional (vocational) education on the formation of students' subject competencies also means developing motivation to study electrical engineering (Chaikovska, 2012: 134–138).

In developing the electronic textbook, we understood the need to profess such goals of the educational process as deepening students' knowledge of electrical engineering, information technology, physics, subject competence formation, development of cognitive and creative interest in the chosen profession, new equipment and technology, shaping experimental knowledge, skills and abilities of organization and self-organization.

The purpose of the paper. The purpose of the article is to reveal the features of development, construction and application of electronic textbooks on electrical engineering for students of vocational education to form their subject competence and prove the effectiveness of e-learning, which increases the students' success.

Results. The e-textbook is available in various formats and meets the following requirements portability, copying, distribution and search in search engines. This textbook provides active cooperation with the student, which provides mutual feedback, simulation models, the solution to the problem, adequate formulation and presentation of opinions, structuring, location and method for presenting new knowledge and adaptation to individual style (Bilousova, 2012). While creating an Electrical Engineering electronic textbook we took into account the basic principles of teaching. Firstly, learning is faster, and information is better absorbed if the student shows an active interest in the subject being studied – the level of motivation increases. Secondly, training will be effective if the forms of acquired knowledge and skills are such that they can be transferred to real-life conditions without additional coordination. Thirdly, learning is faster if the student learns about the result of each of his/her answers immediately. Correct answer or not – the student must receive confirmation immediately. Delay, even a small one, slows down the learning process. Fourthly, the assimilation of new material is accelerated if the discipline program is built on the principles of consistent complication of the material. You need to start with the simplest tasks. The level of difficulty is constantly increasing until the desired level of experience and skills is achieved. Fifthly, knowledge of the results of their work stimulates the next task. Difficulties must arise consistently, and their successful overcoming will develop a high level of activity. Sixth, since learning in itself is individual, the learning process should be organized so that the student could pass the program following their characteristics (Shepetko, 2010). To illustrate, consider the structure of the developed electronic textbook for the *Electrical Engineering* course to train specialists in repairing and maintenance of electrical equipment and solar power plants (Svyrydiuk, 2018).

The advantages of the electronic textbook are preservation of a large amount of information, which allows you to work without distraction with the training material; the bilateral nature of the learning process, its integrity, as the interaction of teacher and student with the control of the level of knowledge; quick search and the ability to return at any time to the desired section, topic, laboratory work, simulator of various processes, test tasks, knowledge control, which is carried out using the function of quick movement in the textbook; multimedia, which means the simultaneous use of different forms of information and its processing, namely: diagrams, tables, block diagrams, video clips, dynamic illustrations that demonstrate the process of performing algorithms in step-by-step mode or at different speeds; self-control, as the electronic textbook allows you to check the level of knowledge, skills and abilities developed after the topic or section, promotes objectivity and minimizes subjective approaches to evaluation; the use of dynamic models that are valid programs and allow for certain modifications to study the model's response to these actions; consolidation of educational material, which takes place with the help of tabs – homework, which consists of a library of reference notes (schematic representations of sections of educational material); mobility, which will help the student to use their time rationally. The use of an electronic textbook makes it possible to rethink traditional approaches to the study of educational material in electrical engineering. New approaches to teaching contribute to the systematic acquisition of knowledge, the formation of practical skills; improving the quality of professional training, and using the acquired knowledge to solve problems (Shupik, 2014).

To determine the level of formation of subject competence in the *Electrical Engineering* discipline and prove the effectiveness of the use of this e-textbook has experimented with 5 Ukrainian institutions of vocational education, State Vocational-technical educational institution "Bila Tserkva Vocational Lyceum", Higher Vocational School No 34 Vynohradiv, State Educational Institution "Korsun-Shevchenkivsky Vocational Lyceum", Ovruch Vocational Lyceum, State Educational Institution "Uman Vocational Agricultural Lyceum" during 2018–2021. The experiment involved 547 students among the professions an electrician for repair and maintenance of electrical equipment, mechanics for the repair of wheeled vehicles, electric welder, electricians, locksmith-electricians for the repair of electrical equipment, electricians for lighting and lighting networks, radio mechanics for maintenance and repair of radio equipment machinist of agricultural production of category "A1"; "A2". 291 students were enrolled in the experimental groups, and 256 students were included in the control groups. Learning in the experimental groups took place using the *Electrical Engineering* e-textbook and in the control group, students used only traditional teaching aids. It has been distinguished four levels to determine the level of subject competence shaping. At the initial level, the student with the teacher's assistant reproduces fragments of educational material on electrical engineering and unconsciously performs some practical tasks. Makes significant mistakes when answering and performing applied tasks. At the average level, the student without sufficient understanding reproduces the educational material on electrical engineering and performs practical tasks with the occasional teacher's assistant. The student makes some errors in the definition of basic concepts. He/she can partially analyze the training material and conclude. The student uses certain types of technical, design, and technological documentation. While answering and performing practical tasks, he/she makes many mistakes that can be partially corrected. At a sufficient level, the student has (in oral, written and graphic forms) the educational material on electrical engineering and uses it in performing practical tasks in both typical and somewhat difficult conditions. The students define basic concepts, analyze, compare and systematize information, establish a connection with the chosen profession and draw conclusions. Their answer is generally correct, logical and well-founded. The student performs practical tasks according to a typical algorithm, in consultation with the teacher. Consciously he/she uses reference information, technical and design and technological documentation. When answering and performing practical tasks, he/she makes insignificant mistakes that he can correct. At a high level, the student has full-generalized knowledge of educational material on electrical engineering and can use them effectively to perform all the practical tasks provided by the curriculum. The student's answer is complete, correct, and logical and contains analysis, systematization, and generalization of educational material. He/she establishes causal and interdisciplinary links. Makes reasoned conclusions. Th student correctly and consciously uses all types of reference information, technical, design, and technological documentation within the curriculum. He/she performs practical tasks correctly, in full, both using a typical algorithm and with a self-developed algorithm. The answer and performance of tasks admit some insignificant inaccuracies, which independently detects and corrects. The student shows cognitive and creative interest in the chosen profession, new equipment and technology.

After the introduction of e-learning in the educational process of experimental groups in electrical engineering, lessons took into account a qualitative indicator of knowledge, skills and abilities of students within the subject (subject competence in electrical engineering) control (learning process was carried out using paper textbooks) and experimental (learning process was carried out using an electronic learning tool, namely the *Electrical Engineering* electronic textbook) groups.

In this paper, we will use the nonparametric Kolmogorov-Smirnov criterion. For non-parametric criteria, information on the type of population distribution is not required. Consider the hypothesis that the distributions of samples of student outcomes before and after experimental training correspond to one general population. We also introduce the alternative hypothesis that the corresponding

samples of results belong to different probability distribution laws. To construct the empirical distribution functions corresponding to the control and experimental groups, we calculate the accumulation indicators.

Table I.

Accumulation rates for control and experimental groups

Levels of experiment results	Group types		Accumulation indicators	
	CG	EG	CG	EG
Sufficient level	54,3	58,7	0,543	0,587
Average level	36,72	29,01	0,9102	0,8771
High level	8,98	12,29	1	1
Total	100	100	–	–

Using accumulation indicators, we construct empirical distribution functions $F_{\kappa z}(x)$ and $F_{e z}(x)$ for the control and experimental groups, respectively in Fig.1.

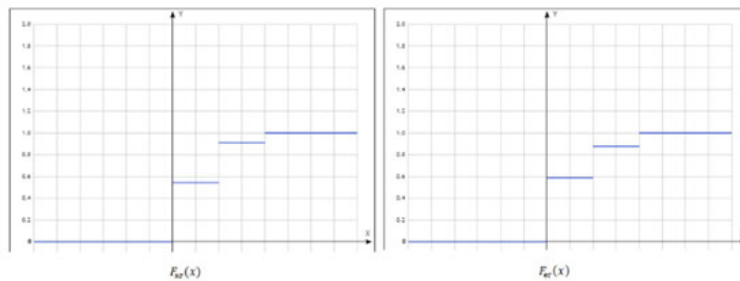


Fig. 1. Graphs of empirical distribution functions for control and experimental sampling of values

To estimate the maximum deviation between the functions $F_{\kappa z}(x)$ and $F_{e z}(x)$, we calculate the modulus of differences between the values of the function at the corresponding intervals of constancy:

$$\Delta_0 = |0 - 0| = 0.$$

$$\Delta_1 = |0,543 - 0,587| = 0,044;$$

$$\Delta_2 = |0,9102 - 0,8771| = 0,0331$$

$$\Delta_3 = |1 - 1| = 0;$$

The corresponding calculations allow us to state that the equality holds:

$$A = \sup |F_{\kappa z}(x) - F_{e z}(x)| = 0,044;$$

Since the sample sizes of the control and experimental groups are equal to $k = 256$ and $l = 293$, respectively, the value of the Kolmogorov-Smirnov statistics is equal to:

$$B = A \cdot \sqrt{\frac{kl}{k+l}} = 0,044 \cdot \sqrt{\frac{256 \cdot 293}{256 + 293}} \approx 11,66.$$

The quantile of the Kolmogorov function, which corresponds to the confidence level $p = 0.9$, is equal to $K(p) = 1.23$. Because inequality holds $B > K(p)$, then the hypothesis is the distributions of the samples of students' results before and after the experimental training correspond to one general population should be rejected. Thus, it is necessary to accept the alternative hypothesis that the corresponding samples of results belong to different probabilistic distribution laws. The latter fact, in simple language, shows that experimental training has had an "effect." The question of which one is open. In this case, it is natural to use considerations standardly in appropriate situations, based on the analysis of changes in indicators on the main gradations of scaling. The ratio of performance indicators (Table I) suggests that the percentage of students who reached a high and sufficient level increased by 3.31% and 4.4%, respectively, while there is a decrease in the average by 7, 71% (Fig. 2).

As the results of the study in Fig. 2 noticeable positive dynamics of students' knowledge and skills in electrical engineering (subject competence) in experimental groups in comparison with control. The increase in students with a high level of knowledge and skills in the experimental group compared to the control is 3.31% at a sufficient level, and 4.4% of students at a high level in the experimental group showed a better level of learning, respectively, decreased by 7.71% with an average level of knowledge. That is, the qualitative indicator of knowledge in the control group was 63.28%, and in the experimental – 70.99%, these data prove that the use of the author's electronic textbook increases the level of subject competence of students of vocational (technical) educational institutions during classes, on theoretical preparation and homework. The introduction of the developed author's Electrical Engineering electronic textbook gives grounds to state that the material offered in the e-textbook allows students to solve the tasks successfully, which motivates them to study the following topics to solve the proposed problems. Students who were motivated to learn the material (rather than just getting good grades), provided that their learning work was interesting and informative, were more interested in learning and understanding the material.

Conclusions and prospects of further research. The research was based on the idea that digital learning was evolving, identifying and orienting learners' needs in a way that suited their interests, style, and ability, and was provided anytime, anywhere. The conclusion was made about the training, which was integrated into the latest educational environment. Students can use the same technologies they use for communication and entertainment outside of educational institutions – smartphones, tablets and laptops. It allowed students to engage in new learning technologies that are adapted to their needs and skills. Thus, the results of the author's e-textbook approbation at five institutions of vocational (technical) education proved the effectiveness of using e-textbook on students' success in comparison with control groups. It proved the higher level of the formed subject competence of students in the *Electrical Engineering* subject. The

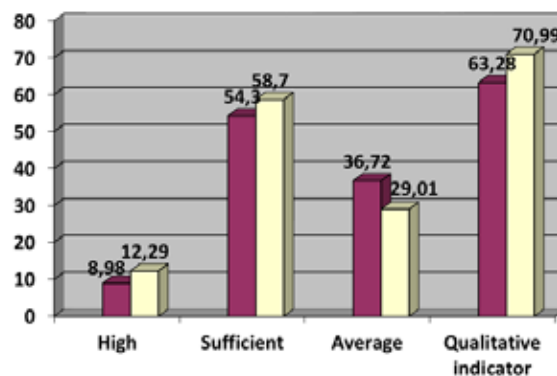


Fig. 2. Quantitative and qualitative indicators of student achievement in control and experimental groups

development and implementation of an electronic textbook make it possible to intensify the educational process, make it personally oriented, provide interaction and shape subject competence. The analysis of the research results showed that the developed electronic textbook was effective for the formation of students' subject competence. Further scientific research could be connected with the disclosure of the methods of conducting laboratory-practical classes through an electronic textbook.

References:

1. Abdulla, M., Motamedi, Z., and Majeed, A. (2019) Redesigning Telecommunication Engineering Courses with CDIO geared for Polytechnic Education, in *10th Conference on Canadian Engineering Education Association Proceedings*, doi: 10.24908/PCEEA.V10.13855.
2. Balalaieva, O. Yu. (2014). Evoliutsiia poniattia "elektronnyi pidruchnyk," Onovlennia zmistu, forma ta metodiv navchannia i vykhovannia v zakladakh osvity [The evolution of the concept of "electronic textbook," updating the content, forms and methods of teaching and upbringing in educational institutions]. 9, 113–117. Available: http://nbuv.gov.ua/UJRN/Ozfm_2014_9_34 (in Ukrainian).
3. Bilousova, L. (2012). Naukovo-praktychni aspekty stvorennia ta vprovadzhennia elektronnoho pidruchnyka dlya vyshchoyi shkoly [Scientific and practical aspects of the creation and implementation of an electronic textbook for higher education]. *Informatsiyni tekhnolohiyi i zasoby navchannia*. Available: <http://www.journal.iitta.gov.ua> (in Ukrainian).
4. Bin, E., Islam, A., Gu, X., Spector, J.M. and Wang, F.L. (2020). A study of Chinese technical and vocational college teacher's adoption and gratification in new technologies. *British Journal of Educational Technology*, 51, 6, 2359–2375, doi: 10.1111/bjet.12915.
5. Buynytska, O. (2011). Vykorystannia elektronnykh navchal'no-metodychnykh kompleksiv u protsesi profesiynoyi pidhotovky studentiv. [The use of electronic educational-methodical complexes in the process of professional preparation of students]. *Informatsiyni tekhnolohiyi i zasoby navchannia*. Available: <http://www.journal.iitta.gov.ua> (in Ukrainian).
6. Chaikovska, I. (2012). Formuvannia predmetnykh kompetentnostei uchniv starshoi shkoly zasobamy informatsiino-komunikatyvnykh tekhnolohii. [Formation of subject competencies of high school students by means of information and communication technologies]. *Visnyk Cherkaskoho universytetu*, 13, 134–138, (in Ukrainian).
7. Chiu, T.K.F. (2017). Introducing electronic textbooks as daily-use technology in schools: A top-down adoption process. *British Journal of Educational Technology*, 48, 524–537, doi:10.1111/bjet.12432.
8. Engbrecht, J.R. (2018). Digital Textbooks Versus Print Textbooks. Culminating Projects in Teacher Development. 35, Available: https://repository.stcloudstate.edu/ed_etds/35.
9. Enterprise Resource Planning Models for the Education Sector: Applications and Methodologies. (2012). 257. (IGI Global).
10. Hadgraft, R.G. and Kolmos, A. (2020). Emerging learning environments in engineering education. *Australasian Journal of Engineering Education*, 25(1), 3–16, doi:10.1080/22054952.2020.1713522.
11. Hernandez-de-Menendez, M. and Morales-Menendez, R. (2019). Technological innovations and practices in engineering education: a review. *In J Interact Des Manuf*, 13, 713–728, doi: 10.1007/s12008-019-00550-1
12. Gerhart, N. Peak, D. and Prybutok, V.R. (2017). Encouraging E-Textbook Adoption: Merging Two Models, in *Decision Sciences Journal of Innovative Education*, 15, 191–218, doi: 10.1111/dsji.12126.
13. Laketa, S. and Drakulic, D. (2015). Quality of Lessons in Traditional and Electronic Textbooks, in *Interdisciplinary Description of Complex Systems: INDECS*, 13, 117–127, doi: 10.7906/indecs.13.1.12.
14. Modlo, Ye. and Semerikov, S. (2018). Modernization of Professional Training of Electromechanics Bachelors: ICT-based Competence Approach.
15. Shepetko, Yu. (2010). Elektronnyy pidruchnyk yak efektyvnyy zasib pidvyshchennia yakosti osvity. [An electronic textbook as an effective means of improving the quality of education], *Informatsiyni tekhnolohiyi i zasoby navchannia*. Available: <http://www.ime.edu-ua.net/em.html> (in Ukrainian).

16. Shupik, I. (2014) Osoblyvosti vykorystannya elektronnykh pidruchnykiv u PTNZ [Features of the use of electronic textbooks in the vocational school]. Naukovo-metodychne zabezpechennya profesiynoyi osvity i navchannya: materialy Zvitnoyi naukovo-praktychnoyi konferentsiyi IPTO NAPN Ukrainy, m. Kyiv, Ukraina, Available: <http://lib.iitta.gov.ua/5678/> (in Ukrainian).
17. Shvedchykova, I., Soloshych, I. and Pochtovyuk, S. (2019). Creating educational and research software for integrated assessment of energy consumption and sustainable development of regions. *Proceedings of the 2019 IEEE International Conference on Modern Electrical and Energy System (MEES)*, 23-35, Kremenchuk, Ukraine, 458–461, doi: 10.1109/MEES.2019.8896654
18. Shvedchykova, I. Soloshych, I. Kononets, N. and Grynova, M. (2020). Creation of Electronic Educational Resources for Resource-Oriented Training of Electrical Engineering Students," *Proceedings of the 2020 IEEE Problems of Automated Electrodrive. Theory and Practice (PAEP)*, 1–5, doi: 10.1109/PAEP49887.2020.9240892.
19. Svyrydiuk, V. (2018). E-book “Electric Engineering”, [online]. Available: <http://eltech-upal.pto.org.ua/>

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REFORMING OF GAMBLING TAXATION IN UKRAINE IN THE CONTEXT OF THE EUROPEAN INTEGRATION

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Abstract. The article is devoted to studying the reforming of gambling taxation in Ukraine in order to choose the most optimal model of taxation for Ukraine, taking into account the foreign experience of European countries, Ukraine's commitments to the EU.

By signing the Association Agreement with the EU, Ukraine has committed itself to bringing its national legislation in line with EU law. There are no direct commitments of Ukraine to the EU to establish some regulation of the gambling business in Ukraine. However, all European countries regulate gambling at the level of national legislation.

Gambling has been allowed in Ukraine since 2020, but the current model of gambling taxation creates an excessive tax burden on the industry and contributes to the spread of illegal gambling.

The article analyzes the current model of gambling taxation in relation to the cost of the license and in comparison with the tax models of other European countries. The authors conclude that European countries use a simple approach: "expensive" licenses – low taxes or "cheap" licenses – high taxes. However, Ukraine regulates gambling on the principle "expensive" licenses – high taxes, which does not contribute to the development of the legal gambling market, but on the contrary, the gambling business operates illegally.

The authors also analyzed existing proposals to change the gambling tax system, as proposed in Bill №2713-d, and concluded that the proposed model contains a number of gaps that, if passed, could be used to commit crimes related to with the gambling business, and, as a consequence, to the growth of crime in Ukraine as a whole.

Among the crimes related to the gambling business, the authors include: legalization of proceeds from crime (arms, drugs, smuggling, etc.); legalization of corrupt income; tax evasion, etc.

In this article, the authors provide specific suggestions for improving the provisions of the bill, which will significantly reduce the risk of gambling-related crime.

Key words: gambling business, European integration, taxation, gaming gross revenue (GGR), winnings taxation, gambling crimes, corrupt income, money laundering.

Introduction. From 2009 to 2020, gambling was banned in Ukraine. The organization and conduct of gambling was a crime and punishable by criminal liability under Art. 203-2 of the Criminal Code of Ukraine.

Nevertheless, by signing an Association Agreement with the EU, Ukraine has made a number of commitments to bring its national legislation into line with EU law. The Agreement does not explicitly contain obligations on the rules and conditions of legalization of gambling. However, gambling in the EU belongs to the field of legal regulation of company law, which according to the Law of Ukraine "On National Program of Approximation of Ukrainian Legislation to European Union Law" 2004 No. 1629-IV is one of the priority areas in which the legislation of Ukraine is being adapted to the legislation of the European Union. In addition, the gambling business is a permitted activity in every European country.

In addition, on March 2, 2017, Ukraine reaffirmed its commitments to implement the policy and objectives of the economic program supported by the agreement with the International Monetary Fund on the Extended Fund Facility (EFF). The country identified further policy steps to implement these objectives in the Memorandum on Economic and Financial Policy (MEFP) of February 27 and July 21, 2015, September 1, 2016, March 2017. In particular, paragraph 19 of Section D "Fiscal Policy" of Annex 1 to the Memorandum on Economic and Financial Policy states that we "legalize amber mining and gambling, which will contribute to additional budget revenues no later than in 2018."

In 2020, Ukraine allowed gambling to fulfill its international obligations under the Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" №768-IX of July 14, 2020. After the legalization of the gambling, there was a problem with the need to bring national legislation on gambling taxation to EU requirements and standards. However, these issues have not been studied in Ukraine yet.

D. O. Getmantsev in his monograph examines the general issues of legal regulation of contracts on games, concepts and types of games, the main principles of regulation of the gambling market in Ukraine and foreign countries (Getmantsev, 2008, p. 40). S. G. Osyka devoted his work to the study of issues of legal regulation of gambling and lottery activity in individual states and at the interstate level (Osyka, 2011, p. 343). These works are very valuable, the general theoretical positions set forth by the authors underlining the research, but since the writing of works in virtually all foreign countries, the state policy on regulation of the gambling market and taxation legislation has changed, which stipulates the need for further scientific research.

V. M. Dorohykh in the candidate's thesis investigates the issues of administrative and legal regulation of gambling business in Ukraine (Dorohykh, 2004, p. 19), however, in 2009 gambling business is prohibited, in connection with which the state policy in this area has changed.

M. O. Lyskov in his doctor's thesis investigates the issues of public administration of the lottery sphere, focusing on public administration means (Lyskov, 2017, p. 272).

Thus, scientists in Ukraine have devoted little attention to the issues of legal regulation of gambling and lottery business. There are no scientific papers on gambling taxation in Ukraine. Most of the modern research is devoted to the fight against illegal gambling and to the problems of investigation in the criminal proceedings against gambling (which has been prohibited in Ukraine since 2009).

For example, N. O. Petrychko examines the criminal law and criminological problems of illegal gambling (Petrychko, 2010, p. 73). She focuses on the need to select victims of this crime, because gambling creates gambling addiction, which manifests itself in uncontrollable and often repeating episodes of the game. R. O. Pinyaga devoted his candidate's thesis to the crimes related to gambling (Pinyaga, 2015, p. 21). In this work, the author emphasizes that gambling is a risky activity that is always associated with financial fraud, including in banks and money laundering from this crime. M. A. Pohoretskyi and Z. M. Toporetska consider the peculiarities of the investigation of the gambling business (Pohoretskyi, Toporetska, 2015, p. 250). In this monography the authors cite modern ways of disguising gambling business, as well as paying attention to the peculiarities of legalization of criminal proceeds from gambling business using the banking system. V. V. Vysotska considers the issue of criminal-legal analysis of the crime of occupation by gambling business (Vysotska, 2016, p. 172).

Foreign scientific publications are devoted to the taxation of gambling in certain countries or for certain types of gambling, while the authors estimate the tax rate on certain types of gambling and the amount of revenues from gambling to the state budget. K. S. Philander compares fixed taxes in gambling and taxes on gaming gross, the author believes that fixed taxes in gambling is better government solution (Philander, 2013, p. 23). Paul M. Mason & Harriet Stranahan studied the impact of gambling on tax revenues from other taxes to the state budget, they concluded that the legalization of gambling in casinos lead to a decrease in lottery revenue (Mason, Stranahan, 1996, p. 346).

Douglas M. Walker, John D. Jackson also studied the impact of different types of gambling on state revenue, the author concludes that lotteries and races tend to increase state revenue, while casinos and greyhound races reduce state revenue (Walker, Jackson, 2011, p. 101)

Julie Smith analyzed the impact of gambling taxation on government revenue; the author concludes that the government can increase gambling revenue by expanding the tax base rather than by raising tax rates. Gambling tax rates have been declining in recent decades, and gambling tax revenues have risen sharply (Smith, 2000, p. 120).

Unsolved aspects of the general problem. The analysis of the above-mentioned works testified that in scientific researches general issues of choice of models of regulation of the gambling market in different countries were covered. The considerable attention of scientists is devoted to questions of criminal struggle against illegal gambling. Problems of the taxation of gambling in the scientific literature have not yet been investigated, which, together with the intensification of discussions in the state on this issue in the context of the European integration, has led to the need for in-depth study.

The **aim of the article** is the study the issue of reforming gambling taxation and finding the most optimal model of gambling taxation, taking into account the foreign experience of European countries, Ukraine's international obligations and the need to reduce the risk of gambling crime with using tax gaps.

The **object** of the study is public relations in the field of state regulation of taxation and implementation of gambling taxation.

The **subject matter** of the study is the requirements to the taxation of gambling in the current legislation of Ukraine, the study of Ukraine's international obligations to the EU on state regulation of gambling taxation and the study of foreign legislation of European countries on this issue.

Methodology. In scientific research were used general scientific and special methods of research (system-structural, formal-logical (dogmatic), comparative, sociological, statistical). Formal-legal (dogmatic or legal-technical) method was used to study and interpret the norms of legislative acts of foreign countries, which regulate the issue of gambling taxation. The comparative legal method was used to study the legal models of gambling taxation in foreign countries.

In addition, authors used the special legal methods: specific sociological and system-structural methods. The specific sociological method allowed to study the practice of applying certain tax models and draw conclusions about the effectiveness of certain tax rates for different types of gambling, as well as the impact of certain tax systems on the level of crime related to gambling. The system-structural method (method of generalization) made it possible to consistently bring together certain facts and formulate sound conclusions of scientific research aimed at reforming the taxation of gambling in Ukraine.

Economic methods were used to calculate the economic feasibility of setting a certain tax rate on gambling in comparison with the cost of the license and other costs of organizers and to calculate the economic benefits of the state from the introduction of a particular model of taxation.

1. Ukraine's commitment to gambling taxation in the context of European integration

Treaty establishing the European Community does not contain provisions on gambling, and the EU therefore has no legal basis for regulating gambling at Union level. In the European Union, there is a debate about the level of regulation of gambling markets: leave gambling regulation at the national level within the legislation of each country or create regulation at the European level. Market participants support the regulation of gambling at the EU level, as this will set the same rules for them throughout the territory, so they will be able to expand in other countries. The national legislation in the field of gambling business in the European Union is based on the principles of restricting gambling markets.

In 2004, the European Commission tried to include gambling in the scope of Directive On services in the internal market, recognizing gambling as a service. But already in 2006 the Directive

was amended, one of which (no. 59) provided a direct rule that: "This Directive does not apply to gambling involving betting in monetary terms, including lotteries, betting".

By signing the Association Agreement with the EU, Ukraine has made a number of commitments to bring its national legislation in line with EU law.

Although the Agreement did not explicitly contain obligations on the rules and conditions of legalization of gambling, but gambling in the EU belongs to the field of legal regulation of company law. According to the Law of Ukraine On the National Program for the Adaptation of the Legislation of Ukraine to the Legislation of the European Union 2004 regulation of company law is one of the priority areas in which the legislation of Ukraine is adapted to the legislation of the European Union.

EU countries recognize and agree that although each state has the right to establish its own national legislation governing gambling. Only some EU Directives apply to gambling, including: distance trade and consumer protection, prevention and combating legalization proceeds of crime; taxation of separate taxes. In addition, all players in the gambling market that are subject to licensing and regulation must comply with the uniform rules established for EU companies. This is provided in EU company law. However, other aspects of gambling activities are currently regulated by the national legislation of the participating countries, which are obliged to comply with the EU Treaty within the framework of such regulation.

With regard to the taxation of gambling, Annex XXVIII to Chapter 4 "Taxation" of Chapter V "Economic and Sectoral Cooperation" provides that Ukraine undertakes to gradually approximate its legislation to EU legislation on the application of EU Council Directive 2006/112/EC of 28.11.2006. year on the common system of value added tax for 5 years from the date of entry into force of this Agreement, except for Articles 5–8, 20, 33, 40–42, 79, 100–101, 123–130, 140–142, 145, 146 (1 («B)), 147, 155, 164–166, 170–171, 175, 203, 205, 209, 210, 212, 219, 238–240, 245, 254, 258, 274–280, 293–294, 370–395, 396–400, 402–410, 411–413 (provisions applicable to EU Member States), Articles 281–294, 295–305, 306–325, 326–332, 333–343, 348–349, 358–369 (concerning special tax regimes).

Directive 2006/112/EC on the common system of value added tax does not provide for a VAT exemption for the supply of gambling. At the same time, the issues of corporate income taxation of business entities in the organization and conduct of gambling and lottery activities and activities, gambling licensing, as well as issues of personal income taxation in the European Union are regulated at the national level by legislation of the Member States.

However, the current Tax Code of Ukraine in paragraphs. 196.1.4 § 196.1 art. 196 determines some operation, that are not subject to taxation, such as: the operations of issuing, circulation and redemption of lottery tickets and other documents certifying the right to participate in lotteries; purchase of chips, tokens, payment in another way for the right to participate in gambling, payment (transfer) of winnings by a business entity that conducts gambling; placing a bet for the purpose of making a bet and paying out the winnings to the betting entity (betting bet, betting bet). Therefore, the provisions on VAT taxation of gambling transactions need to be finalized.

2. Foreign experience of European countries in gambling taxation

In European countries, the cost of licenses is taken into account when choosing a gambling tax system. In the EU, a simple approach is used: "expensive" licenses - low taxes, or "cheap" licenses and high taxes.

In Estonia, for casinos EUR 51,200 one-time state fee and fee for operating license, betting and betting services – EUR 35,200 one-time state fee and fee for operating license, tax rate 5–10% of revenue.

In Romania, fees for applying for and obtaining a license are 2,500 euros and for file analysis, and 8,500 euros for issuing a license, taxes at 16% of GGR.

In Montenegro, a tax rate of 10% of the GGR is set for all activities. However, the high cost of the license is for the casino and low for other types of business: casino – one-time payment of 2,000,000

EUR and 50,000 EUR – annual payment; bookmaking – 500 EUR monthly payment from one point, slot machines – 50 EUR monthly payment from one 2 slot machines, online gambling – 10,000 EUR monthly payment for all types of games.

In Sweden, the cost of licenses for online casinos – 39,600 EUR, bookmaking – 39,600 EUR, poker tournaments – 2,475 EUR (depending on the number of tournaments) and an additional 43,650 EUR – for the first year for each license, with a tax rate of GGR 18%.

In Bulgaria, the tax rate for gambling, lotteries and sports betting is 10% of revenue, and for lotto and bingo – 12% of revenue. At the same time, the license fee for a slot machine in the gaming hall and gambling casino, respectively, each slot – 500 levs. every three months. For roulette in the casino for the gaming table – 22,000 levs per quarter at each gaming table. For other gaming equipment in the casino 5000 levs. per quarter for each piece of gaming equipment (for example roulette table, poker table).

3. Current model of gambling taxation in Ukraine

The current model of gambling taxation in Ukraine is based on the principle: "expensive" licenses and high taxes, which greatly complicates the development of the legal market and makes it unprofitable compared to the illegal gambling market, which contributes to the illegal market.

The Tax Code of Ukraine sets different tax rates for different types of gambling business.

For casino games (except slot machines), online casinos and bookmaking, one object is taxed several times. Thus, the organizer of gambling pays income tax, reduced by the amount of winnings paid to players, at a rate of 18%. In addition, the organizer pays profit tax at the rate of 18%, but the accrued income tax is not a difference and does not reduce the financial result to taxation by profit tax.

From the organization and conduct of gambling on slot machines, the organizer pays 10% income tax on all revenues from bets on slot machines. In addition, the organizer pays profit tax at a rate of 18%, but the accrued income tax is not a difference and does not reduce the financial result to taxation by profit tax.

Also, all winnings in gambling (regardless of its size) are taxed by personal income tax at the rate of 18% and military duty at the rate of 1.5%.

In addition, Ukraine has one of the most expensive gambling licenses in Europe. The Law of Ukraine "On State Regulation of Activities Concerning the Organization and Conduct of Gambling" provides for the issuance of licenses for the organization and conduct of various types of gambling and establishes an annual fee for its use. The most expensive license for the organization and conduct of gambling in land-based casinos, it is equivalent to 2 million euros for Kiev and 1 million euros for other cities.

The license for bookmaking costs 1 million euros per year, but before the introduction of the State Online Monitoring System, it is set at three times the amount of 3 million euros per year.

The license for the online casino is set at 200 thousand euros per year, but before the introduction of the State online monitoring system, it is set at three times the amount of 600 thousand euros per year.

The license for slot machine halls is 250 thousand euros per year and gives the right to open five slot machine halls.

The license for online poker is 170 thousand euros per year.

Also, gambling organizers in land-based gambling establishments also pay for a license for each unit of gambling equipment. The such a license is 30 thousand euros for a table with roulette, 15 thousand euros for a gaming table without roulette, 1 thousand euros for a slot machine (before the commissioning of the State Online Monitoring System, it is set at three times the amount of 3 thousand euros per year), 5 thousand euros for one land-based bookmaker.

As of the beginning of 2022, Ukraine has already issued more than thirty licenses for organizing and conducting gambling in Ukraine: eight licenses for casinos, twelve – for slot machine halls (each

gives the right to open up to five halls), three – for organizing and conducting bookmaking activities, and also earned fifteen online casino sites.

In 2021, the budget received 1.3 billion hryvnias in license fees¹, and given that the payments are annual, and in 2022 the Commission on the Regulation of Gambling and Lotteries still issued licenses, the amount of revenue should increase.

In contrast, in 2021, gambling organizers paid very little tax on gambling activities, due to the high workload of the industry compared to other activities, as well as the very high cost of licenses. In fact, the existing tax burden contributes to the fact that gambling organizers violate special legislation in the field of gambling and commit crimes related to gambling, including tax evasion, money laundering, etc. All this requires reforming Ukraine's existing tax system and bringing it in line with existing European principles.

4. Directions of gambling taxation reform in Ukraine

Reforming gambling taxation in Ukraine should include the implementation of the European principle of gambling regulation: "expensive" licenses – low taxes, or "cheap" licenses and high taxes.

We support Julie Smith's approach that reducing the gambling tax rate can increase gambling tax revenues to the state budget (Smith, 2000, p. 120). At the same time, such an increase is realized not by increasing the number of players, but by stepping out of the shadows of gambling organizers, who today abuse the gaps in the law and hide the real turnover from the gambling business.

Also, given the possibility of "migration" of some types of gambling to other, as well as the need to implement a single state policy of public management of the gambling market, a single approach to taxation in this area and uniform tax rates for all businesses.

When choosing a tax rate should also take into account the rates of taxes on gambling, which exist in countries close to Ukraine. Establishing the same tax burden with these countries will help both attract investment to Ukraine from neighboring countries (when gambling organizers in Bulgaria, Georgia, Poland decide to invest in the same business in Ukraine) and attract more foreign players who want to play for such the same rules as they play in their countries. In addition, for example, the complete abolition of taxes on winnings promotes the development of tourism in order to participate in gambling and the development of the hotel business. However, we are against the complete abolition of taxes on winnings, as it will contribute to the development of crime related to gambling: legalization of proceeds from crime; payment of wages due to alleged winnings in the casino (and thus tax evasion), etc. In our opinion, winnings for small amounts (equivalent to 1–2 thousand euros) should be exempt from taxation, while large winnings must be taxed with personalized reports on the winner, the amount of winnings and the amount of tax paid, it will also avoid concealment corruption crimes due to winnings in the casino (illegal enrichment. Obtaining illegal benefits, declaring inaccurate information).

Working in the Office of the Verkhovna Rada of Ukraine (Secretariat of the Committee on Finance, Tax and Customs Policy), one of the authors was able to implement some of the proposals in the draft laws on reforming gambling taxation. However, the people's deputies of Ukraine are the subjects of the right of legislative initiative, and the Parliament is the only legislative body, so the final decision is up to the Verkhovna Rada of Ukraine.

The Verkhovna Rada of Ukraine is currently awaiting consideration in the second reading of the draft Law on Amendments to the Tax Code of Ukraine and Other Laws of Ukraine on Taxation of Income from the Organization and Conduct of Gambling and Lotteries Register. No. 2713-d, a comparative table for which was prepared with the participation of one of the authors.

The bill proposes to establish a single tax rate for all types of gambling – 10% of income less winnings paid to players. We consider the rate of 10% of income less paid winnings (GGR) reasonable

¹ The information was received by one of the authors from the Commission on the Regulation of Gambling and Lotteries while working in the Secretariat of the Verkhovna Rada Committee on Finance, Tax and Customs Policy.

and sufficient, given the ratio of the cost of licenses and the tax rate on similar games in countries close to Ukraine.

As an alternative, we propose to consider the option of taxing gambling revenue at a rate of 5%. This model simplifies the administration of taxes on the gambling business, as all revenue to the organizer of gambling is taxed. In addition, in the case of such a model of taxation, the gambling organizer will not be interested in artificially increasing the amount of winnings (to lower the tax base), and therefore it will be "unprofitable" to participate in money laundering and corruption through gambling, which will significantly reduce gambling-related crime.

In addition, according to the draft no. 2713-d, all gambling organizers must pay 18% profit tax on the activities of organizing and conducting gambling, but the accrued income tax is a difference and reduces the financial result before profit tax. In the case of profit from other activities, profit tax is accrued and paid according to the general rules. We consider this approach is incorrect, as there is a de facto taxation of one object of taxation twice: revenue tax and profit tax. Therefore, we propose to leave only the revenue tax on the organization and conduct of gambling, and pay profit tax on other activities.

Regarding the taxation of winnings, winnings in the amount of more than 10 times the minimum wage (in 2022 it is more than 65 thousand hryvnias) are subject to taxation, and the difference between the winnings and the non-taxable amount is taxed. For players in casinos or slot machine halls, the player's expenditure on the game incurred within 24 hours of winning is also taken into account when determining the amount to be taxed. The tax rate on the amount of the excess is 18% personal income tax and 1.5% military tax.

We support this concept, because in most European countries there is a tax-free amount of winnings. To be able to compete with these countries, Ukraine must have the same model. At the same time, we believe that the amount equivalent to 1–2 thousand euros should not be taxed, because the EU Directive no. 2015/849 provides for financial monitoring in gambling if the amount of the transaction (including several transactions with one client) is 2 thousand euros or more. That is, the EU recognizes risky transactions of 2 thousand euros or more and provides for a number of financial monitoring measures. Given that financial monitoring involves the identification of the client, and therefore the selection and storage of identity documents and documents proving the origin of funds, as well as the same documents required for tax control, the amount of winnings should be taxed equivalent to 2 thousand euros.

In addition, the Law of Ukraine "On prevention and counteraction to legalization (laundering) of proceeds from crime, financing of terrorism and financing of the proliferation of weapons of mass destruction" 2019 provides the proper screening of gambling and lottery customers if the threshold amount of the transaction is equal to or exceeds UAH 55,000 (Article 21), which corresponds to the provisions of the Directive no. 2015/849.

At the same time, we believe that this amount of winnings should not be taxed as a one-time win. The amount of winnings should be taxed as the amount income from one tax agent for a certain period: a month or a year. Taxation of one-time winnings, as well as accounting for the cost of the game in land-based gambling establishments allows a person to receive non-taxable winnings every day, which will be a significant amount per month. Since such funds are paid without tax, it is thus possible to pay wages or to pay work and thus evade taxes.

It should be noted, that the project no. 2713-d gives gambling organizers as tax agents the right to keep impersonal reporting on the winnings of non-residents. Residents are required to indicate in the income statement that is subject to tax information about the person who received income, as well as the amount of winnings and the amount of accrued and paid income tax. This initiative is very correct, because the impersonal reporting of organizers as tax agents allows them to legalize corrupt income through winnings, receiving checks for winnings from other players or certificates of winnings from the gambling organizer. Today lottery operators have the right to file depersonalized reports. Ukraine

already has a practice of declaring big winnings in the lottery. In particular, several years ago there were examples when a People's Deputy of Ukraine declared three lottery winnings for large sums during the month, another People's Deputy declared a lottery winnings worth more than one million hryvnias (Toporetska, 2019, p. 400).

Personalized reporting with the indication of the person who received income in the form of winnings in gambling, the amount of winnings and the amount of tax paid will significantly complicate the possibility of legalizing corrupt revenues by issuing certificates of winnings by gambling organizers, if such winnings are not specified in the declaration.

5. Proposals to improve the model of gambling taxation in order to reduce the risk of increasing gambling crime

As we mentioned above, gambling is a high-risk activity, which is why the EU is setting stronger requirements for the financial monitoring of all gambling financial transactions.

Directive 2015/849 regulates financial monitoring of gambling services, which means services that involve accepting cash gambling bets, including games that have an element of skills such as lotteries, casinos, poker and betting, and take place at a specific physical address, or remotely, by electronic means or any other technology to facilitate communication, and at the individual request of the recipient of services.

In particular, Article 11 of Directive 2015/849 – Member States shall ensure that obligated entities apply measures to fully verify the customer in the following circumstances: and another, for transactions of EUR 2,000 or more, whether such an operation is carried out within a single operation or within several operations which appear to be linked.

We agree that the current model of gambling taxation creates excessive tax pressure on gambling organizers, which contributes to the development of the illegal gambling business. Therefore, the existing model of gambling taxation needs to change.

At the same time, the initiative of the draft law №2713-d, proposed to the Parliament, needs to be finalized, as it carries the risk of developing gambling-related crime.

Among the crimes related to the gambling business, we include such crimes that are committed or concealed using the gambling business, in particular: Art. 366-2 (declaring false information), 368 (accepting an offer, promise or receiving an illegal benefit by an official), 368-5 (illegal enrichment), 369-2 (abuse of influence), which are hidden by concealing the facts of receiving an illegal benefit under the guise of winning gambling or lottery; Art. 209 (legalization (laundering) of property obtained by criminal means), Art. 222 (fraud with financial resources), which provide for the provision of inaccurate information about income in the form of winnings in gambling; as well as a number of other crimes that may be committed by players in gambling establishments by prior agreement with employees of gambling establishments or without such – Art. 190, 191, 212, 212-1 of the Criminal Code of Ukraine.

Thus, the bill no. 2713-d needs to be finalized in part:

- setting the tax rate on the organization and conduct of gambling at 5% of the revenues from the acceptance of rates;

- exclusion of provisions on taxation of profits of gambling organizers from activities related to the organization and conduct of gambling, but taxation of profits from other activities according to the general rules;

- exempt from taxation winnings in the amount of up to 10 minimum wages, but at the same time charge tax on the entire amount of winnings, not the difference;

- to exclude the provision on taking into account the costs of the game to calculate the amount of winnings before tax;

- provide for the taxation of all winnings in the amount of 10 minimum wages from one tax agent for a certain period, at least one month;

– introduce mandatory identification of players who receive winnings to keep track of accumulated winnings over a period of time.

Conclusions. By signing the Association Agreement with the EU, Ukraine has committed itself to bringing its national legislation in line with EU law. There are no direct commitments of Ukraine to the EU to establish some regulation of the gambling business in Ukraine. However, in all European countries, gambling is allowed and regulated at the level of national legislation.

Gambling has been allowed in Ukraine since 2020, but the current model of gambling taxation creates an excessive tax burden on the industry and contributes to the spread of illegal gambling.

The new model of gambling taxation proposed by bill no. 2713-d significantly reduces the tax burden on the industry and brings the market taxation model closer to the models currently in force in European countries close to Ukraine. However, the bill contains a number of shortcomings that create risks of gambling-related crime: money laundering; legalization of corrupt income; tax evasion, etc.

The authors make specific proposals to revise the provisions of the bill, which will significantly reduce the risk of gambling-related crime.

References:

1. *Dohovir pro zasnuvannya Yevropeys'koyi Spil'noty 1957* (Consolidated version 2005) (Yevropeys'ke spivtovarystvo) [Treaty establishing the European Community 1957 (Consolidated version 2002 (European Community)]. *Ofitsiyyny sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from https://zakon.rada.gov.ua/laws/show/994_017#Text [in Ukrainian]. (2022, May, 02).
2. Dorohykh V. M. (2004). *Administratyvno-pravove rehulyuvannya hral'noho biznesu v Ukrayini* [Administrative and legal regulation of gambling business in Ukraine]. *Extended abstract of candidate's thesis*. 19 p. [in Ukrainian].
3. Douglas M. Walker, John D. Jackson (2011) The effect of legalized gambling on state government revenue. *Contemporary economic policy*. no. 29 (1), p. 101–114. [in English].
4. *Dyrektyva pro spil'nu systemu podatku na dodanu vartist' 2006* (Yevropeys'kyi Parlament i Rada) [Directive On a common system of value added tax 2006 (the European Parliament and of the Council)] *Ofitsiyyny sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from https://zakon.rada.gov.ua/laws/show/994_928#Text [in Ukrainian]. (2022, May, 02).
5. *Dyrektyva pro zapobihannya vykorystannya finansovoyi systemy dlya vidmyvannya hroshey ta finansuvannya teroryzmu, shcho vnosyt' zminy do Rehlamentu no. 648/2012 Yevropeys'koho Parlamentu ta Rady i pryypnyaye diyu Dyrektyvy 2005/60/EC 2015* (Yevropeys'kyi Parlament i Rada) [Directive On the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, amending Regulation (EU) no. 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC 2015 (the European Parliament and of the Council)] *Ofitsiyyny sayt Derzhavnoyi sluzhby finansovoho monitorynhu Ukrayiny*. [The official website of the State Financial Monitoring Service of Ukraine]. Retrieved from https://fiu.gov.ua/pages/dijalnist/mizhnarodne-spivrobotnictvo/mizhnarodni-standarti/direktivi_es/direktivi-Jes.html [in Ukrainian]. (2022, May, 02).
6. *Dyrektyva Shchodo posluh na vnutrishn'omu rynku 2006* (Yevropeys'kyi Parlament i Rada) [Directive On services in the internal market 2006 (the European Parliament and of the Council)] *Ofitsiyyny sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from https://zakon.rada.gov.ua/laws/show/994_906#Text [in Russian]. (2022, May, 02).
7. Getmantsev D.O. (2008). *Azartna hra v ukrayini ta za kordonom* [Hazard game in Ukraine and abroad]. Kyiv. SEEM Print. 209 p. [in Ukrainian].
8. *Informatsiya shchodo nayavnosti u sub'yekta hospodaryuvannya prava na provadzhennya diyal'nosti z orhanizatsiyi ta provedennya azartnykh ihor* [Information on whether the business entity has the right to conduct activities related to the organization and conduct of gambling] *Ofitsiyyny vebsayt*

- Komisiyi z rehulyuvannya azartnykh ihor ta loterey*. [Official website of the Commission for the Regulation of Gambling and Lotteries]. Retrieved from <https://gc.gov.ua/ua/Litsenziini-reiestry.html> [in Ukrainian]. (2022, May, 02).
9. Julie Smith (2000) Gambling Taxation: Public Equity in the Gambling Business. *The Australian Economic Review*. no. 33 (2), p. 120-144. [in English].
 10. *Kryminalnyy kodeks 2001* (Verkhovna Rada Ukrayiny). [Criminal Code 2001 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from <https://zakon.rada.gov.ua/laws/show/2341-14#Text> [in Ukrainian]. (2022, May, 02).
 11. Lyskov M. O. (2017). *Publichne administruvannya lotereynoyi sfery* [Public administration of lottery sphere]. *Doctor's thesis*. 417 p. [in Ukrainian].
 12. Osyka S. G. (2011). *Gosudarstvennoye regulirovaniye global'noy industrii igr* [State regulation of global gambling industry]. Kyiv. *K.I.S.* 528 p. [in Russian].
 13. Paul M. Mason, Harriet Stranahan (1996) The effects of casino gambling on state tax revenue. *Atlantic Economic Journal*. no. 24, 336–348. [in English].
 14. Petrychko N. O. (2010) *Nezakonnyy hral'nyy biznes: kryminal'no-pravove ta kryminolohichne doslidzhennya* [Illegal gambling: criminal-law and criminological research]. *Candidate's thesis*. 240 p. [in Ukrainian].
 15. Philander, K. S. (2013). A normative analysis of gambling tax policy. *UNLV Gaming Research & Review Journal*, 17(2). P. 17–26. Retrieved from <https://digitalscholarship.unlv.edu/grrj/vol17/iss2/2/> [in English]. (2022, May, 02).
 16. Pinyaga R. O. (2015) *Rozsliduvannya zlochyniv, pov'yazanykh z hral'nym biznesom* [Investigation of crimes related to gambling]. *Extended abstract of candidate's thesis*. 21 p. [in Ukrainian].
 17. *Podatkovyy kodeks 2010* (Verkhovna Rada Ukrayiny). [Tax Code 2010 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from <https://zakon.rada.gov.ua/laws/show/2755-17> [in Ukrainian]. (2022, May, 02).
 18. Pohoretskyi M. A., Toporetska Z. M. (2015) *Rozsliduvannya zaynyattya hral'nym biznesom: protsesual'ni ta kryminalistychni zasady* [Investigation of gambling business: procedural and forensic principles]. Kyiv. *Alerta*. 250 p. [in Ukrainian].
 19. *Proekt Zakonu pro vnesennya zmin do Podatkovoho kodeksu Ukrayiny ta inshykh zakoniv Ukrayiny shchodo opodatkovannya dokhodiv vid diyal'nosti z orhanizatsiyi ta provedennya azartnykh ihor ta loterey 2020* (Verkhovna Rada Ukrayiny). [Draft Law on Amendments to the Tax Code of Ukraine and Other Laws of Ukraine on Taxation of Income from the Organization and Conduct of Gambling and Lotteries 2020 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67840 [in Ukrainian]. (2022, May, 02).
 20. Toporetska Z.M. (2019) Vyhrash u lotereyu yak sposib lehalizatsiyi koruptsiynykh dokhodiv [The lottery winning as a way to legalize corrupt income]. *International scientific and practical conference New challenges of legal science in Ukraine and EU countries (April 19–20, 2019, Miskolc, Hungary)*. Miskolc: IzdevniecibaBaltija Publishing, P. 399–402. [in Ukrainian].
 21. Vysotska V. V. (2016) *Zaynyattya hral'nym biznesom: kryminal'no-pravovyy analiz zlochynu* [Conduction of gambling business: criminal and legal analysis of the crime]. *Extended abstract of candidate's thesis*. 20 p. [in Ukrainian].
 22. *Zakon pro derzhavne rehulyuvannya diyal'nosti shchodo orhanizatsiyi ta provedennya azartnykh ihor 2020* (Verkhovna Rada Ukrayiny). [Law On state regulation of activities related to the organization and conduct of gambling 2020 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from <https://zakon.rada.gov.ua/rada/show/768-20#n1162> [in Ukrainian]. (2022, May, 02).
 23. *Zakon pro Zahal'noderzhavnu prohramu adaptatsiyi zakonodavstva Ukrayiny do zakonodavstva Yevropeys'koho Soyuzu 2004* (Verkhovna Rada Ukrayiny). [Law On the National Program for the

- Adaptation of the Legislation of Ukraine to the Legislation of the European Union 2004 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from <https://zakon.rada.gov.ua/laws/show/1629-15#Text> [in Ukrainian]. (2022, May, 02).
24. *Zakon pro zapobihannya ta protydiyu lehalizatsiyi (vidmyvannyyu) dokhodiv, oderzhanykh zlochynnym shlyakhom, finansuvannyyu teroryzmu ta finansuvannyyu rozpovsyudzhennya zbroyi masovoho znyschennya 2019* (Verkhovna Rada Ukrayiny). [Law On prevention and counteraction to legalization (laundering) of proceeds from crime, financing of terrorism and financing of the proliferation of weapons of mass destruction 2019 (Verkhovna Rada of Ukraine)]. *Ofitsiynyy sayt Verkhovnoyi Rady Ukrayiny*. [The official website of the Verkhovna Rada of Ukraine]. Retrieved from <https://zakon.rada.gov.ua/laws/show/361-20#Text> [in Ukrainian]. (2022, May, 02).
25. *Zvit za rezul'tatamy doslidzhennya rynku z vypusku ta provedennya loterey 2018* (Antymonopol'nyy komitet Ukrayiny). [Report on the results of market research on the issuance and conduct of lotteries 2018 (Antimonopoly Committee of Ukraine)]. *Ofitsiynyy sayt Antymonopol'nogo komitetu Ukrayiny*. [The official website of the Antimonopoly Committee of Ukraine]. Retrieved from https://amcu.gov.ua/storage/app/sites/1/Docs/doslidzhennya_rynku/%D0%97%D0%B2%D1%96%D1%82%20%D0%BB%D0%BE%D1%82%D0%B5%D1%80%D0%B5%D1%97.pdf [in Ukrainian]. (2022, May, 02).

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**PEDAGOGICAL CONDITIONS FOR THE FORMATION OF POLY CULTURAL
COMPETENCES OF OLDER ADOLESCENTS IN AN EDUCATIONAL
ENVIRONMENT CHILDREN'S MUSIC SCHOOL**

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Abstract. The article reveals the problem of the formation of multicultural competences of older teenagers in the educational and educational environment of a children's music school. The author has proven that the effectiveness of the mentioned process will depend on the implementation of the following pedagogical conditions: the implementation of the methodology for the development of interpersonal interaction skills of teenagers in the multicultural environment of a children's music school; implementation of a tolerant approach in the process of forming multicultural competences of older teenagers in the educational environment of a children's music school. It is noted that the multicultural educational environment of the State Secondary School contributes to the formation of a system of knowledge about different cultures in students, the motivation for further familiarization and interaction with their speakers develops, a variety of emotions and feelings are revealed, a positive attitude towards different cultures is formed, interpersonal ties and relations are established in a multinational the student body. The second pedagogical condition is aimed at the readiness and ability of the participants of the educational process to hear and respect the opinion of others, based on the principles of respect and recognition of equality.

Key words: multicultural competences, students of senior children's music school, pedagogical conditions, adolescence, multicultural environment, tolerant approach.

Introduction. The pace of change in modern society, which is caused by mass population migrations, active international interaction in all spheres of human existence, large-scale globalization projects, requires the formation of a new generation of people who possess the necessary qualities and skills of intercultural interaction. Accordingly, one of the important tasks of education and upbringing is the preparation of students of general educational institutions for responsible and constructive interaction in a multicultural society.

Main part. The scientific analysis of the problem proved that in modern Ukrainian pedagogy, attention is paid to the study of methodological, theoretical and practical aspects of multicultural education and upbringing. It should be noted that modern pedagogical science has made significant progress regarding the theoretical foundations of multicultural education and upbringing (V. Boychenko, L. Volik, V. Yershov, V. Kompaniets, T. Levchenko, G. Rozlutska, O. Shevnyuk, N. Yaksy). The phenomenon of tolerance was studied by O. Asmolov, E. Bystrytskyi, L. Honcharenko, L. Gudkov, L. Drobizheva, A. Ioffe, V. Kuzmenko, I. Loschenova, O. Mulyar and other scientists. At the same time, taking into account the modern challenges and demands of Ukrainian society, the processes of globalization, European integration, preparing students for effective life activities in a multicultural society requires a constant search and updating of the content of multicultural education. Therefore, the purpose of the article is to outline the role of the concept of «tolerance» in the structure of multicultural education and multicultural competence of the individual in accordance with modern conditions.

The effectiveness of the process of forming the multicultural competences of older teenagers in the educational and educational environment of a children's music school is the development and introduction of appropriate pedagogical conditions into the educational and educational process. First of all, we will consider the essence of the term «condition» in the interpretation of various sources. Let's turn to dictionaries that define a condition as a demand made by one of the parties; as an oral or written agreement about something; as rules established in any sphere of life, activity; as the circumstances under which something happens. In the «Great Explanatory Dictionary of the Modern Ukrainian Language» a condition is a requirement of one of the parties; an oral or written agreement about something; rules established in any sphere of life and activity; a circumstance that makes it possible to implement, create something, or contributes to something (A large explanatory dictionary of the modern Ukrainian language, 2004: 1295).

In the philosophical encyclopedic dictionary, a condition is considered to be «a set of objects necessary for the existence or change of a given object» (Philosophical encyclopedic dictionary, 2002: 286). Psychologists interpret the essence of the concept of «condition» differently. This term is understood as a set of external and internal phenomena of the environment that influence the development of a specific mental phenomenon (Psychological dictionary, 1982). The identification of the cause-and-effect relationship of a phenomenon should be considered in different contexts and relationships, that is, in a general relationship. If one phenomenon causes another, it is a cause; if a phenomenon interacts with another in the process of development of the whole to which it belongs, it is a factor; if some phenomenon determines the existence of another, then it is a condition.

In the context of pedagogical education, the condition is defined as a set of external and internal factors that influence the forms and methods of organizing the educational process (Courland, 2003: 3). Thus, our study of the term «condition» in the reference literature allows us to draw the following conclusion: *a condition is a set of pedagogical factors (forms, methods, techniques) that influence the process of forming multicultural competences of older teenagers in the educational environment of a children's music school.*

A retrospective analysis of professional literature on this topic made it possible to create a basis for determining the pedagogical conditions for the formation of the studied phenomenon in children's music school students:

- implementation of the methodology for developing the interpersonal skills of teenagers in the multicultural environment of a children's music school;
- implementation of a tolerant approach in the process of forming multicultural competences of older teenagers in the educational and educational environment of a children's music school.

Thus, the first pedagogical condition of our study was **«Implementation of the method of developing the interpersonal interaction skills of teenagers in the multicultural environment of a children's music school»**. Children's music school is an institution of additional education, which determines the goals and tasks of its activity, the peculiarities of interpersonal relations and interactions that arise between subjects of the educational process, as well as the specifics of a multicultural educational environment.

An essential feature of additional education is the practical-activity basis of the educational process. Thus, if primary school focuses on symbolic and artificially schematized objects, then in additional education the child has the opportunity to get acquainted with the concrete, tangible embodiment of certain objects in life. In the first case, cognitive, verbal and logical activity prevails, in the second – actually practical, with an emotional and figurative content, which is the basis for the child's advancement to new fields of knowledge. In addition, in additional education, much attention is paid to the child's personal experience, which must be taken into account when determining the content of classes and forms of practical work.

An important feature of additional education is the unity of education, upbringing and development. Thus, if in the institution of basic education, teaching always dominates over education, the priority belongs to didactic tasks, then in additional education, the problems of personality education and the formation of its spiritual and moral component come to the fore. In addition, additional education involves expanding the educational "field" of the school, because it includes the individual in a multifaceted, intellectual and positively saturated life, where there are conditions for self-expression and self-affirmation. By organizing certain social experiences and providing students with individual assistance, teachers contribute to the development of personal qualities. At the same time, the effectiveness of educational influence depends on the extent to which its content will be not only objectively useful, but also subjectively significant for students, to the extent that it will enable them to understand themselves and others, their relationships with the world.

Scientists make an important conclusion that in the process of additional education, students have a real opportunity to develop personal qualities necessary for further life. In this regard, it is important to emphasize the socializing role of additional education and its socio-pedagogical mission, as a contribution to the combination of the interests of the pupil (his parents, family) and society, which ensures horizontal social mobility, i.e. the search for the most favorable sphere for the child self-realization.

Thus, we understand additional education as a specific field of educational practice, which involves a free choice of fields and types of activities, focused on the development of personal qualities, abilities, interests, leading to social and cultural self-realization, self-development and self-education of the child.

A feature of institutions of additional artistic education for children, which are children's music schools, is the focus on the development of the creative potential of students by means of training in various types of musical activities (instrumental, vocal, choral, ensemble, music-theoretical, etc.).

It should be noted that the educational process in children's music schools is characterized by a number of features, including:

- close fellowship between teacher and student, strong personal influence of the teacher on the student;
- democratic communication style of subjects of the educational process;
- focus on the development of children's natural giftedness;
- a combination of different types and forms of activity;
- multi-age nature of classes.

Children's music schools are distinguished by a special educational environment, which is not only a means of revealing and developing a child's natural gifts, but also a way to satisfy the need to perform activities that interest him, a means of his personal formation and self-affirmation, mastering universal human values and moral norms.

The educational process at children's music schools is aimed at studying the products of world musical culture and mastering the diversity of cultural values accumulated by mankind. According to the study programs, priority is traditionally given to domestic and Western European culture. However, it is relevant to include in the content of education the development of cultural values of ethnic groups and peoples whose representatives study in Ukrainian schools (Russians, Jews, Bulgarians, Hungarians, Moldovans, Romanians, Greeks, etc.). This makes the educational environment of the music school multicultural and promotes more active intercultural communication and interpersonal interaction of students representing different cultures.

Thus, the peculiarities of the multicultural environment of the children's music school are connected, first of all, with the enrichment of the content of education at the expense of mastering the artistic values of the culture of other peoples and are caused by the education of children of different nationalities who are representatives of different cultures.

Mastering examples of artistic culture in a children's music school is carried out not only theoretically, but mainly practically through the performance of works in the class of the subject, production of voice, choir, orchestra, ensemble, etc. The main subject of study at a music school, for which children come to this educational institution, is a specific art form – music. In contrast to art lessons in a secondary school, which are aimed at the primary mastery of elementary skills of drawing, singing, playing music, etc., the target orientation of the educational process in a music school is related to the improvement of students' own performing activities and their achievement of a significant level of mastery in the art of music. Thus, the spectrum of studying the products of the artistic culture of different ethnic groups and peoples in the music school is significantly expanded, covering theoretical and practical perspectives.

As mentioned, the forms of practical activity of students in the music school are very diverse and include: collective creativity (rehearsals of the orchestra, choir, ensemble), group classes (solfeccio, Ukrainian and foreign musical literature), pairs (chamber-vocal and chamber-instrumental performance), individual (musical instrument, vocal classes). Not only students, but also teachers, as well as students' parents and other members of their families participate in many forms of joint activities, which is especially common in extracurricular concert and educational activities of the school.

The following models of interpersonal interaction are most characteristic of the multicultural environment of a children's music school: children – children, children – parents, children – teachers, children – parents – teachers. Thus, the «children – children» model is connected with the joint creativity of students and is implemented in the course of choir, orchestra, ensemble, etc. classes. The «children – parents» model arises when organizing family creative teams, where, for example, children play musical instruments, and parents sing or read poems, or they and others together make national costumes, accessories, etc. The «children – teachers» model is formed with the joint participation of students and teachers in musical ensembles, orchestras, and choirs. The model «children – parents – teachers» can be represented by concert groups in which children, their parents and teachers participate (for example, a noise orchestra), as well as meetings of family clubs, where students perform together with their teachers and family members.

All models with the participation of children and teachers are implemented both in educational and extracurricular activities, models with the participation of parents – mainly in the conditions of extracurricular work. The «children – children» model is distinguished by the greatest variability of the composition, the mobility of the organization and the variety of interpersonal relations. The other three models are less mobile both in terms of composition and internal structure, in which asymmetric relations prevail, but the inclusion of students in such teams has undeniable advantages, as it allows to vary their status position, ways of communicating with partners, means of coordinating joint actions.

Since the main content of education in this institution is related to mastering the language of art and forms of artistic and creative activity, the natural and natural result of education is the public demonstration and evaluation of the results of children's creativity. The forms of such performances are diverse – they are academic concerts, performance competitions, creative reviews, festivals, etc.

In the multicultural environment of a music school, where students master samples of not only world, but also national cultures, it is relevant to hold national festivals, folklore concerts, Olympiads and exhibitions of ethnic culture, etc., which have different scales and involve different forms of interaction of participants. In the process of preparing these events, as a rule, not only children participate, but also teachers, as well as parents and other members of students' families, who perform organizational work, act as listeners and spectators, bringing their national traditions to communication and behavior. Collective communication and empathy for performance participants creates the effect of interpersonal attraction, creative empathy, forms a sense of responsibility for a common cause, promotes the establishment of closer relations in the student body, as well as mutual understanding between children and parents.

Such events, as a rule, arouse keen interest on the part of the public, contribute to the establishment of personal and professional ties between the school and the social and cultural environment. The multicultural character of such events attracts the attention of national communities, national cultural centers and contributes to the development of social partnership, the formation of a positive image of the school in a multinational society. Thus, not only the subjects of the educational process (students, teachers, parents), but also the «consumers» of creative services that make up the social environment (national cultural centers, educational institutions, studios and centers of children's creativity) are organically included in the multicultural environment of the music school etc).

Thanks to this, several interdependent social environments are formed, where the subjects of creative activity interact at different levels: personal, business, social-role. The personal level of interaction, as a rule, occurs in a microenvironment where the child's immediate environment participates: classmates, partners in joint ensemble activities, teachers-mentors, parents. The business level most often characterizes communication in a meso-environment where teachers and students from other classes are present, who are partners in collective creative activity. Such mesoenvironments are formed, as a rule, in the process of school-wide events (festivals, competitions, reviews), where creative groups of different ages participate, as well as in the process of collective creative activity, where large groups of participants are formed from small groups: ensembles, choirs, orchestras, etc. The social-role level of interaction occurs, as a rule, in the macro environment, where the child interacts with the social environment: spectators, listeners, social partners, etc. This is usually done in specific situations with concert performances, stage shows, creative meetings, etc.

The multicultural educational environment of the children's music school contributes to the formation of a system of knowledge about different cultures in students, the motivation for further familiarization and interaction with their speakers develops, a variety of emotions and feelings are revealed, a positive attitude towards different cultures is formed, interpersonal ties and relationships are established in a multinational student body team.

Adolescence is the most sensitive period for the development of interpersonal skills. As scientists note, at this age, the child becomes aware of his ethnicity. If younger schoolchildren are characterized by a vague awareness of belonging to people of their nationality, weak ethnic knowledge, then in adolescence students show a conscious interest in the history and culture of their own and other nationalities, expand their knowledge of different peoples, and intensify their national self-identification. Thus, adolescence is the most sensitive period of formation of a reflexive attitude towards «own» and «foreign» ethnic groups.

According to teachers, the informational component of ethno-national socialization, based mainly on empirical knowledge of the history, art and ethnology of «own» and «other» peoples, should increase in the education of high school students. Scientists admit that the more students know about the history, culture, prominent figures of a particular nation, the less likely they will develop negative attitudes towards people of this nationality.

However, entering a new culture and adapting to it can be accompanied by a number of negative phenomena: nostalgia and depression, increased anxiety, irritability, inadequately low self-esteem, psychological discomfort and stress, confusion in value orientations, social and personal identity, etc. This is especially characteristic of teenagers, who are characterized by emotional imbalance, categorical judgments, often have a hostile attitude towards representatives of other cultures and inadequately perceive the values of the artistic culture of other nations. As the researchers point out, children are often intolerant because they do not know how to perceive cultural differences, and without knowing this, they tend to view difference as a threat. Therefore, they need to see manifestations of how the ethnic diversity of people can make their lives interesting (Maksimova, 2018: 117–124).

Ethnic and cultural diversity in the student body can make students' lives more interesting and have a positive impact on their personal development. As L. Artemova notes, an effective factor in the

formation of ideas about one's own ethnicity and the formation of a child's ethnic identity is his immediate social environment – an educational institution, family, which are models of attitudes towards representatives of different nationalities (Artemova, 2013). Continuing this opinion, it is important to note that in a multinational environment there are potentially great opportunities for self-development of the individual in the process of getting to know another culture in the person of representatives of another ethnic group compared to a mononational group.

In a culturally diverse student body, favorable conditions are created for the organization of various forms of communication and interaction of students with cultural differences. This opinion is confirmed by psychologists S. and V. Olkhovetsky (Olkhovetskyi S., Olkhovetskyi V., 2019). On the one hand, this creates favorable conditions for the development of students' interest in other cultures and communication with their representatives, and on the other hand, it can become an obstacle in the formation of positive relations in the student body when children do not understand cultural differences.

The majority of scientists agree that for an adequate perception of representatives of another national culture, special pedagogical and ethnocultural training is needed, aimed at attracting adolescents to the values of the culture not only of their own, but also of other ethnic groups, to develop the skills to interact with representatives of other cultures studying at school environment. The analysis of scientific literature made it possible to identify a complex of interpersonal skills necessary for teenagers in the multicultural environment of a children's music school, which includes: the ability to positively perceive the artistic values of different cultures and to positively relate to classmates who represent these cultures (perceptive); to be aware of one's own cultural differences and to understand the perception of oneself by partners (reflexive); exchange artistic information with representatives of different cultures (communicative) and implement joint coordinated actions (interactive).

It should be noted that there are many interpretations of the concept of «skill» in the psychological and pedagogical literature. We are based on the generally accepted interpretation of skills as ways of performing an action mastered by the subject, which are provided by a set of acquired knowledge and skills (Honcharenko, 1997). Accordingly, *we interpret the interpersonal interaction skills of teenagers in the multicultural environment of a children's music school as ways of performing actions learned by students, the mastery of which ensures a positive perception of the artistic culture of different peoples, the establishment of tolerant relations in a multinational student body, and the achievement of results in joint artistic and creative activities for the assimilation of culture own and other ethnic groups.*

We note that the formation of these skills should take place in stages, relying on the peculiarities of the multicultural environment of the music school. It is known that the success of any student activity is primarily determined by their interest in it. Yes, it is necessary to create such conditions for children's education under which it would bring them joy. With regard to the subject of our research, it can be assumed that first of all it is necessary to arouse in children an interest in the culture of other peoples and a desire to communicate with representatives of these cultures, that is, to form a stable motivation for interaction. That is, first of all, the willingness to recognize ethno-cultural differences as something positive must be formed, which should then develop into the ability for inter-ethnic understanding and dialogue. Therefore, the first stage of the development of the interpersonal skills of teenagers in the multicultural environment of a music school is motivational.

It is known that in student groups there are many superstitions about peoples whose representatives study in the same class. Not all students perceive cultural differences positively. The representatives of the titular ethnic group may have a negative, sometimes arrogant attitude towards the cultural values of other peoples. This creates an unhealthy atmosphere in the student body and prevents the constructive interaction of representatives of different ethnic groups and cultures. Taking this into account, an important stage in the implementation of the methodology is the removal of psychological barriers in communication among children of different nationalities, overcoming stereotypes

formed in their behavior, awareness of the need for mutual respect between representatives of different ethnic groups. For this, it is necessary to include students in the process of joint activities to master the culture of their own and other peoples by organizing collective discussions, conversations, seminars, conferences. Accordingly, the main method of developing interpersonal interaction skills at this stage is the method of multicultural dialogue.

Multicultural dialogue involves the interaction of students from two angles – with different cultures and with representatives of these cultures studying at school. The first perspective reflects the meaningful side of multicultural dialogue and involves the organization of the "meeting" of students with culture. This meeting can take a variety of forms: familiarization with artistic samples in educational classes; visiting theaters, concerts, festivals, national holidays, museums, exhibitions; meetings with interesting people representing national cultures; independent study of samples of culture and preparation of presentations, speaking at conferences and seminars, writing articles on interesting multicultural topics, etc. The moment of contact with the culture of one or another people, perception and assimilation of new information, the result of which is the «appropriation» of spiritual values by the student, is fundamental.

The second perspective reflects the operational side of multicultural dialogue and involves the organization of students' interaction «regarding the meeting with culture». This interaction can also take a variety of educational and extracurricular forms: conversations, discussions, debates, round tables, seminars, participation in extracurricular interest clubs, family clubs, etc. The principle here is the moment of collective discussion of the received information, expression of the child's personal attitude to «appropriated» spiritual values, communication of children in the atmosphere of national traditions.

Forms of implementation of multicultural dialogue make it possible to widely use the opportunities of the multicultural educational environment of the children's art school, which provides for the study of examples of world and national cultures in almost all subjects of the curriculum, and also provides for regular visits by children to theaters, concerts, museums, art exhibitions, the organization of creative meetings, etc. Less rigid regulation of the educational process compared to secondary schools allows for the wide use of interactive forms of education (discussions, conversations, round tables, etc.).

The described forms of educational work are mainly aimed at the development of students' communication skills: expressing their opinions and exchanging artistic information with partners using verbal and non-verbal means, choosing the right tone and style of communication, listening to opponents, correctly defending their position, choosing an argument and etc.

The second stage of the methodology – developing – involves the exchange of thoughts and mutual actions. The task of this stage – the development of perceptive and interactive skills of interpersonal interaction in teenagers in the process of practical mastering of artistic samples of different cultures – is solved by including students in mobile multi-national, multi-age creative teams to perform specific artistic tasks in the conditions of paired, group, collective educational rehearsals and concerts speeches.

The third stage of the methodology – reflexive – solves the task of developing reflective skills and further improving the rest of interpersonal interaction skills in teenagers in the process of understanding the results of joint creative activities to master the culture of their own and other peoples. For this purpose, methods of self-analysis and mutual evaluation are used, implemented in the form of thematic lessons-discussions «opinion of participants», «opinion of colleagues», «opinion of critics», «opinion of viewers and listeners».

As noted, a characteristic feature of interpersonal interaction is reflexive ambiguity. That is, students evaluate their own actions in the process of communication and interaction, as well as the actions of partners and the results of joint activities, in different ways. However, the task of developing the skills

of interpersonal interaction requires an adequate assessment, which can be formed only as a result of summarizing, generalizing and synthesizing different points of view on the same phenomenon.

It should be emphasized that the reflective stage is extremely important for the development of interpersonal interaction skills in adolescents. At this stage, students must evaluate their own behavior, the actions of their partners, and the effectiveness of joint activities. Critical assessment makes it possible to understand and realize the mistakes of all subjects of interaction and, on this basis, to correct both individual and group behavior, which, in turn, requires students to improve the entire set of interpersonal interaction skills.

Thus, dialogic and environmental methodological approaches are the basis of the method of developing the interpersonal skills of teenagers in the multicultural environment of a music school. The dialogue approach, on the one hand, embodies the conceptual basis of multicultural education, built on the principle of dialogue of cultures, on the other hand, it reflects the procedural side of mastering the content of multicultural education through the organization of educational and cognitive dialogic interaction of students. In other words, the dialogue implements the idea of harmonious interaction of cultures and interaction of the carriers of these cultures in the educational process.

The environmental approach involves learning with the help of a special educational environment that activates the independent activity of students. At the same time, the emphasis is not on the pedagogical activity of the teacher, which realizes a direct influence on the student, but on the creation of an educational environment in which self-learning and self-development of the learner takes place. With such an organization of education, the mechanisms of internal activity of the learner in his interactions with the environment and with subjects of joint activity are included, which creates conditions for the intensification of interpersonal contacts and the development of students' interpersonal interaction skills.

Thus, the peculiarities of the multicultural environment of the children's art school (the focus of learning on the development of the artistic culture of one's own and other peoples, the use of various forms of joint activity of students with cultural differences, the involvement of teachers, parents and other members of the students' families in the creative process) will contribute to the emergence of various relationships and mutual relations between representatives of different cultures in micro-, meso- and macro-environments at the personal, business and social-role levels, which will create favorable conditions for the development of interpersonal interaction skills in teenagers.

The basic feature of an individual in the system of multicultural competences is the phenomenon of tolerance, i.e. acceptance of cultural diversity by an individual as a social norm. Thus, the second pedagogical condition of our research is **«Implementation of a tolerant approach in the process of forming multicultural competences of older teenagers in the educational and educational environment of a children's music school».**

For the first time, the appeal to the idea of tolerance appears in the period of antiquity. In the Middle Ages, tolerance was equated with religious tolerance and was considered as a concession in the matter of religious freedom: religious tolerance excluded the possibility of coercion to believe by force. In the works of philosophers of the 17th and 18th centuries, the problem of tolerance is understood as the freedom of conscience of the believer, the denial of violence in the spiritual sphere, recognition of it as a factor that strengthens the civil world and provides protection from injustice and violent religious clashes (B. Spinoza, J. Locke, M. Luther, E. Rotterdam, F. Voltaire, D. Diderot). Based on the theory of natural law, social contract and civil society, T. Hobbes, J.-Zh. Rousseau and S. Montesquieu advocated political and economic freedom, spiritual emancipation of man. The problem of tolerance, which arose in Western culture at the religious level, initiated the understanding of this phenomenon in other social spheres.

The main difficulties in formulating the concept of "tolerance" are related to the fact that this phenomenon is multifaceted both in different fields of knowledge (pedagogy, psychology, theology,

philosophy, etc.) and in different cultures. In English, tolerance means the willingness and ability to accept a person or thing without protest, in French – respect for the freedom of another, his views and behavior. In Chinese, Arabic, and Persian, tolerance is defined as magnanimity, condescension, compassion, patience, that is, it is a kind of synonym for «tolerance».

The terminological uncertainty of the concept of «tolerance» is related to the direction of research positions, diverse orientations of value-semantic justifications in the conditions of the modern polyparadigmatic educational space.

Depending on the point of view and coordinate system, phenomenological aspects of tolerance can be considered in evolutionary-biological, ethical, political, psychological and pedagogical contexts.

Thus, in the evolutionary-biological aspect, the concept of tolerance is based on the idea of a "norm of reaction", that is, a permissible range of reaction characteristic of a species that does not violate its genotype (I. Crane (Crane, 2006: 22–42), etc.).

In the ethical aspect, the basis of the concept of tolerance is humanistic currents that emphasize the unchanging value of various human advantages, including those that distinguish one person from another. If the diversity of people and cultures is perceived as a value, then tolerance, which is the norm of a civilized compromise between competing cultures, appears as a condition for preserving diversity (E. Bystrytskyi, N. Vasyukova, R. Lyman, V. Dudchenko, T. Saganovska, etc.).

Tolerance in the philosophical aspect is revealed through the concept of «alien», «other» and is defined, first of all, as a tolerant attitude towards socio-cultural diversity, which is specified in tolerance in interpersonal relations, tolerance and respect for other people's thoughts, beliefs, feelings, customs, behavior, to other views, ways of life, in general to everything «other», based on the understanding of the necessity of the other, differences as moments of the whole (L. Glynska, R. Sklyarov, L. Kompaniets, O. Ubeivolk, O. Marukhovska-Kartunova, M. Walzer and others).

The axiological aspect involves consideration of tolerance as a personal, humane, universal value, which is manifested when putting yourself in the place of another person in a situation of moral choice, as well as treating another person as a value (I. Beh, O. Drozd, A. Molchanova, P. Sauh, V. Khanstantynov, etc.).

The socio-legal aspect of consideration of tolerance is presented in regulatory documents of various levels. In this aspect, tolerance is perceived as a general norm that ensures compliance with the basic rights and freedoms of citizens, as a regulation of relations between states and their citizens and between large social groups. Tolerance is revealed as an action carried out through law and tradition, a legal norm, a moral norm, a principle of social order, which is implemented at the state level in the model of liberal pluralism (T. Andrushchenko, D. Vovk, D. Boychuk, I. Zhdanova, I. Kushnirenko, V. Logvynchuk and others).

In the socio-legal aspect, tolerance is understood as the result of civilizational development and the compromise that arose on this basis, between coexisting and in one way or another competing large social groups, as well as readiness for certain concessions and voluntary agreement to mutual tolerance, which allows them to overcome all forms from dominating and imposing one's point of view on one of the parties, including by means of force or informational pressure and violence. So, tolerance in the socio-legal aspect is considered as a mandatory requirement in the relations of all active participants in life, and as a means of regulating relations between large social groups (nations, states), which ensures their peaceful coexistence.

Tolerance in the psychological aspect is defined ambiguously, with priority consideration of its psychophysiological characteristics (I. Snigurova, V. Pavlenko, S. Yalanska, etc.). This term is revealed as an increase in the subject's resistance to stress, medication, own irritation, conflicts, the influence of an adverse factor due to a decrease in sensitivity to its action, as well as «establishment of liberal acceptance of other's behavior patterns, beliefs, values» (Psychological dictionary, 1982). In the studies of psychologists, the presence of positive and negative connotations of tolerance is noted

(for example, «unnatural tolerance in humility with the behavior, beliefs and values of another»), as well as the connection of this term with the strong-willed qualities of an individual: stability, endurance, tolerance for acceptable deviation.

In the psychological aspect, tolerance is also considered as a valuable attitude towards other people, which is expressed in recognition, acceptance and understanding. The multifacetedness of the study of tolerance indicates the presence of unquenchable interest of researchers in various spheres of human relations with society, the state, and the law. The problem of the essential characteristics of tolerance acquires special relevance in the field of scientific pedagogical research, since it is central in determining the general orientations of the organization of the pedagogical process in relation to its purposeful formation.

In the pedagogical aspect, tolerance is considered as already formed, or as such, which is in the process of forming a moral quality, moral virtue, a complex personal quality, an essential property of a person, a condition for successful socialization, manifested in social relations, the main feature of which is respect for the right of others to differ. The manifestation of tolerance depends on the efforts of the person himself, on his socially active position. The formation of tolerance takes place in the process of education, upbringing and self-education (Ya. Beregovii, O. Voloshina, O. Hryva, N. Nikitina, T. Potapchuk, M. Klepar, O. Savchenko, Yu. Todortseva, etc.).

Thus, educational activities on the implementation of a tolerant approach in the process of forming multicultural competences of older teenagers in the educational and educational environment of a children's music school should be aimed at:

- willingness and ability of the participants of the educational process to hear and respect the opinion of others and interact with them on the basis of consent;
- acceptance of all people regardless of their age, gender, nationality, status, features of mental and physical development;
- respect and recognition of equality, rejection of dominance, reduction of diversity to uniformity or recognition of the predominance of one point of view;
- recognition of the diversity and multidimensionality of human culture, norms, and beliefs.

Conclusion. Thus, the first pedagogical condition contributes to the formation of a system of knowledge about different cultures in students, develops motivation for further familiarization and interaction with their speakers, reveals various emotions and feelings, forms a positive attitude towards different cultures, establishes interpersonal connections and relationships in a multinational student team. We interpret the interpersonal skills of teenagers in the multicultural environment of a children's music school as the methods of performing actions learned by students, the mastery of which ensures a positive perception of the artistic culture of different peoples, the establishment of tolerant relations in a multinational student body, and the achievement of results in joint artistic and creative activities for the assimilation of the culture of one's own and other ethnic groups.

Educational activities on the implementation of a tolerant approach in the process of forming multicultural competencies of older teenagers in the educational environment of a children's music school are aimed at: the readiness and ability of participants in the educational process to hear and respect the opinions of others and interact with them on the basis of consent; acceptance of all people regardless of their age, gender, nationality, status, features of mental and physical development; respect and recognition of equality, rejection of dominance, reduction of diversity to uniformity or recognition of the predominance of one point of view; recognition of the diversity and multidimensionality of human culture, norms, and beliefs.

References:

1. Artemova, L.V. (2013). Aktual'ni problemy vykhovannya ditey v polietnichnomu doshkil'nomu navchal'nomu zakladi. Visnyk psykholohiyi i pedahohiky [Actual problems of raising children in

- a multi-ethnic preschool educational institution]. *Visnyk psykholohiyi i pedahohiky*. [Electronic resource]. Vypusk 13. Access mode: http://www.psyh.kiev.ua/Збірник_наук_праць._-_Випуск_13 [in Ukrainian].
2. Busel, V.T. (2004). *Velykyy tлумachnyy slovnyk suchasnoyi ukrayins'koyi movy* [A large explanatory dictionary of the modern Ukrainian language]. Kyiv, Irpin: VTF «Perun», 1440. [in Ukrainian].
 3. Honcharenko, S.U. (1997). *Ukrayins'kyu pedahohichnyy slovnyk* [Ukrainian Pedagogical Dictionary]. Kyiv: Lybid, 373. [in Ukrainian].
 4. Ol'khovets'kyi S.M. Ol'khovets'kyi V.S. (2019). *Etnopsykholohiya*. [Ethnopsychology]. Uman': Vydavnycho-polihrafichnyy tsentr «Vizavi», 155. [in Ukrainian].
 5. Kreyn I. (2006). *Kontseptsiya tolerantnosti yak universal'noyi katehoriyi evolyutsiyi rozumu: metapidkhid* [The concept of tolerance as a universal category of the evolution of the mind: a meta-approach]. *Visnyk NAN Ukrayiny*, № 11. 22–42. [in Ukrainian].
 6. Kurlyand Z.N. (2003). *Formuvannya vchytelya-maystra v konteksti stanovlennya yoho pozytyvnoyi YA-kontseptsiyi* [The formation of a master teacher in the context of the formation of his positive self-concept]. *Problemy pedahohiky vyshchoyi shkoly. Zbirnyk naukovykh prats'*, vyp. I. 3–5. [in Ukrainian].
 7. Maksymova O.O. (2018). *Teoretychni zasady vykhovannya tolerantnosti v ditey starshoho dosh-kil'noho ta molodshoho shkil'noho viku* [Theoretical principles of education of tolerance in children of senior preschool and junior school age]. *Pidhotovka fakhivtsiv u konteksti stanovlennya Novoyi ukrayins'koyi shkoly*, vyp. I. 117–124. [in Ukrainian].
 8. Voytko V.I. (1982). *Psykholohichnyy slovnyk* [Psychological dictionary]. Kyiv: Vyshcha shkola, 214. [in Ukrainian].
 9. Bilodid I.K. (1970–1980). *Slovnyk ukrayins'koyi movy* [Dictionary of the Ukrainian language]. Kyiv: Naukova dumka, 630. [in Ukrainian].
 10. Shynkaruk V. (2002). *Filosofs'kyi entsyklopedychny slovnyk* [Philosophical encyclopedic dictionary]. Kyiv: Instytut filosofiyi imeni Hryhoriya Skovorody NAN Ukrayiny : Abrys, 751. [in Ukrainian].

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THE PROCEDURE AND METHOD OF ASSESSING THE DEVELOPMENT OF A MELON IN ONTOGENESIS: A MODERN VIEW OF THE PROBLEM

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Abstract. The article examines the problem of intensive changes in education, in particular those related to the criteria for evaluating the quality of education and child development. This applies to all branches of education, both individually (pre-school, primary, higher, after-school, art), and in joint interaction with each other. The problem of significant updating of the diagnostic toolkit is identified, which will allow in the first stages of the child's development to direct and align its development in the early stages of ontogenesis. The interdependence of the effectiveness of the toolkit, the psychophysiological features of the modern child, the awareness of his needs and the definition of modern educational tasks have also been determined. The method that allows you to direct and align the child's development at the early stages of ontogenesis is demonstrated. The model of modern education needs balanced, thorough, theoretical and methodological foundations and analysis of constructive practical experience.

Key words: education, pedagogy, quality of education, development assessment method.

Introduction. The formation of each personality begins in childhood. That is why, aware of the basic rights of every child to the free development of the personality, the right to education and equality, enshrined in the Constitution of Ukraine, we must understand that there is a need for new methods of influencing the modern child in order to meet the individual needs of each individual, taking into account all the diversity of its manifestations. The current legislation of Ukraine on preschool and primary education defines the legal, organizational and financial foundations of its functioning and development, which should ensure the unity of the development, upbringing and education of the child, perform other socially important functions in the modern conditions of the development of society, be based on a combination of family and community education, achievements of domestic science, acquisitions of world pedagogical experience, to contribute to the formation of values of a democratic legal society in Ukraine. Preschool education is a holistic process aimed at ensuring the versatile development of a preschool child in accordance with his aptitudes, inclinations, abilities, individual, mental and physical characteristics, cultural needs; the formation of moral standards in a preschool child, his acquisition of life social experience.

Investigating the methods of evaluating education and raising a child, we note that the problem of evaluating the quality of education has not lost its relevance even today. Thus, *the purpose of our research is to describe* the procedure and methods of assessing the development of a child, in particular, with special educational needs, which meets the educational requirements of the modern age and the individual needs and interests of any child. The proposed method allows you to direct and align the child's development at the early stages of ontogenesis, in particular, the emotional-volitional and interpersonal spheres.

Main part. One of the important and relevant areas of modern psychodiagnostics is the diagnosis of child development. Development diagnostics are based on L. Vygotsky's ideas about child development as a wide range of life opportunities that are realized in the zone of his immediate development, simultaneously acting as a key diagnostic principle of education and training. It is obvious that the assessment of compliance with the norms of a child's mental development is important for the purpose of early detection of possible deviations, during the planning of individual prevention and correction measures aimed at equalization and rehabilitation of certain aspects of mental development. Thus, the tasks of the research are: to analyze the prerequisites for successful evaluation of the child's development in ontogeny; characterize stages and diagnostic tools; to establish the interdependence of the effectiveness of the toolkit, psychophysiological features of the child, the modern needs of both the child himself and the modern tasks of education (depending on the link of education); to demonstrate one of the methods that allows you to direct and align the development of the child in the early stages.

Research material and methods. Research methods are defined as theoretical analysis of modern scientific works, generalization. In the process of analyzing the prerequisites for successful assessment of children in ontogeny, the works of V. Goncharov, A. Kolupaeva, and N. Shkrebeta were identified for our research, which allowed us to characterize the main stages and assessment, to determine the advantages of traditional and innovative aspects. The study proposes a modified technique of incomplete sentences for children of senior preschool and junior school age. The methodology includes four blocks with different numbers of unfinished sentences that can be supplemented/modified depending on the child's personality and the purpose of the study.

The role of planning individual prevention and correction measures aimed at leveling and rehabilitation of certain aspects of the mental development of the work is connected with the exceptional importance of the early stages of ontogenesis for personality development. Thus, thanks to the rapid pace of development in childhood, deviations from normal development that are not noticed or seem to be such, sometimes lead to pronounced changes in older age. But, on the other hand, it is in childhood that there are quite wide opportunities for timely recovery, correction due to greater plasticity, sensitivity to external actions aimed at optimizing the child's mental development (Honcharov, 2012). Accordingly, without knowledge of the laws of the age-related development of the psyche and the differential foundations of development, it is impossible to carry out either the diagnostic procedure itself or an adequate analysis of the obtained results.

So, in particular, children of preschool age are endowed with a number of psychological and behavioral characteristics, the knowledge of which is necessary to obtain reliable results in the process of their psychodiagnostic examination. These features include, first of all, a relatively low level of consciousness and self-awareness. A number of psychological studies (O. Leontiev, S. Pantileev, M. Lysina, V. Mukhina, etc.) show that developed consciousness manifests itself in a certain arbitrariness and assumes both internal volitional control over one's own actions and deeds, as well as mediation through the language of the main cognitive processes of the child, his perception, attention, memory, imagination and thinking. In the majority of preschoolers, these processes, as consciously regulated, are at a relatively low level of development, due to the incompleteness of cognitive development. Usually, the first rudiments of arbitrariness are observed in a child before the age of 3–4, and its completion occurs no earlier than by the end of adolescence (Shkrebeta, 2018). Therefore, in the process of psychodiagnosis of children of early and preschool age, tasks should be chosen that do not require the child to have a highly developed arbitrary control of his behavior and cognitive processes. Otherwise, there is a danger of obtaining data that do not correspond to the child's real level of development.

Indicators of developed self-awareness are: awareness of one's own personality qualities, adequate assessment of one's behavior, formed self-esteem. By the age of 4, children are still very weakly

aware of their cognitive abilities and personal qualities and are unable to give a correct assessment of their own behavior. In addition, their self-esteem has not yet fully formed, which does not allow them to have a clear idea of themselves, their strengths and weaknesses. At the age of 4–6, most children already have such opportunities and are able to evaluate themselves as individuals, but still within certain limits (Shkrebeta, 2018: 12). That is, they evaluate mainly those personality properties, cognitive abilities and behavioral features that the surrounding people have repeatedly drawn his attention to. Therefore, the methods of personal, cognitive and communicative-behavioral diagnosis of children under 4 years of age should not include tasks and questions focused on self-awareness and a balanced assessment of one's own qualities and capabilities. Starting from the age of four, children can be offered some personal and behavioral questionnaires (including in the form of a conversation, but not exceeding 10-15 points), which are based on adequate self-assessment and direct thoughts; but it should be borne in mind: the self-assessment capabilities of children at this age are still quite limited (Kolupaeva, 2009: 223). In senior preschool and junior school age, it is possible to use test methods for researching cognitive processes, a number of methods for studying the peculiarities of emotional and motivational spheres, personal properties and interpersonal relationships. To obtain additional information, mini-questionnaires, interviews, and the method of expert evaluation are used.

The situation of obtaining psychological data about a child using diagnostic tools includes four main stages:

- 1) work with the request: familiarization with a certain complex of objective and subjective information about the child (social and medical history), which allows drawing the elements of the working «personality picture» necessary for psychological diagnosis and development forecast;
- 2) data collection in accordance with the task and hypothesis formulated by the psychologist/correctional teacher based on the request;
- 3) processing and interpretation of received data;
- 4) making a psychological diagnosis, formulating a development forecast and developing relevant recommendations.

The child's diagnostic procedure should be built as a situation of open cooperation, where the position of classical testing is inappropriate. After all, the test is a means of testing that separates the child and the psychologist/correctional teacher (Kolupaeva, 2007; 2009). At the same time, when the testing procedure is mandatory, the choice of tests should serve, first of all, as a reason for organizing cooperation with the child. In other words, the attitude to the test not as self-worth, but as one of the means of unfolding this or that typical situation of interaction with the child will also determine the selection of methods used during the examination. At the same time, the tests themselves should be interesting, compact, portable and not rigid.

We offer a modified method of incomplete sentences for children of senior preschool and junior school age (Author of the method, Tetiana Zhytnik).

The test refers to associative methods and is aimed at diagnosing the child's attitude to parents, brothers, sisters, children's informal and formal groups, teachers, school, their own abilities, as well as identifying goals, values, conflicts and significant experiences. All the child's answers must be recorded verbatim.

The test includes 4 blocks with a different number of unfinished sentences that can be supplemented/modified, depending on the child's personality and the purpose of the study.

Testing (without processing) takes from 20 minutes to several hours (depending on the personality of the subject).

Questionnaire form

Block I (relations with parents):

1.1. My mother most often...

1.2. My dad most often...

- 1.3. My mom loves...
- 1.4. My dad likes...
- 1.5. How would my mother....
- 1.6. How would my dad....
- 1.7. I want my mother to have/has...
- 1.8. I want my dad to have/has...
- 1.9. Family is...

Block II (relations with relatives):

- 2.1. My/my sister/brother/grandmother/grandfather most often....
- 2.2. My/my sister/brother/grandmother/grandfather likes...
- 2.3. As if my/my sister/brother/grandmother/grandfather....
- 2.4. I want my/my sister/brother's grandparents to have...
- 2.5. Most often, we are with a sister/brother/grandmother/grandfather...
- 2.6. I like it when my/my sister/brother/grandparents....
- 2.7. I worry when my/my sister/brother/grandparents....

Block III (relationships in social groups):

- 3.1. In my group/class I have...
- 3.2. I like when in a group/class...
- 3.3. I don't like when in a group/class...
- 3.4. The thing I remember most in the group/class was when such an event took place...
- 3.5. I would like the group/class to have more/less...
- 3.6. I always have a good/bad mood when in a group/class...

Block IV (Values and goals for the future):

- 4.1. Most of all, I would like to...
- 4.2. It bothers me...
- 4.3. If I had/hadn't...
- 4.4. In the future, I would like to...
- 4.5. In the near future I need...
- 4.6. I think that very soon I will be able to...
- 4.7. I think that soon I will be able to...

During the analysis of the answers, it is possible to single out the answers related to one's own life, to the life of the collective (group, class, circle, etc.). The obtained results will give an idea of the integral properties of the child's personality, which are expressed in the unity of knowledge, relationships, dominant motives of behavior and actions.

The last, most important requirement means that, at least at the beginning of the examination, such tests and methods are used, which, on the one hand, make it possible to immediately highlight the most diverse features of the child, and on the other hand, precisely because of their projective uncertainty, they do not allow immediate making of narrow diagnoses, but at the same time, they provide grounds for hypotheses that should be further clarified (Shkrebeta, 2018: 224–227). With such a fundamentally non-rigid examination procedure, the specialist gradually develops a sufficiently multidimensional and vivid individual image of the child, not too abstracted from the specific features of his (the child's) personal experience and not too constrained by the conceptual schemes of professional diagnosis.

In addition, the qualitative picture of the inner world of the child, revealed during the examination, does not always require strict quantitative assessments, although it is based on knowledge (more precisely, on feeling) of the age norm in its individualized versions. The indicators observed during the examination of certain age and individual characteristics of the child's inner world are extremely diverse, and therefore, they cannot have an exhaustive description. At the same time, the individual fragments observed in the motley mosaic of the inner world of the child at the next stage must be

assembled into a single whole, describe this picture as adequately as possible, and then – in a general form, outline the steps that allow overcoming the recorded difficulties or disturbances in the child's development, in that including self-awareness.

During the organization of the diagnostic procedure, it is necessary to remember that:

– firstly, it is rather difficult for preschoolers and younger schoolchildren to perceive tasks of an abstract nature, taking into account the age-specific nature of thinking;

– secondly, children demonstrate their abilities, personal qualities and other developmental features only if their participation in testing is stimulated in attractive ways (for example, receiving an incentive or reward). Therefore, in most cases, diagnosis of the structural components of self-awareness should be offered to children in an individual form (including playful methods of interaction) and with the use of visual stimulus material;

– thirdly, the tasks offered to children should be such as to maintain the child's interest in their content throughout the diagnosis period. It should be taken into account that the inconsistency of involuntary attention and increased fatigue of children can be caused by psychogenic factors, which means that test tasks should not be long and very time-consuming. If the child is prone to quick fatigue, his attention is often distracted, then it is necessary to distract him from the task, switch to another type of (less active) activity and only after some time return to the completion of unfinished tasks.

Results and discussion. Experience convincingly proves that for those specialists who already work in educational institutions, methodical readiness is an effective means of preparation for correctional work with children, in particular, with special educational needs. The content of such education should be the basics of correctional pedagogy and psychology, with certain methodological aspects. In particular, educators must be competent in the following matters:

- approaches of the state and society to the organization of education of children, in particular, with special educational needs;

- basic concepts of correctional pedagogy and special psychology;

- peculiarities and patterns of development of various categories of persons with psychophysical disabilities;

- complex psychological and pedagogical study of children;

- differentiated and individual mechanisms and methods of pre-school and junior high school remedial education and upbringing of each category of children;

- content and methods of working with families of pupils.

In order to implement inclusive education, educators must be able to:

- monitor the development of children who have difficulties in acquiring knowledge, various types of activities and competently assess the reasons for these difficulties;

- timely identify disorders in the child's development and participate in the implementation of the correct psychological and pedagogical support of children who need correction of psychophysical development;

- implement an individual and differentiated approach to pupils, in particular, with special educational needs;

- to form the child's readiness for positive joint interaction with peers who need correction of psychophysical development;

- work with parents to provide them with reliable information about the child.

Without any doubt, the competence of the teacher is one of the conditions for the effectiveness of education. The results of research by scientists prove that the mental, emotional and social development of children, in particular, with special educational needs, primarily depends on a positive attitude towards them, their understanding and acceptance by teachers, parents and children.

Conclusions. A favorable social and developmental environment is one of the initial conditions for solving the problems of inclusive education. However, it should be remembered that its effectiveness

depends on many conditions, the main one of which is the methodical support of the teacher. In the context of European values, inclusive education requires significant changes and reorientations of society, first of all, of pedagogical workers. Therefore, the manual was developed with the aim of providing a toolkit for the teacher, which will satisfy his professional needs and enable the implementation of the content of education, in particular, inclusive education.

References:

1. Honcharov V. (2012). Dialektyka tradytsiinoho ta innovatsiinoho u pidhotovtsi suchasnoho vchyte-lia [Dialectics of traditional and innovative in the training of modern teachers]. *Higher Education of Ukraine*, (4), pp. 44-51. URL: http://nbuv.gov.ua/UJRN/vou_2012_4_9 (date of application : 20.01.2022) [in Ukraine].
2. Kolupaeva A. (2007). Pedagogical bases of integration of schoolchildren with special psychophys-ical development in general educational institutions. *Pedagogical thought*, 458 [in Ukrainian].
3. Kolupaeva A. (2009). Inclusive education: realities and prospects. *Summit-Book*. 326 [in Ukrainian].
4. Shkrebeta N. (2018). «Fairytale box»: a methodological guide for teachers and students of higher education institutions. *Vinnytsia: VDPU named after M. Kotsyubynskyi*. 52 [in Ukrainian].
5. Shkrebeta N. (2018). Fairy tale therapy as a means of developing the life competence of children with special needs. *Materials of the interuniversity (correspondence) scientific and practical confer-ence. Khmelnytskyi: PP «A. V. Tsaruk»*. pp. 224–227 [in Ukrainian].
6. The Law of Ukraine «On Education» dated September 5, 2017 (with amendments effective from January 19, 2019). (URL: https://www.pedrada.com.ua/files/articles/1484/Zakon_Pro_osvitu_2019_Pedrada.pdf) (access date: 07/25/2021).
7. Zakharchuk M. Problems of teacher professional competence formation in the conditions of imple-mentation of inclusive education in Ukraine [Electronic resource] (URL: <http://gnpu.edu.ua/files/naukovi%20chitanny/pedagogika/ZaharchukKluchkovska>).

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ANTI-DEMOCRATIC DRAFT LAW OF UKRAINE «ON LABOUR» DURING MARTIAL LAW

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Abstract. Nowadays Ukraine is experiencing an extremely difficult wartime in the strengthening democratic European values of social life. With the help of the critical analysis method the historical and legal evaluation of objective norms in labour sphere which are discriminatory was done. The comparative-legal method has helped to study the draft's norms on conformity of their current legislation of Ukraine on labour. In the context of the armed struggle for Democracy, part of which is recognition of human rights and strengthening the Rule of Law, legislative initiative to reform the legal regulation of social relations, the object of which is the labour and employment, has signs of an anti-democratic state-political regime. The most dangerous trend of the Draft Law of Ukraine «On Labour» is that its content gives priority to the economic system rather than to the human, the fatal consequence of which in the World History were genocide of Nations.

Key words: labour, signs of labour relations, labour agreement, safeguard, discrimination, economic, genocide.

Introduction. The Labour Code of Ukraine, dated December 10, 1971, No. 322-VIII (The Labour Code of Ukraine, 1987) is today the only normative legal act that is really able to protect human rights in Ukraine, in particular, the employee, along with the Constitution of Ukraine. At the same time, certain institutions and sub-institutions of labour law need to be developed as a result of the dynamics of social relations related to labour. Instead, the Draft Law of Ukraine «On Labour» on the legislative initiative of the Cabinet of Ministers of Ukraine represented by D. Shmygal, submitted for discussion by the Directorate of Labour Market Development and Remuneration of the Ministry of Economy of Ukraine on September 23, 2022 at 8: 12 a. m. (hereinafter referred to as the Project), does not represent any development of the already established foundations and principles of legal regulation of labour relations, but on the contrary, proposes to cancel them all, which has the characteristics of an anti-democratic state-political regime and discrimination of a person on the basis of work.

Some elements of the subject of the study have become the object of repeated scientific interest, in particular regarding the form of the state: R. Martyniuk, I. Protsiuka, Yu. Matsyevsoy, O. Yevtushenko, M. Karmazina, T. Bevz, N. Rotar, V. Lemaka, G. Kuts, V. Kopeichikova, Yu. Shemshuchenko, etc.; regarding the principles of labour law and its institutions: V. Prokopenko, P. Pylypenko, M. Boiko, S. Prylipko, O. Yaroshenko, S. Sinchuk, N. Bolotina, O. Protsevskiy, etc.

The purpose of the work is to study the Project for compliance with its current legislation of Ukraine during the period of the legal regime of martial law.

Main part. Research objectives:

- to analyze the Project in terms of the definition of the concept of «labour relations»;
- to determine the non-compliance of the current labour legislation of Ukraine with the project norms on the signs of labour relations;
- to compare the project definition of the employee's legal status with the current labour legislation of Ukraine.

– to provide examples of signs of anti-democratic character of the Project.

Material and research methods. The current Labour Code of Ukraine certainly needs to be improved, but any reforms of legal regulation cannot cancel the already developed legal institutions on the basis of the principle of the rule of law. Unfortunately, the Project is not of an evolutionary nature of the institutions of the right to work, it simply escapes them, which contradicts the existing regulatory framework of Ukraine, and can lead to an irreparable social situation, examples of which have repeatedly occurred in the historical and legal development of the nations of the world. The methods of our doctrinal research are the method of critical analysis and description, the comparative legal method, etc.

Results and their discussion. We will focus on the analysis of only some project regulations on changes in labour legislation, in particular, on Section II of the Project «Labour Relations and Employment Contract». From the very title of this section, it can be argued that the subject of the legislative initiative has a wrong idea of the difference/separation of labour relations from the employment contract, since labour relations cannot exist without the final legal registration in the form of an employment contract. At the same time, it is necessary to emphasize the problem of not including any labour-related relations in the subject of legal regulation of labour law.

Article 12. Labour (Employment) Relations

1. Labour relations are relations between the employee and the employer, which provide for the performance on behalf, under the direction and control of the employer personally by the employee for the remuneration of the work determined by the employer. Such a definition does not comply with the current legislation of Ukraine. Labour relations are social relations regarding the use and application of live hired labour, in which not only the employee and the employer participate, but the whole system of subjects of labour relations:

1) labour collective on the basis of:

- the International Covenant on Economic, Social and Cultural Rights;
- the European Social Charter (revised);
- ILO Convention No. 98;
- ILO Convention No. 154;
- ILO Recommendation No. 91;
- art. 36 of the Constitution of Ukraine;
- The Law of Ukraine «On Collective Agreements and Contracts»;
- the Law «On labour collectives and increasing their role in the management of enterprises, institutions, organizations»;
- Part 2 of Article 91, Part 3, Art. 52, Art. 152, Chapters III, XVI-A, XV of the Labour Code of Ukraine, etc.;

2) a trade union (professional union) or other bodies authorized to represent the labour collective on the basis of:

- the International Covenant on Economic, Social and Cultural Rights;
- ILO Convention No. 145;
- chapter XVI of the Labour Code of Ukraine;
- Art. 36 of the Constitution of Ukraine;
- Law of Ukraine «On Trade Unions, Their Rights and Guarantees of Activity», etc.;

3) the parties to the social dialogue are the social partners at the appropriate level of concluding a collective agreement on the basis of:

- chapter II of the Labour Code of Ukraine;
- The Law of Ukraine «On Collective Agreements and Contracts» («On Collective Treaties and Agreements»);
- the Law of Ukraine «On Social Dialogue in Ukraine»;

4) subjects resolving collective labour disputes: an independent mediator, a conciliation commission, labour arbitration, the National Service of Mediation and Conciliation, on the basis of the Law of Ukraine «On the Procedure for Settlement of Collective Labour Disputes (Conflicts)» and other regulatory legal acts and agreements.

5) state (government) authorities;

6) local self-government bodies;

7) other subjects, the list of which cannot be exhaustive.

Thus, Article 12 of the Project specifies that labour relations are only individual labour relations, discriminating against subjects of collective legal personality in the field of labour relations, together with public authorities and local governments, by excluding them from the circle of participants in labour relations, which is contrary to the national legislation of Ukraine.

In addition, in part 1 of Art. 12 of the Project applies the concept of «commission» («order»), which is part of the regulation of civil-law relations (Civil Code of Ukraine, 2003) or some branches of public law in the form of a management decision or written authority with the participation of public authorities (On government service, 2015). If we are talking about the performance of work by an employee, then it can be carried out only under the terms of the employment agreement, and not on «commission» («order») – some non-legal «instructions» of employer. This interpretation of Art. 12 of the Project causes harm to the employee, depriving him of legislative guarantees in the field of labour, since such «commission» («order», «instructions») can be issued at the discretion of the employer, and not in accordance with the labour agreement, collective agreement, collective treaties or labour legislation. Such abolition of legislative guarantees of employees' (workers') rights is traced throughout the text of the Project, which contradicts the Constitution of Ukraine, the Labour Code of Ukraine, the laws of Ukraine and international treaties and agreements. It should also be added that in the current legislation of Ukraine there is a terminological concept of «employer's assignments (commission, order)», which is simultaneously included in the subject of civil and labour law and means a written task issued to the employee, which is directly related to the specifics of the enterprise or the employer's activity and can lead to the creation of an invention (utility model), but the Project does not contain this.

The clause is also subject to the Projected design «under the control of the employer» in Part 1 of Art. 12. The employer does not exercise «control», such powers fall within the competence of state authorities and trade union organization or other bodies authorized to represent the labour collective, that is, state and public control provided for in Chapter XVIII of the Labour Code of Ukraine. Instead, the employer is entrusted with the duties to «properly organize the work of employees, create conditions for the growth of labour productivity, ensure labour and production discipline, strictly comply with labour legislation and labour protection rules, carefully treat the needs and requests of employees, improve their working and living conditions» (Art. 141 of the Labour Code of Ukraine). In other words, the employer has the right only to ensure the fulfillment of labour duties under the terms of the employment contract by the employee, and not to control such fulfillment with the creation of the necessary organizational and economic conditions for normal highly productive work, conscious attitude to work, methods of persuasion, education, as well as encouragement for conscientious work (Art. 140 of the Labour Code of Ukraine). Such clauses are contained in the current Labour Code of Ukraine, in Chapter X «Labour discipline», which is not in the Project at all.

The principle of freedom of work lies not only in the freedom to choose the type of activity and type of occupation, but also in the freedom at the discretion of the employee to perform his/her labour duties in the best possible way, choosing the forms and methods of performing labour duties that cannot be controlled, but only provided. In view of the proposals for amendments to the labour legislation and the existing illegal practice of using, for example, video surveillance of employees, including without their consent, as well as the illegitimate abolition of the principles of labour law,

the employee will turn into a powerless subject, who will be obliged to carry out the commands and whims of the pseudo-employer in a systemic and mechanical manner. This state of affairs falls under the recognition of the economic indicator above the human being that is present in anti-democratic communist China. Thus, according to some economic characteristics, a person turns into an object of economic exploitation, which contradicts all the principles of law, common sense, and if such an anti-democratic mechanism is used, it will lead to an irreparable catastrophe, which has already occurred more than once in the historical and legal development of both the Ukrainian people and other nations of the world in the form of inhumane, criminal events and phenomena called «slavery», «serfdom», «feudalism», «landings», «war communism», «communism», «NEP», «collectivization», «Holodomor (1921–1923, 1932–1933, 1946–1947)», «Apartheid», «Holocaust», etc. – the subject of the crime of genocide or the whole complex of the crime of genocide – the most important crime against humanity.

Consequently, Part 1 of Art. 12 of the Project, as well as the entire content of the Project, provides the employer with discretionary powers contrary to the Constitution of Ukraine, the Labour Code of Ukraine, the laws of Ukraine and international treaties and agreements, which cancels the current rights of employees and cannot be adopted on the basis of Articles 1, 3, 8, 22, etc. the Constitution of Ukraine.

The following inconsistency of Part 1 of Art. 12 of the Project, the current national legislation of Ukraine is that the remuneration, as well as the performance of work, is determined by the employer independently – this is a violation of the principle of the contractual nature of labour relations (Melnychuk, 2009: 152), defined in the entire system of regulatory legal acts of Ukraine, in particular, the legal institution of labour law «employment contract», which is an agreement (Part 1, Art. 43 of the Constitution of Ukraine, Part 1 of Art. 21 of the Labour Code of Ukraine) and is concluded on the basis of voluntary will, except as provided for in Part 3 of Art. 43 of the Constitution of Ukraine – military or alternative (non-military) service, work or service performed by a person under a sentence or other court decision or in accordance with the laws on martial law and state of emergency. To this it should be added that in Ukraine there is also established an appropriate regulatory regulation of the systems and amounts of remuneration (On the remuneration of employees based on the Unified tariff grid of grades and coefficients for the remuneration of employees of institutions, establishments and organizations of certain branches of the budget sphere, 2002), which exclude the possibility for the employer to determine at his own discretion the amount of wages, which is established in compliance with the established coefficients, categories, categories, qualifications, complexity of work, etc.

2. Part 2, Art. 12 of the Project notes that «the parties to the employment relationship are the employee and the employer». Such wording is erroneous, since the employee and the employer are parties to the employment contract and the main participants (subjects) of the employment relationship, but not the only ones.

3. The basis for the emergence of labour relations is not only the labour contract, although it is a personal legal fact of the emergence of labour relations and, when there are other legal facts that are the basis for the emergence of labour relations, then in the end they will be formalized by the labour contract in the case of individual labour relations.

In paragraph 2 of Part 3 of Art. 12 of the Project is indicated «in cases stipulated by the constituent documents». Constituent documents are constituent acts of subjects of civil and economic relations, acts of a legal entity. On the basis of the current labour legislation of Ukraine, in the presence of a legal entity-employer, there is necessarily a subject of labour relations «labour collective», the legal status of which is not determined by the Project at all, but is only mentioned in two words in paragraph 2, Part 1 of Art. 16 of the Project. Moreover, according to modern realities, the concept of «labour collective» as a subject can exist with the participation of an individual employer in labour relations.

In the items of paragraph 2 of Part 3 of Art. 12 of the Project, not all possible cases of legal facts are listed, which are the grounds for the emergence of labour relations, in particular membership in cooperatives (Condominiums), peasant (farm) farms, collective agricultural enterprises, organizations (Yeromenko, 2017). On the basis of Part 1 of Article Labour legislation regulates the labour relations of employees of all enterprises, institutions, organizations, regardless of ownership form, type of activity and sectoral affiliation, as well as people who work under an employment contract with individuals. Thus, any hired labour must be regulated by the norms of labour legislation. Instead, the Project generally excludes from the concept of labour relations the object of labour relations – labour and further does not regulate labour in cooperatives (Condominiums), peasant (farm) farms, collective agricultural enterprises, organizations, which needs to be properly regulated from the moment of restoration of independence of Ukraine within the framework of labour legislation. Such project exclusion is a violation of the principles of democracy and the rule of law and discriminates against the citizens of Ukraine in the field of labour on the basis of professional grounds, field of activity. Again, discretionary rights are granted to economic entities, which may determine the grounds for the emergence of labour relations in their charters, and not on the basis of the legislation of Ukraine.

Further absence of legal regulation of labour under the norms of labour legislation in cooperatives (Condominiums), peasant (farm) farms, collective agricultural enterprises, organizations continues the long-term operation of the participants in these relations.

Any work must be regulated by the norms of labour legislation with a distinction from civil law agreements and with the additional application of separate legislation depending on the peculiarities of the performance of labour function (civil service, public service, military service, law enforcement, justice, activities in positions in higher authorities (People's Deputy of Ukraine, President of Ukraine, composition of the Cabinet of Ministers of Ukraine), advocacy, notary, etc.). At the same time, economic activity cannot absorb the regulatory and legal regulation of labour subjects (labour relations). Taking into account the text of the Project, the entire institutions of labour law (employment, collective agreement, employment contract, labour discipline, working time, rest time, etc.) fall under such economic absorption – this is the removal from the labour legislation of the subject of legal regulation of labour law, the object of which is labour, which has the features of an anti-democratic regime of the state form.

In paragraph 2 of Part 3 of Art. 12 of the Draft Law states that the employment contract is amended on the basis of: 1) appointment to a position; 2) election to a position; 3) results of the competition; 4) court decision. Such a provision of the Project also contradicts the principle of the contractual nature of the employment relationship (Zhyhalkin, 2015; Kozak, 1999), which consists in the mutual agreement of the parties to the employment contract, which can be changed only with the mutual consent of the employee and the employer.

In Part 4 of Art. 12 of the Project, it is proposed that the parties, i.e. also the employee, are obliged to inform about any circumstances that may affect the conclusion, execution, termination of the employment contract. Such a provision contradicts Parts 2, 3 of Art. 24 of the Labour Code of Ukraine, which determines the list of information submitted when concluding an employment contract, and also contradicts Art. 25 of the Labour Code of Ukraine, which prohibits the submission of information (documents), the submission of which is not provided for by law. Design norm Part 4 of Art. 12, on the contrary, wrongly names any circumstances about which the employer must necessarily be informed on the part of the employee. This will give the employer discretion to impose penalties on the employee up to and including termination of employment in the event of failure to provide any information that the employer believes should have been known. This position contradicts the current legislation of Ukraine.

Also Part 4 of Art. 12 of the Project uses the erroneous wording of the legal terminology «performance of the employment contract». The Employment Contract may be entered into, amended,

extended or terminated but not performed. Only the duties specified in the terms of the employment contract may be performed.

Part 5. 12 of the Project notes that the norms of labour legislation apply to the relations under which the work was performed without the conclusion of an employment contract and which are recognized as labour in accordance with the procedure established by the Law. However, the Project does not establish such a procedure for the recognition of labour relations in the case of performance of work without the conclusion of an employment contract, but only specified, in the opinion of the subject of the legislative initiative, which are signs of labour relations (Art. 13 of the Project), and it is not clear at all what the «Law» is talking about.

Article 13 Signs of Employment Relationship.

1. Part one suggests that the work «may be recognized» as being performed within the scope of the employment relationship. This wording deprives of legislative guarantees for employees, since the imperative of recognizing labour relations is lost if there are three or more signs of labour relations. It is not clear by whom such work «can be recognized», in addition, there is no obligation to draw up an employment contract (guarantees such an employee protection in the field of labour) from the employer in the presence of signs of labour relations. There is also no legal justification why three or more signs are an «opportunity» to recognize labour relations.

Paragraph 1 of Part 1 of Art. 13 of the Project does not fully apply the concept of «labour function», which includes: profession, specialty and specialization, qualifications, position and workplace (Lavrinenko, 2009; Dihtiarenko, 2018), instead it is mentioned only about qualifications, profession and position. In addition, it can be concluded from the design of this paragraph that the sign of labour relations is self-employment, which is included in the subject of legal regulation of economic legislation, and not labour, namely in the words that «a person performs work in the interests of a person».

It also violates the «principle of stability of labour relations» (Shvets, 2020) and the «principle of material interest (interest) in the results of work» (Fartushok, 2015), which are mutually beneficial activities of the parties to the employment contract, the performance of work (labour duties) is also carried out in the interests of the employee himself, since any work is socially useful and cannot be satisfied only in the interests of the employer, abolishing the rights of employees. Employees should have confidence in the future – a guarantee of employment and payment for their work, the employer – a stable, qualified employee or a team of employees who are interested in the ultimate positive result of their work.

Labour activity is a way of meeting material and moral needs, which is largely carried out on the availability of funds. The totality of all the interests of the employee, namely, to organize their workplace as best as possible, to improve their skills, etc., is to receive for their work as much money as possible (remuneration for work), and thereby more fully meet their needs, - a material interest in the consequences of their work.

There is no clarity in the understanding of the term «person», why it is not specified specifically – «natural person», if it is an employee, and a natural or legal person, if it is an employer.

Paragraph 2 of Part 1 of Art. 13 of the Project uses the phrase «permanent nature», which is not specified in the calendar period, which does not improve and does not develop labour legislation, and further contains gaps in the time during which an individual (employee) works in a relationship that has signs of an employment relationship. In addition, instead of «permanent», «systematic» (Prohoniuk, 2011) should be used, which has the specification of the legal fact in time – two or more times.

Paragraph 3 of Part 1 of Art. 13 of the Project excludes from legal regulation distance and home work provided for in Articles 60-1, 60-2 of the Labour Code of Ukraine, the Regulations on the Working Conditions of Domestic Workers (1981) and ILO Convention No. 177 (Home Work Convention, 1996).

Paragraph 4 of Part 1 of Art. 13 of the Project mistakenly covers the workplace as a means of production and does not differentiate the means of production from the tools of production (Inshyn, Shcherbyna, 2016: 210; Bilodid, 1971: 141).

Paragraph 5 of Part 1 of Art. 13 of the Project proposes to pay remuneration only in kind, which is contrary to Art. 23 of the Law of Ukraine On Salary. It is also not clear what the reward is, since there is no binding as a reward for work, but only tendentiously emphasizes the work that is performed in the interests of some person.

Paragraph 6 of Part 1 of Art. 13 of the Project does not contain a guarantee for the employee in the event that the employer does not establish the duration of working time or rest time signs of an employment relationship, in addition, from the wording of this paragraph it is seen that if no rest time is established, then such work will not have a sign of an employment relationship.

Paragraph 7 of Part 1 of Art. 13 of the Project proposes to consider it a norm to impose «other financial expenses» on the employee, which is contrary to the current labour legislation of Ukraine. In addition, in the presence, for example, of the features provided for in paragraphs 1, 4, 7 of Part 1 of Art. 13 is not sufficient to recognize the employment relationship, which does not develop, but, on the contrary, complicates the legal definition of the employment relationship under the Project.

Part 2 of Art.13 of the Design is meaningless.

Article 14. Employee

1. Part one does not give a proper definition of the legal status of the employee, since it omits the main institution of labour law and the main basis for the emergence of labour relations – an employment treaty (agreement) that contradicts paragraph Part 1 of Article of the Law of Ukraine «On Trade Unions, Their Rights and Guarantees of Activity», Thus, today an employee is an individual who works on the basis of an employment agreement at an enterprise, institution, organization or an individual who uses hired labour. The performance of paid work by one's own work for the benefit of another person does not confer the status of an employee. We also have to note that «employment treaty (agreement)» is not the same «employment contract (agreement)» in the Ukrainian labour legislation.

Therefore, it is clear only from the analysis of incomplete three articles of the Design that it cannot be acceptable, as it contradicts the national legislation of Ukraine. It should be added that the Project also cancels the legal institution of rest time, in particular, its longest type – vacations, an inexhaustible list of which is provided by Art. 4 of the Law of Ukraine «On Vacations».

Conclusion. The content of the Draft Law of Ukraine on Labour is useless, since:

- 1) abolishes human rights in the field of labour in comparison with the current labour legislation;
- 2) contradicts the general and sectoral principles of law;
- 3) does not comply with the Constitution of Ukraine;
- 4) gives priority to the employer, rather than to the employee, which contradicts the essence of the right to work itself and the entire labour law, which should be directed only to the priority of recognizing the rights of the employee who, for remuneration, hires his own human labour;
- 5) abolishes the institutions of labour law regulated by the current labour legislation;
- 6) does not develop or improve anything, which is really required by the realities of today, but, on the contrary, contains even more gaps in the legal regulation of labour;
- 7) provides the employer with the right at his own discretion to organize the labour process without complying with the legal requirements, which are not in the Project at all, which, contrary to the Constitution of Ukraine and all national legislation of Ukraine, will allow the exploitation of labour of individuals, first of all, citizens of Ukraine without providing any guarantees in the field of labour;
- 8) has the features of an anti-democratic state-political regime;
- 9) is a Ukrainian translation of the Labour Code of the Russian Federation;
- 10) the norms of Ukrainian spelling were not observed.

11) duplicates the Draft Labour Law No. 2708 dated 28. 12. 2019

12) constitutes a dangerous anti-legal trend;

13) can be a prerequisite or a means of irreparable consequences that took place in the world during «slavery», «serfdom», «feudalism», «landlordship», «military communism», «communism», «NEPu», «collectivization», «Holodomor (1921–1923, 1932–1933, 1946–1947)», «Apartheid», «Holocaust» and other inhumane events and phenomena.

Thus, it should be noted that labour law inherently combines the features of private and public law today through planned Eurocentric development, as it distinguished itself from civil law in an independent branch of law after the Second World War, and also as a result of the fact that after the restoration of Ukraine's independence in 1991 and the democratization of public life, the state monopoly on the mandatory application and use of labour with elements of administrative command management as a totalitarian system of exploitation of society was abolished. In this way, labour law is a balanced regularity of the settlement of public interests at different levels during the social dialogue of social partnership subjects. Contrary to the national traditions of the state formation of the Ukrainian people with the recognition of human life, health, honour, dignity, inviolability and security with the highest social value and the right to work, the Project recognizes the priority of the interests of the quasi-employer with discretionary rights and the priority of economic interests, in which the person – employee is transformed into an object of the economic system and loses its legal personality, guaranteed today by the national legislation of Ukraine.

References:

1. Bilodid, I. K. (Ed.) (1971). Slovník ukrajinšoi movy: v 11 tt [Dictionary of Ukrainian]. Kyiv: Naukova dumka. AN URSS. Instytut movoznavstva, t. 2, p. 141 [In Ukrainian].
2. Civil Code of Ukraine. No 435-IV (2003). Retrieved from: <https://zakon.rada.gov.ua/laws/show/435-15#Text> [In Ukrainian].
3. Dihtiarenko, H. V. (2018) Trudova funktsiia pratsivnyka za zakonodavstvom Ukrainy: zmist ta osnovni elementy [Labor function of an employee under the legislation of Ukraine: content and main elements]. Yurydychnyi visnyk, No 2 (47), p. 103-108 [In Ukrainian].
4. Draft Law of Ukraine «On Labor» (2022). Retrieved from: <https://www.me.gov.ua/Documents/Download?id=334b823a-aaca-437e-9014-b68a627a5e86> [In Ukrainian].
5. Fartushok, T. B. (2015). Pryntsypy oplaty pratsi v aspekti zakhystu prava na oplatu pratsi [Principles of remuneration in the aspect of protection of the right to remuneration]. Chasopys Kyivskoho universytetu prava, No 3, p. 227230 [In Ukrainian].
6. Home Work Convention. No 177 (1996). Retrieved from: https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_INSTRUMENT_ID:312322 [in English].
7. Inshyn, M., Shcherbyna, V. (2016). Predmet trudovoho prava (chastyna druga) [The subject of labor law (second part)]. Publichne pravo, No 1 (21), p. 209-214 [In Ukrainian].
8. Kozak, Z. Ya. (1999). Dohovirne rehuliuвання za trudovym pravom Ukrainy [Contractual regulation under labor law of Ukraine] [Thesis of candidate dissertation]. Kyiv, 17 p. [In Ukrainian].
9. Lavrinenko, O. V. (2009). Trudova funktsiia pratsivnyka yak oboviazkova umova trudovoho dohovoru: teoretyko-prykladni aspekty ta shliakhy vdoskonalennia zahalnoho y spetsialnoho zakonodavstva Ukrainy pro pratsiu [The labor function of an employee as a mandatory condition of an employment contract: theoretical and applied aspects and ways of improving the general and special legislation of Ukraine on labor]. Forum prava, No 1, p. 301-328 [In Ukrainian].
10. Melnychuk, N. O. (2009). Dohovir yak forma rehuliuвання trudovykh vidnosyn [The treaty as a form of regulation of labor relations]. Chasopys Kyivskoho universytetu prava, No 1, p. 149-153 [In Ukrainian].
11. On government service, No 889-VIII (2015). Retrieved from: <https://zakon.rada.gov.ua/laws/show/889-19#Text> [In Ukrainian].

12. On Salary. No 108/95-BP (1995). Retrieved from: <https://zakon.rada.gov.ua/laws/show/108/95-bp#Text> [In Ukrainian].
13. On the remuneration of employees based on the Unified tariff grid of grades and coefficients for the remuneration of employees of institutions, establishments and organizations of certain branches of the budget sphere. No 1298 (2002). Retrieved from: <https://zakon.rada.gov.ua/laws/show/1298-2002-n#Text> [In Ukrainian].
14. Prohoniuk, L. Iu. (2011). Zmist ta yurydyчне znachennia poniattia «systematychnosti» v trudovomu pravi Ukrainy [The content and legal meaning of the concept of «systematicity» in the labor law of Ukraine]. Zbirnyk naukovykh prats Kharkivskoho natsionalnoho pedahohichnoho universytetu imeni H. S. Skovorody «PRAVO», Issue 17, p. 56-64 [In Ukrainian].
15. Regulations on the working conditions of domestic workers. No 275/17-99 (1981). Retrieved from: <https://zakon.rada.gov.ua/laws/show/v0275400-81#Text> [In Ukrainian].
16. Shvets, V. O. (2020). Zahalna sutnist stabilnykh i nestabilnykh trudovykh pravovidnosyn [The general essence of stable and unstable labor relations]. Naukovyi visnyk publichnoho ta pryvatnoho prava, Issue 6, t. 2, p. 79-83. doi.org/10.32844/2618-1258.2020.6-2.14 [In Ukrainian].
17. The Labour Code of Ukraine. No 322-VIII (1971). Retrieved from: <https://zakon.rada.gov.ua/laws/show/322-08?lang=en#Text> [In Ukrainian].
18. Yeromenko, V. V. (2017). Pidstavy vynyknennia indyvidualnykh trudovykh pravovidnosyn z chlenamy fermerskykh hospodarstv y inshykh silskykh hospodarstv ta kooperatyviv [Basis for the emergence of individual labor relations with members of farms and other agricultural enterprises and cooperatives]. Pravo ta innovatsii, No 2 (18), p. 46-54 [In Ukrainian].
19. Zhyhalkin, I. P. (2015). Poiednannia derzhavnoho i dohovirnoho rehuliuвання trudovykh vidnosyn yak pryntsypr trudovoho prava [The combination of state and contractual regulation of labor relations as a principle of labor law]. Pravo ta innovatsii, No 2 (10), p. 73-79 [In Ukrainian].

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PROBLEMS OF USING AUTONOMOUS MILITARY AI AGAINST THE BACKGROUND OF RUSSIA'S MILITARY AGGRESSION AGAINST UKRAINE

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Abstract. The application of modern technologies with artificial intelligence (AI) in all spheres of human life is growing exponentially alongside concern for its controllability. The lack of public, state, and international control over AI technologies creates large-scale risks of using such software and hardware that (un)intentionally harm humanity. The events of recent month and years, specifically regarding the Russian Federation's war

against its democratic neighbour Ukraine and other international conflicts of note, support the thesis that the uncontrolled use of AI, especially in the military sphere, may lead to deliberate disregard for the moral standards of controlled AI or the spontaneous emergence of aggressive autonomous AI. The development of legal regulation for the use of technologies with AI is prolonged concerning the rapid development of these artefacts, which simultaneously cover all areas of public relations. Therefore, control over the creation and use of AI should be carried out not only by purely technical regulation (e.g., technical standards and conformance assessments, corporate and developer regulations, requirements enforced through industry-wide ethical codes); but also by comprehensive legislation and intergovernmental oversight bodies that codify and enforce specific changes in the rights and duties of legal persons. This article shall present the “Morality Problem” and “Intentionality Problem” of AI, and reflect upon various lacunae that arise when implementing AI for military purposes.

Key words: artificial intelligence, autonomous systems, disinformation, international law, military ethics.

Introduction. War, regardless of how it may ravage society, has been a constant companion to humanity throughout history. As with many other processes that have attained automation, weapons and support systems have inevitably only enabled violence against our kin to become more targeted and precise. What may once have been an argument to reduce the number of troop casualties via mechanisation now sees itself turned against defenceless, innocent civilian populations the world over – from advanced targeting systems for artillery and missiles, to remotely powered drones. For many reasons, society is inevitably amidst a crisis of consciousness pertaining to advancing war capacity – though it is not entirely human-centric, even if human actors are nominally in each significant decision-making role. Rather, because many other social areas are experiencing similar phenomena, this particular predicament is focused on the morality (or lack thereof) held by autonomous artificial intelligence systems (AAIS). While it must be acknowledged that genuine autonomy is absent in many military systems internationally, early dialogues on the ethics of AAIS in warfare pervade law and ethics in military realms (Kolff, 2011; Taddeo and Floridi, 2018; Tilovska-Kechedji, Bojović and Čvorović, 2018; de Swarte, Boufous and Escalle, 2019; Ali, 2020; Haney, 2020; Bistrion and Piotrowski, 2021). Among the many branches of thought incorporated into these discussions are those that advocate for non-human animal or entity consideration (Jaynes, 2020; Jaynes, 2021b-c, Gellers, 2021, Owe and Baum, 2021), specifically target AAIS or similar system bias (Shank and DeSanti, 2018; Coeckelbergh, 2020), and bleed into more extensive discussions on “Friendly” or “Moral” AI (Wallach and Allen, 2009; Muehlhauser and Bostrom, 2014; Savulescu and Maslen, 2015; Freire et al., 2020; Gordon, 2020). For the context of this argument, we are concerned with two “problems” of AAIS that run in parallel; being the “Morality Problem” and the “Intentionality Problem.”

The “Morality Problem” of AAIS, as understood by the authors, concerns itself with the premise that AAIS requires a component of moral intuition – or rather, awareness and respect for human mores – and can link itself to works by Asimov and others (Wallach and Allen, 2009; Muehlhauser and Bostrom, 2014; Savulescu and Maslen, 2015; Freire et al., 2020; Gordon, 2020).¹ The “Intentionality Problem” of AAIS, described more fully in a separate work, is more concerned with how AAIS may come to be judged under a court of law. More specifically, the “Intentionality Problem” is concerned both with the premise of AAIS “will” or “consciousness” *and* that this “will”, or “consciousness”, can be used by judiciaries to attribute legal harms and duties upon AAIS – rather than solely laying the blame for these harms on human programmers or corporate developers and manufacturers. The former has received much treatment in the past two decades, while the latter can be said to be a lesser, albeit persistent, area of interest. Distinctly, it can be argued that broaching the “Morality Problem” of AAIS is a red herring that detracts from the reality that efforts are being made to incorporate AAIS – with a wide range of capabilities and intents for use – into instruments that will prove their effectiveness in emerging armed conflicts the world over.

¹ See also Encyclopaedia Britannica (Online) entry, “Three Laws of Robotics: Concept of Asimov,” <https://www.britannica.com/topic/Three-Laws-of-Robotics>.

To be clear, we are concerned with the “Morality Problem” of AAIS and its ultimate place in a field of service that traditionally places moral culpability on superior members of the command chain. However, our focus here is on the “Intention Problem” that ultimately lies beneath the countless strings of code that comprise AAIS. After all (in a broad sense), AAIS would never be held to account for its actions should its performance not meet our expectations under current legal regimes internationally. Because AAIS are *tools*, and not considered order-abiding military personnel or extensions of its “piloting crew,” errors may be flung anywhere to the chain of command implementing the system or the programmers behind its code. This notion stands in slight contrast to various international and local provisions found, mainly, within Admiralty or Maritime law, where liability provisions have historically been implemented to restrict damage suits in cases of emergency or an accident occurring outside of the reasonable knowledge of the ship’s owner (Chen, 2001; Mawani, 2018). Not only does the treatment of sea-going vessels differ from modes of transit made standard in the past century, such as aeroplanes and helicopters (Graham, 2012; Hodgkinson and Johnston, 2018; Kareng, 2020), but all nations will ultimately be forced to rule on the private ownership of AAIS-driven weapons. This reality is presented as such because claims of self-defence (Jacobs, 2015) or invasions of airspace (Froomkin and Colangelo, 2015) are likely to become more common as drones and AAIS-assisted weaponry gain in popularity and feasibility, while the nature of “common arms ownership” progresses with the times (Terzian, 2013). When further considering the legal ramifications that arise with human-machine augmentation and the ability of these individuals to become weaponised as soldiers or otherwise walking liability concerns due to potential system “glitches” (Bertolini, 2015; Billauer, 2021; Jaynes, 2021b-c), the “Morality Problem” of AAIS realistically distracts the academic and legal communities from more concerning realities specific to the formal recognition and deployment of fully autonomous AIS.

Hence, the “Intention Problem” is of greater significance here because military aggressors (or potential aggressors) pose a unique threat that exploits our assumptions around AI, AAIS, and their relative level of safety when integrated into bionics or other artefacts. Bad actors may utilise long-term infiltration and espionage techniques to establish AAIS that is beneficial for their ends in the cybernetic equivalent of a “False Flag” operation. Alternatively, these actors may exploit “mandatory” backdoor software keys to cause seemingly unintended harm to the general public – particularly when said technology is “only” in the hands of law enforcement agencies, as in the case of the infamous Pegasus software (Farrow, 2022). While our global society may be familiar with the use of cyber warfare over the eight or so years that the Russian Federation has held its “proxy” (now “real”) war against Ukraine, we will undoubtedly be blindsided by the use of AAIS that *intentionally* leads to acts of genocide – particularly those that the device’s owner could not prevent or otherwise leave legal determinations of intent stymied. One such scenario may already be playing out if China’s use of facial recognition to track their Uyghur Muslim population is any indicator (Leibold, 2019; Van Noorden, 2020), even if these systems may not be “fully” autonomous. Regardless of the “unknown-unknowns” that exist with AI technologies more generally, or any academic desire to frame these artefacts in a positive light to promote their development, the reality remains that today’s “advanced AI” is tomorrow’s “programme” or “software.” This statement is significant when considering the non-expert’s opinion on the difference between AI and computer programmes or software and that same difference as understood by an expert.

Understanding the nature of this trend in opinion deviation and the ease by which society at large forgets how tasks once “impossible” for AI to perform are now commonplace, this article is therefore aimed at exposing the *lacunae* in international law that exist for the use and development of AI or AAIS for military operations of any nature. In light of the aggression currently seen between the Russian Federation and Ukrainian Republic, this article shall first provide a historical background for the “Morality Problem” more generally. We shall then discuss various concerns held regarding the

international community's ability to hold AAIS accountable for actions which may deviate from the intention of its programmers, and close with some words of reflection upon this topic and potential directions that can be taken to address the "Intentionality Problem" of AAIS.

Results and discussion. Autonomy in programming – old realities and future potentials. Born from the attribution of human-compared knowledge, skill, and talent to increasingly-complex computation in 1956 during the now infamous conference at Dartmouth College (McCarthy et al., 2006), "artificial" intelligence seems only to encompass system capabilities that – for the immediate time surrounding their creation and deployment – promises to accelerate human capabilities and daily liberties. This statement is made with the understanding that AI transitions consistently from the state-of-the-art to integral parts of daily life, and is frequently re-branded as "programmes" or "software" to reflect this new mundane truth (Mostow, 1985; Lee, 2018; Wrigley, 2019). Regardless of whether we use terms such as "AI," "algorithms," "bots," "computer-based intelligence (CI)," "programmes," "software," and so forth to categorise computer-based automation, it cannot be denied that various areas of academic study are invested in discussing the ethics, legality, and morality of allowing these systems to operate in self-propelled manners. This investment can be displayed through early discussions on the ability of AI to serve as agents in financial contracts when these systems were steadily gaining use in financial institutions (Solum, 1992; Wein, 1992; Allen and Widdison, 1996; Kerr, 1999). This flashpoint has since evolved into discourses on copyrights, creative licenses, and patents that bridge the gap between human authors and their computer counterparts (Barfield, 2006; Bridy, 2012; Coguc, 2021; Kinsara, 2021).

Furthermore, the conversation has been extended to more phenomenological musings regarding the medical end of human agents (Kester 1994, Linder 1995, Kirchner 2013, Kurki 2019) and the status of non-human animals in law (Stone, 1972; Bennett, 2006; Kurki and Pietrzykowski, 2017; Gellers, 2021; Lostal, 2021; Owe and Baum, 2021; Göksu, 2022). For those less familiar with this area of research, it should be stated here that each of these elements is important precisely because they deal with an element of human life that was taken for granted before technology blurred the lines between "natural" and "unnatural" moral and legal actions. This statement does ignore the status of non-human animals to some extent, as their place in the law extends back to Roman times (Stone, 1972; Lostal, 2021; Göksu, 2022). However, it is still important to incorporate non-human animals in this context because their "conscious" status, when compared to humans, is still being debated in certain circles, much the same as certain AI and AAIS.

As these conversations have evolved and gained both sophistication and international attention, we see that more scholars have begun to question the ability of computer-based intelligence systems to hold values that could (arguably) only apply to the human-based values and norms mentioned above. These conversations also hold a wide range of terminology – including ethical, "friendly," legally compliant, and moral AI (Wallach and Allen, 2009; Muehlhauser and Bostrom, 2014; Savulescu and Maslen, 2015; Mokhtarian, 2018; Freire et al., 2020; Gordon, 2020) – and similarly span a broad range of system structures. After all, human ingenuity has produced "bots" that can inhabit anthropomorphic forms or take on virtual avatars in video games and Metaverse-like spaces (de Swarte, Boufous and Escalle, 2019; Wrigley, 2019; Jaynes, 2020; Jaynes, 2021a; Kostenko, 2022). Given that efforts have been made to "humanise" these systems and have similarly been presented in international media (its often science-fiction nature notwithstanding), it is only logical that we would expect these artefacts to similarly hold values and positions that we understand only to be held by human populations. This statement is made given our inability to truly know the thoughts of non-human species. Nevertheless, this self-same assumption leaves the global community in such a predicament, particularly when an AI is implemented across cultural and national borders. After all, these boundaries have historically resulted in internal and external conflicts, such that nations become lost to the sands of time and may arise in radically different forms.

Information warfare and AAIS. Given the tactical advantages of information warfare (as with any new communications technology in military affairs), it only makes sense that vital infrastructure automated with AI faces an endless stream of digital attacks from a wide range of foreign actors. So too are efforts consistently being made to generate more sophisticated encryptions and firewall-penetrating algorithms to defend against and disrupt regular system functionality. Plenty of attention has been given to the intersection between AI, cyber security, and military affairs (Kolff, 2011; Taddeo and Floridi, 2018; Tilovska-Kechedji, Bojović and Čvorović, 2018; de Swarte, Boufous and Escalle, 2019; Ali, 2020; Haney, 2020; Bistrion and Piotrowski, 2021), so it shall not be covered in depth here. Instead, our concerns are better found in the grey areas left out by many of these dialogues – precautionary as they may or may not be. Specifically, our concern here lies in the areas that encryption and firewalls alone cannot address, and virus-detecting software may similarly be unequipped to appropriately flag.

Indeed, we are concerned with the genuine potential of AAIS to fly out of human control through various methods. For clarity, AI and AAIS can feasibly be hacked and turned against the population from which it is being deployed. Moreover, anti-virus software can catch some methods of hacking (e.g., logic bombs, resident or polymorphic viruses, worms, “zero-click” exploits) before their payload is delivered. The reality remains for many critical systems, however, that the hardware or software used is “out-of-date” for various reasons. The major driving factor behind this phenomenon is that advances in computation and coding structures are occurring at too rapid a pace for IT budget investments, including peripheral devices utilised within a given organisation’s network (Lewis, 2020; Butun, Tuncel and Oztoprak, 2021; Aldasoro et al., 2022). Combined with global semiconductor shortages that will only be exacerbated further by the lack of noble gas exports from Ukraine (Alper and Freifeld, 2022, Athanasia and Arcuri, 2022), upgrades to this infrastructure will also likely face challenges from commercialised optics- and quantum-based computation systems given the level of research being conducted in these realms (Ali, 2020; Jaynes, 2021d; Quantum Technology and Application Consortium – QUTAC et al., 2021; Zhu et al., 2022).

However, older machinery and software are only one small piece of this broader puzzle. Yes, “older” systems are more vulnerable to attacks due to hardware expiry dates and public or de-encrypted knowledge of a given system’s structure. And indeed, a lack of materials to produce more sophisticated artefacts to replace these ageing aspects of local and national infrastructure similarly produces an environment where maintaining one’s cyber defence is a Sisyphean task by itself. Yet these alone do not account for the whole of the “Intentionality Problem” cited earlier in this essay. After all, this can only be addressed by reflecting upon the legal basis whereupon criminal negligence is determined – which, for AI and AAIS, lies in its code. One may easily attribute malicious intent to a specific hacker when such connections are made, or the result of an egregious computational error to the device’s coding team or original equipment manufacturer. For now, we can argue that corporations are liable for the damages caused by the AAIS they developed insofar as the artefact was implemented for its intended purpose. However, this line is becoming increasingly vague; particularly as evolutionary learning models grow in sophistication for AAIS and virtual avatars become acceptable surrogates for humans in digitised spaces (Barfield, 2006; Jaynes, 2020; Jaynes, 2021a-e; Kostenko, 2022). Moreover, the case of the NSO Group’s Pegasus spyware displays the vulnerabilities found in relatively up-to-date artefacts (Farrow, 2022) and the extent to which it can proliferate outside of individual state-security threats.

How might we be able to determine the difference between an AAIS independently being unable to follow the directions of its human pilots and pure human negligence? It is one thing if the system cannot be deactivated without inputting a specific programme termination sequence, such as in the case of a military system requiring multiple codes from a finite pool of authorised users. Should news of the capture, incapacitation, or death of a high-level officer not reach an AAIS or its

human operator(s), the termination of an automated assault may either be delayed or infeasible when cease-fire orders are administered. This example is extreme, granted. Nevertheless, if the system's self-learning architecture results in the development of a non-terminable programme – likely the result of the system learning the most “efficient” way to resolve an armed conflict or achieve military gains – how can we properly attribute malicious intent? Even if we assume that the development team considers such a scenario, at what point does human-authored code no longer become attributable to them? No such conversation has been seriously addressed on the international stage because of human agents' assumptions regarding system controllability (Wallach and Allen, 2009; Muehlhauser and Bostrom, 2014; Savulescu and Maslen, 2015; Mokhtarian, 2018; Freire et al., 2020; Gordon, 2020). Nick Bostrom (2016) famously presented his concerns regarding AI controllability several years ago. Yet, the assumption in the field remains that humankind can sufficiently manipulate and react to the hundreds of actions taken by a given computational artefact over the course of mere milliseconds.

Separately, there is an unsolved problem of the 37th move (AlphaGo's 37th move) of the military AI. People may simply not understand that this is their salvation or the end. We state that autonomous lethal weapons (ALW) are already in use and will soon become a common tool of destruction in all theaters of war. The question arises - whether we can still prevent the consequences of ALW application and whether there are still effective mechanisms to prevent uncontrolled ALW formation.

We have problems: a) Algorithms that provide for the military commander to make the final decision on the use of ALW are ineffective and utopian; b) ALW is difficult or impossible to ban/restrict (like antipersonnel mines); c) there are no legislative, technological, physical and moral control algorithms for its development and application; d) it is difficult or impossible to prohibit/restrict the modernization of known non-autonomous types of weapons for ALW; e) lack of physical and ethical control over the developer of AI algorithms for ALW in order to bias and prohibit the formation of destructive or "black data" on the basis of which the AI forms a recommendation/command to use weapons.

Furthermore, we must consider how state use of propaganda further complicates soldier and civilian complacency in this age of instantaneous media access. As shown in the enactment of regulation banning Russian citizens from referring to their government's conflict with Ukraine as a war (Faulconbridge 2022, Troianovski 2022), or with the increasing number of targeted Internet shutdowns in various nations internationally (Ayalew 2019; Ruijgrok 2021; Sampedro, López-Ferrández and Hidalgo 2021; Tarisayi and Munyaradzi, 2021), government actors are creating means whereby to impose their unique narrative of events that similarly do not expose them to significant criticism. After all, many nations take national sovereignty to mean that state-sponsored public statements are the only truth because government resources can better validate the facts of local events. How accurate this assumption is under international law aside, nations like India have increasingly demanded that social media outlets conform to their laws even if they oppose the core values and policies of the company (Biswas, 2021, Krishnan, 2021). Furthermore, in the case of the Great Chinese Firewall, we have already seen a nearly fifteen-year-long experiment balancing the fine line between government censorship and national sovereignty (Kim and Douai, 2012; Wang and Wang, 2016). Being a conscientious objector is not something every soldier can afford to become, particularly if they wish to continue living as citizens of the state under which they currently serve. Simultaneously, we cannot assume that these troops have the means or ability to utilise virtual private networks to reach international news agencies – particularly in regions where Internet access is restricted or “turned off” by government entities – especially if they face court martial and severe punishment(s) for even attempting, or if their loved ones face direct harm as a result of their actions.

Given AI's absolute need for data, it is little wonder that it may perform contrary to developer expectations when pulling directly from Internet-based text. Search Engine Optimisation (SEO) can only be of so much use, particularly when concepts may be defined with related phrases, incor-

rectly spelt, or formatted in such a way that it makes machine reading improbable. Even if AI were equipped with a genetic algorithm that enables it to “learn” what these different perturbations are to better ensure that its SEO task is accurate, it might only perform “well” in a single language because a direct translation may not exist (or be imperfect when attempting to describe a given concept). Disinformation, or what may otherwise be classified as government-developed propaganda, may similarly skew these SEO results – particularly in environments where “trending” subjects are made public to system users, or where users can silo themselves from receiving information that goes against their set values.

Another problem that is directly related to wars - is the ethics of developing a system that compiles the “best” way to end a conflict in a non-nuclear fashion quickly. This methodology may be as displayed by the tactics of the Russian Federation in recent months, at least for a prior generation or a nation without significant international aid. The targeting of civilian structures and populations is one such method, given the implication that these assaults will end if the defending side capitulates and will continue with impunity if resistance is shown. Another would be continual city bombardment without direct structure targeting, which prevents traffic from flowing into or out of the affected area, and has the dual impacts of restricting food supply and reducing civilian populations for those unlucky enough to be caught in a bombing or shelling. Indiscriminate killing of civilian populations and forcible acts of rape and torture that fly in the face of the Geneva Convention have traditionally been used to ethnically purge a region and prevent dissidents from locally organising. And, increasingly, the use of drones which serve as both an “eye in the sky” and a method to overwhelm anti-air defence systems. Should AI or AAIS take these and other historical examples and train with that information as its baseline, which (if any) war crimes can be levied against the developers? The intent, after all, is to bring conflicts to an end in the quickest way possible to prevent more significant casualties and economic damages. Much like those involved in the Manhattan Project of the last century, will the developers of such a system be cleared of legal culpability simply because they were under government mandate or prevented the conflict from escalating further? Moreover, what of the tactics that are unique to the system itself, wherein human tacticians would have been unable to draw similar conclusions with the same level of inference and data?

Touching back on the notion of intent and its subsequent place in judicial proceedings, society has already experienced scenarios where technology is deployed for no other purpose than to profit a given company, region, or state, countless times throughout recorded history. Hence the genuine concern that, under the right circumstances, a developer may wish to “anonymously” deploy a system they understand contravenes any established norms or laws. For example, using “deepfake” technologies may ultimately result in corporations refusing to hire human surrogates for a wide range of industries or establishing corporate-driven holographic celebrities (Jaynes, 2021a). While corporations may be held liable for copyright infringement or charged with monopolisation suits, it is challenging to pin malicious intent upon them should an AI or AAIS cause harm after deployment (Kostenko, 2022). After all, they can always fall back on the question of whether a system was used “as intended” and claim that any “out of scope” usage is beyond their realm of immediate control; thereby placing all responsibility for the “misuse” of the system in the consumer’s hands.

These are not “new” issues on the global stage, but they may easily result in difficulties securing objective evidence in digital environments should AAIS be directed to collect and destroy data which matches its SEO parameters automatically. And, worse still, such a system may easily be classified as a content filter used to protect users against violent or pornographic imagery, hate speech, or other material that is generally banned on social networking sites. When such a claim is backed under the authority of national sovereignty, how can courts distinguish between legitimate content moderation and the intentional destruction of incriminating evidence? When nations can demand foreign companies to conform to local laws, can they similarly compel them to turn over any independently gathered

information in the interest of national security or public safety? Some of these concerns are, as of yet, untested in the International Criminal Court – partially because there has been little need to involve international adjudication. They are similarly tied to matters of state sovereignty regarding the operation of foreign companies in their territories. Whether this attitude can or will change, however, is likely something only time will reveal.

International rule-of-law and national accountability

Another element of the “Intentionality Problem,” particularly in military aggression between states (either geographically close or far away), is the international community’s inability to force an immediate end to conflicts. Unlike in citizen-led referendums to solicit for a given region’s autonomy, state-facing violence from another autonomous nation is not something that can be ended through popular vote. As the world has seen, the UN’s current structure lacks the authority to demand immediate ends to violent conflicts because it operates under a framework that holds state autonomy and sovereignty paramount. Attempting to impose upon another member state’s right to self-determination (no matter how legitimate the reason) risks the legitimacy of the UN’s authority – particularly where it is not, in its own power, a purely autonomous structure (Meisler, 1995; Czernecki, 2003; Liebenberg, 2020). Simply phrased, the UN is like any other sovereign state in that it can only survive insofar as it maintains some form of public confidence. While we may not see its dissolution in the near future, given its relative effectiveness against the League of Nations (which it replaced), it cannot be helped that its reputation is mixed between the various economic blocs of the world (Former, 2007).

These criticisms aside, there is a growing debate on how the UN should be organised in the face of the Russian Federation’s current militant actions in Ukraine (Derviş and Ocampo, 2022; Treisman, 2022). Given the veto power bestowed to the permanent members of the UN Security Council and the lack of jurisdictional authority held by international courts over the Russian Federation as a permanent member (Chappell, 2022), the international community can justifiably be stated to exist in an administrative grey zone even though the International Justice Court has ruled for military operations to cease.² This point becomes more poignant when discussing cybersecurity and warfare (Derviş and Ocampo, 2022; Treisman, 2022), as these tools did not exist in the same capacity when the UN Security Council was formed. Even with the entity’s efforts to develop some regulatory framework for using AI (UNESCO 2021), it is debatable how these artefacts or AAIS will influence criminal punishment for any form of verified war-crime allegation(s).

For example, it will be nigh impossible to pin the use of “bot farms” to facilitate cyberwarfare to intentional manslaughter charges, even though it will be easy to tie those attacks to disruptions in critical electronic infrastructure. Moreover, who will be held to blame for those damages if such connections *can* be made? Given the precedents in the Nuremberg Trials, some would argue that the attribution of liability is clear. However, not every such “farm” is state held, and not every coder is a direct member of the invading military forces. In some regards, private owners may only comply with government orders to avoid the repercussions of being in the opposition – particularly so when considering the weight of the charges being brought against peaceful protesters on Russian soil (Faulconbridge, 2022; Troianovski, 2022) and the relative state of their prison system. Further complications include “farms” existing outside of the territories directly held by the Russian Federation or Belarus and the ramifications of the misidentification of system owners. How does one tell the difference between a legitimately hacked system and one that only holds that same strand of malicious code because of the owner’s desire to avoid the legal consequences of supporting aggressive militant actions?

Some of these concerns have been present in the international community, but not to the scale or severity seen through the Russian Federation’s actions today. How could they have been, when AI

² See the news bulletin from the Court here: <https://news.un.org/en/story/2022/03/1114052>, and a full summary of the order here: <https://www.icj-cij.org/public/files/case-related/182/182-20220316-SUM-01-00-EN.pdf>

is such a relatively new tool for warfare – much the same as planes were in the Second World War or tanks for the First World War? Worse yet, AI and AAIS will continue to be utilised more sophisticatedly as time progresses and applications are validated. Already, we are seeing massive sums of cryptocurrency ending up in digital wallets used for scamming campaigns worldwide (Peachey, 2022)³. While these transactions are traceable, blockchain-aided transactions are often shrouded behind various veils of anonymity that delays efforts to resecure the funds wired. The security of these digital wallets are not absolute. Such virtual-only interactions, including those facilitated through XR-extended technologies (Jaynes, 2021a; Kostenko 2022), increase the burden of evidentiary prosecution and defence across physical territorial borders and court-specific jurisdictions. What may be a more straightforward trial in the Hague may require support from territories that are only partially recognised on the international stage as being legitimate, autonomous nation-states, or from nations that still have not ratified the 1998 Rome Statute of the International Criminal Court.⁴ Given the ambiguity posed by non-ratifying nations, as is the case for the Russian Federation (Chappell, 2022), we are likely to see more challenges to the UN’s overall authority without any real ability to resolve them successfully.

Conclusion. While many industrial standards are being developed globally to address various aspects of AI and AAIS development, utilisation, and termination in new and well-established fields in computer-based automation, our global reality remains that no one governance model is universal. Whether or not this is due to the realities of pursuing libertarian ideals, the case ultimately remains that public needs and desires are ever-changing. Incorporating new technologies, cultures, and perspectives inevitably displays the shortcomings of existing systems—which has become even more apparent with the introduction of the IoT and modalities for engaging in virtual spaces. Yet too are persistent realities something that cannot simply be shrugged away. Actors (malicious or otherwise) will always strive to show the flaws of various structures through any means available. Utopian ideals of global unity will always exist and come under scrutiny for their potential to create dystopian futures. Pockets of national populations will always wish to pursue isolationist policies no matter how thorough cultural education and appreciation are touted and pursued. The pursuit of individuality will ultimately lead to points of misunderstanding or refusal to compromise. Each may be desired or undesired by the individual or community, but they are inevitably just the result of human experience.

Regardless of what multilateral ideals have been able to evolve with the changing times since their crystallisation into the UN in the last century, they simply cannot keep pace with the expansion of automation and Internet-based communication. However, the counterpoint to that argument is that national priorities have similarly evolved over the last seventy years (COVID-19 notwithstanding). Hence, multilateralism in today’s globalised society may similarly be confused even as it relies upon various anachronistic mechanisms that favour those sovereign states that ended the last World War. This is stated not as a direct attack against the UN Security Council or other bodies of the UN, but more because we cannot judge the will of former colonies or vassal states to match those of the former Imperialist superpowers that dominated the world stage before the turn of the current millennium. Sharing a common language does not equate to *a de facto* consensus of multilateral priorities – particularly in nations striving to shrug off Colonialist-imposed worldviews to regain their cultural heritage.

So too must we view the development, utilisation, and termination of AI and AAIS from a more global perspective and incorporate the realities of human experience into their cores. War *will* happen. Databases *will* be raided to track down “undesirables” or manipulate populations into the preference for specific actions by the state. Simply requiring “respect” for human rights does not entail that invading populations will not engage in acts of genocide or actions deemed as war crimes, nor

³ See also “How scammers are hijacking Ukraine war charity donations – BBC News,” <https://www.youtube.com/watch?v=yHwyRUr6Zt0>.

⁴ A full list of the states which have ratified the Rome Statute of 1998 can be found on the International Criminal Court’s site here: <https://asp.icc-cpi.int/states-parties>.

that current interpretations of these actions will remain stagnant as technology gains sophistication. There will always exist a subset of the population that engages in acts otherwise deemed as “illegal” or “criminal,” and there will always be legal challenges against these assumptions and their correlated state-imposed consequences.

Russian Federation may not be utilising truly autonomous AI in its militant actions against the Ukrainian people, and the same can be said in many conflicts occurring on the world stage today. However, the “autonomous” aspect of AI is not the point we should be focused on insofar as we continuously ascribe the results of its use to human action. Insofar as instruments of war utilise computers to aid in their effectiveness as tools of aggression or protection, and Internet access (or the imposed lack thereof) is framed as the ultimate means to harm populations coming under military action, AI inevitably has a hand in the results of these events. As iterated earlier in this piece, AI consistently transitions from the state-of-the-art to integral parts of daily life and is re-branded as “programmes” or “software” to reflect this new mundane truth (Mostow, 1985; Lee 2018; Wrigley, 2019). How can we claim, with any certainty, that once state-of-the-art automation mechanisms are not at the heart of these conflicts when they are ultimately embedded into the very tools used to instrument modern-day warfare?

Recent actions by the UN to add scrutiny to Security Council Permanent Member veto utilisation⁵ will likely be a positive step towards actualising a greater balance of power within the organisation. However, many commentators remain sceptical about whether this move will generate meaningful change, given prior attempts to reform the UN’s internal systems (The Associated Press, 2022). At the same time, the international community is still puzzled over how AAIS utilisation in military affairs (and other aspects of daily life) can be better monitored and regulated, given the drastic impacts that can result from an error in computer-based automation. Attempting to approach the issue from a purely EU perspective, or one based on American ideologies, disregards the needs of other economic blocs and sovereign states—particularly where other issues remain of higher priority for local governments, such as loss of land to rising sea levels or populations still unserved by clean water, power, and Internet services. Bridging the interest divide between those nations or blocs considered to be AI-developing superpowers and those for whom the technology may have been a bolt from the blue does not mean a complete cessation of AI development. Instead, it is a reminder that progress that occurs too rapidly results in real-world harms for all interested parties involved.

Ultimately, any further international efforts to regulate AI will be slow. And, perhaps, the current European conflict will have seen its resolution—though doubtlessly with tens of thousands of civilian casualties and the establishment of a war-crimes tribunal that will face unprecedented legal challenges of a nature like Nuremberg. As such, we urge those pursuing truly autonomous AI development to consider the long-lasting ramifications these systems will hold in times of conflict, especially as more “smart” devices become available internationally. War may be a great driver for technological innovation, at least when considering the desire to end hostilities as rapidly as possible. Nevertheless, that is no excuse to avoid the prevention of innocent civilian casualties or the enablement of new avenues for genocidal action.

References:

1. Aldasoro, I., Gambacorta, L., Giudici, P., Leach, T. (2022). The drivers of cyber risk. *J Financ Stab*, 60. <https://doi.org/10.1016/j.jfs.2022.100989> [in English].
2. Ali, S. (2020) Coming to a battlefield near you: Quantum computing, artificial intelligence, & machine learning’s impact on proportionality. *St Clara J In L*, 18, 1–47 [in English].
3. Allen, T., Widdison, R. (1996). Can computers make contracts? *Harv J L Technol*, 9, 25–52 [in English].

⁵ See the UN’s meeting coverage of the 69th and 70th meetings of the Seventy-Sixth General Assembly Session here: <https://www.un.org/press/en/2022/ga12417.doc.htm>

4. Alper, A., Freifeld, K., (2022). White House tells chip industry to brace for Russian supply disruptions. Reuters. <https://www.reuters.com/article/ukraine-crisis-chips-idCAKBN2KG111> [in English].
5. Athanasia, G., Arcuri, G., (2022). Russia's invasion of Ukraine impacts gas markets critical to chip production. Center for Strategic & International Studies. <https://www.csis.org/blogs/perspectives-innovation/russias-invasion-ukraine-impacts-gas-markets-critical-chip-production> [in English].
6. Ayalew, Y.E. (2019). The Internet shutdown muzzle(s) freedom of expression in Ethiopia: Competing narratives. *Inf & Comm Technol L*. <https://doi.org/10.1080/13600834.2019.1619906> [in English].
7. Barfield, W. (2006). Intellectual property rights in virtual environments: Considering the rights of owners, programmers and virtual avatars. *Akron L Rev*, 39, 649–700 [in English].
8. Bennett, D.S. (2006). Chimera and the continuum of humanity: Erasing the line of constitutional personhood. *Emory L J*, 55, 347-388 [in English].
9. Bertolini, A. (2015). Robotic prostheses as products enhancing the rights of people with disabilities: Reconsidering the structure of liability rules. *Int Rev L Comput & Technol*, 29, 116-136 [in English].
10. Billauer, B.P. (2021). The bionic plaintiff and the cyborg defendant: Liability in the age of brain-to-computer interface. *Va J L & Technol*, 25 (2), 38-111 [in English].
11. Bistron, M., Piotrowski, Z. (2021). Artificial intelligence applications in military systems and their influence on sense of security of citizens. *Electron*. 10 (7), 1-19 [in English].
12. Biswas, S. (2021). The Indian government's war with Twitter. *BBC World News – India*. <https://www.bbc.com/news/world-asia-india-56007451> [in English].
13. Bostrom, N. (2016). *Superintelligence: Paths, dangers, strategies*, paperback ed. Oxford University Press, Oxford, UK [in English].
14. Bridy, A. (2012). Coding creativity: Copyright and the artificially intelligent author. *Stanf Technol L Rev*, 5, 1–28 [in English].
15. Butun, I., Tuncel, Y.K., Oztoprak, K. (2021). Application layer packet processing using PISA switches. *Sens*. <https://doi.org/10.3390/s21238010> [in English].
16. Chappell, B. (2022). Charging Putin for potential war crimes is difficult, and any penalty hard to enforce. NPR. <https://www.npr.org/2022/04/05/1090837686/putin-war-crimes-prosecution-bucha> [in English].
17. Chen, X. (2001). *Limitation of liability for maritime claims: A study of U.S. law, Chinese law and international conventions*. Kluwer Law International, The Hague [in English].
18. Coeckelbergh, M. (2020). Artificial intelligence, responsibility attribution, and a relational justification of explainability. *Sci & Eng Eth*. <https://doi.org/10.1007/s11948-019-00146-8> [in English].
19. Coguc, L. (2021). Forward thinking or right on time? A proposal to recognize authorship and inventorship to artificial intelligence. *Indones J Int & Comp L*, 8, 223–248 [in English].
20. Czernecki, J.L. (2003). The United Nations' paradox: the battle between humanitarian intervention and state sovereignty. *Duquesne L Rev*, 41, 391–408. <https://dsc.duq.edu/dlr/vol41/iss2/7>
21. Delvaux, M. (2017). Report with recommendations to the Commission on Civil Law Rules on Robotics. *Eur Parliam A8-0005/2017*. https://www.europarl.europa.eu/doceo/document/A-8-2017-0005_EN.html [in English].
22. Derviş, K., Ocampo, J.A., (2022). Will Ukraine's tragedy spur UN Security Council reform? Project Syndicate. <https://www.project-syndicate.org/commentary/ukraine-war-proposal-for-un-security-council-reform-by-kemal-dervis-and-jose-antonio-ocampo-2022-03> [in English].
23. European Commission (2021) Proposal for a regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence (artificial intelligence act) and amending certain Union legislative Acts. Publications Office of the European Union. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52021PC0206> [in English].
24. Fall, J.J. (2020). Territory, sovereignty and entitlement: Diplomatic discourses in the United Nations Security Council. *Polit Geogr*. <https://doi.org/10.1016/j.polgeo.2020.102208> [in English].
25. Farrow, R. (2022). How democracies spy on their citizens. *The New Yorker*. <https://www.newyorker.com/magazine/2022/04/25/how-democracies-spy-on-their-citizens> [in English].

26. Faulconbridge, G. (2022). Russia fights back in information war with jail warning. Reuters. <https://www.reuters.com/world/europe/russia-introduce-jail-terms-spreading-fake-information-about-army-2022-03-04/> [in English].
27. Formerand, J. (2007). *The a to z of the United Nations*. Scarecrow Press, Lanham, MD [in English].
28. Freire, I.T, Urikh, D., Arsiwalla, X.D., Verschure, P.F. (2020) Machine morality: From harm-avoidance to human-robot cooperation. *Biomimetic and biohybrid Systems: 9th international conference, living machines 2020*, Freiburg, Germany, July 28–30, 2020, Proceedings. Springer Nature Switzerland, Cham, 116-127. https://doi.org/10.1007/978-3-030-64313-3_13 [in English].
29. Froomkin, A.M., Colangelo, P.Z. (2015). Self-defense against robots and drones. *Conn L Rev*, 48, 1–70. https://repository.law.miami.edu/fac_articles/63/ [in English].
30. Gellers, J.C. (2021). *Rights for robots: Artificial intelligence, animal and environmental law*. Routledge, London [in English].
31. Göksu, R. (2022). Can a river be considered a legal person? Investigating the possibility for the Atrato River. *Arch für R und Sozial [Arch Philos L & Soc Philos]*. <https://doi.org/10.25162/arsp-2022-0005> [in English].
32. Gordon, J.S. (2020). Building moral machines: Ethical pitfalls and challenges. *Sci & Eng Eth*. <https://doi.org/10.1007/s11948-019-00084-5> [in English].
33. Graham, K. (2012). Of frightened horses and autonomous vehicles: Tort law and its assimilation of innovations. *St Clara L Rev*, 52, 1241-1270. <https://digitalcommons.law.scu.edu/lawreview/vol52/iss4/4> [in English].
34. Haney, B.S. (2020). Applied artificial intelligence in modern warfare and national security policy. *Hastings Sci & Technol L J*, 11, 61-98. https://repository.uchastings.edu/hastings_science_technology_law_journal/vol11/iss1/5/ [in English].
35. Hodgkinson, D., Johnston, R. (2018). *Aviation law and drones : Unmanned aircraft and the future of aviation*. Routledge, Oxon, UK [in English].
36. Jacobs, C.J. (2015). End the popularity contest: A proposal for second amendment type of weapon analysis. *Tenn L Rev*, 83, 231-290. https://scholarship.law.bu.edu/faculty_scholarship/651 [in English].
37. Jaynes, T.L. (2020). Legal personhood for artificial intelligence: Citizenship as the exception to the rule. *AI & Soc*, 35, 343-354. <https://doi.org/10.1007/s00146-019-00897-9> [in English].
38. Jaynes, T.L. (2021a). The question of algorithmic personhood and being (or: On the tenuous nature of human status and humanity tests in virtual spaces—why all souls are ‘necessarily’ equal when considered as energy). *Multidisciplinary Scientific Journal*, 4(3), 452-475. <https://doi.org/10.3390/j4030035> [in English].
39. Jaynes, T.L. (2021b). On human genome manipulation and *Homo technicus*: The legal treatment of non-natural human subjects. *AI & Eth*, 1, 331-345. <https://doi.org/10.1007/s43681-021-00044-5> [in English].
40. Jaynes, T.L. (2021c). The legal ambiguity of advanced assistive bionic prosthetics: Where to define the limits of ‘enhanced persons’ in medical treatment. *Clin Eth*, 16 (3), 171–182 <https://doi.org/10.1177/1477750921994277> [in English].
41. Jaynes, T.L. (2021d). Citizenship as the exception to the rule: An addendum. *AI & Soc*. 36 (3), 911-930. <https://doi.org/10.1007/s00146-020-011059> [in English].
42. Jaynes, T.L. (2021e). “I am not your robot:” The metaphysical challenge of humanity’s AIS ownership. *AI & Soc*, 37, 1689-1702. <https://doi.org/10.1007/s00146-021-01266-1> [in English].
43. Kareng, Y. (2020). International aviation/airspace law: An overview. *Int J L Reconstr*, 4(1), 56–68. <https://doi.org/10.26532/ijlr.v4i1.10941> [in English].
44. Kerr, I.R. (1999). Spirits in the material world: Intelligent agents as intermediaries in electronic commerce. *Dalhous L J*, 22, 190-249 <https://digitalcommons.schulichlaw.dal.ca/dlj/vol22/iss2/4> [in English].
45. Kester, C.M. (1994). Is there a person in that body?: An argument for the priority of persons and the need for a new legal paradigm. *Georget L J*, 82, 1643-1688 [in English].

46. Kim, S.W., Douai, A. (2012). Google vs. China's "Great Firewall": Ethical implications for free speech and sovereignty. *Technol & Soc*, 34(2), 174-181. <https://doi.org/10.1016/j.techsoc.2012.02.002> [in English].
47. Kinsara, O.A. (2021). Clash of dilemmas: How should UK copyright law approach the advent of autonomous AI creations? *Camb L Rev*, 6, 62-85. https://www.cambridgelawreview.org/_files/ugd/fb0f90_b4883bafdd4142618688f92db068177c.pdf [in English].
48. Kirchner, S. (2013). Personhood and the right to life under the European Convention of Human Rights: Current and future challenges of modern (bio-)technology. *Legal journal «Law of Ukraine»*, 3, 292-302 [in English].
49. Kolff, D.W. (2011). 'Missile strike carried out with Yemeni cooperation'—using UCAVs to kill alleged terrorists: A professional approach to the normative bases of military ethics. *J Mil Eth*, 2 (3), 240-244. <https://doi.org/10.1080/15027570310000793> [in English].
50. Kostenko, O.V. (2022). Electronic jurisdiction, metaverse, artificial intelligence, digital personality, digital avatar, neural networks: theory, practice, perspective. *World Science*, 1(73). https://doi.org/10.31435/rsglobal_ws/30012022/775 [in English].
51. Krishnan, M. (2021). Why are Twitter and WhatsApp miffed with Indian authorities? *Deutsche Welle*. <https://www.dw.com/en/india-social-media-conflict/a-57702394> [in English].
52. Kurki, V.A.J., Pietrzykowski, T. (eds) (2017). Legal personhood: Animals, artificial intelligence and the unborn. Springer International Publishing, Cham. <https://doi.org/10.1007/978-3-319-53462-6> [in English].
53. Kurki, V.A.J. (2019). A theory of legal personhood. Oxford University Press, Oxford, UK [in English].
54. Lee, M.K. (2018). Understanding perception of algorithmic decisions: Fairness, trust, and emotion in response to algorithmic management. *Big Data & Soc*, 5(1), <https://doi.org/10.1177/2053951718756684> [in English].
55. Leibold, J. (2019). Surveillance in China's Xinjiang region: Ethnic sorting, coercion, and inducement. *J Contemp China*, 29(121), 46-60. <https://doi.org/10.1080/10670564.2019.1621529> [in English].
56. Lewis, T.G. (2020) Critical infrastructure protection in homeland security: Defending a networked nation, 3rd ed. John Wiley & Sons, Hoboken, NJ [in English].
57. Liebenberg, S. (2020). Between sovereignty and accountability: the emerging jurisprudence of the United Nations Committee on Economic, Social and Cultural Rights under the Optional Protocol. *Human Rights Quart*, 42(1), 48-84. <https://doi.org/10.1353/hrq.2020.0001> [in English].
58. Linder, D.O. (1995). The other right-to-life debate: When does fourteenth amendment "life" end? *Ariz L Rev*, 37, 1183-1208 [in English].
59. Lostal, M. (2021), De-objectifying animals: Could they qualify as victims before the International Criminal Court? *J Int Crim Justice*, 19(3), 583-610. <https://doi.org/10.1093/jicj/mqab039> [in English].
60. Mawani, R. (2018). Across oceans of law : The *Komagata Maru* and jurisdiction in the time of empire. Duke University Press, Durham, NC [in English].
61. McCarthy, J., Minsky, M.L., Rochester, N., Shannon, C.E. (2006). A proposal for the Dartmouth summer research project on artificial intelligence, August 31, 1955. *AI Mag*. <https://doi.org/10.1609/aimag.v27i4.1904> [in English].
62. Meisler, S. (1995). United Nations: The first fifty years. Atlantic Monthly Press, New York [in English].
63. Mokhtarian, E. (2018). The bot legal code: Developing a legally compliant artificial intelligence. *Vanderbilt J Entertain & Technol L*, 21, 145-208. <https://scholarship.law.vanderbilt.edu/jetlaw/vol21/iss1/3> [in English].
64. Mostow, J. (1985). Foreword: What is AI? And what does it have to do with software engineering? *IEEE Trans Softw Eng*, 11, 1253-1256. <https://doi.org/10.1109/TSE.1985.231876> [in English].
65. Muehlhauser, L., Bostrom, N. (2014). Why we need friendly AI. *Think*, 13(36), 41-47. <https://doi.org/10.1017/S1477175613000316> [in English].
66. Mullerson, R. (1993). New developments in the former USSR and Yugoslavia. *Va J Int L*, 33, 299-322 [in English].

67. Owe, A., Baum, S. (2021). Moral consideration of nonhumans in the ethics of artificial intelligence. *AI & Eth*, 1, 517-528 <https://doi.org/10.1007/s43681-021-00065-0> [in English].
68. Peachey, K. (2022). Ukraine war: Fraudsters exploit crisis to steal money. *BBC News – Business*. <https://www.bbc.com/news/business-60765116> [in English].
69. Quantum Technology and Application Consortium – QUTAC, Bayerstadler, A., Becquin, G., Binder, J., Botter, T., Ehm, H., Ehmer, T., et al. (2021). Industry quantum computing applications. *EPJ Quantum Technol*, 8, 25 <https://doi.org/10.1140/epjqt/s40507-021-00114-x> [in English].
70. Ruijgrok, K. (2021). The authoritarian practice of issuing internet shutdowns in India: The Bharatiya Janata Party's direct and indirect responsibility. *Democratization*, 29(4), 611–633. <https://doi.org/10.1080/13510347.2021.1993826> [in English].
71. Sampedro, V., López-Ferrándes, F.J., Hidalgo, P. (2021). Digital disintermediation, technical and national sovereignty: the Internet shutdown of Catalonia's 'independence referendum'. *Eur J Comm*, 37(2), 127-144 <https://doi.org/10.1177/02673231211012143> [in English].
72. Savulescu, J., Maslen, H. (2015). Moral enhancement and artificial intelligence: moral AI? Beyond artificial intelligence: The disappearing human-machine divide. *Springer International Publishing, Cham*, 9, 79-95. https://doi.org/10.1007/978-3-319-09668-1_6 [in English].
73. Shank, D.B., DeSanti, A. (2018). Attributions of morality and mind to artificial intelligence after real-world moral violations. *Comput in Hum Behav*, 86, 401-411. <https://doi.org/10.1016/j.chb.2018.05.014> [in English].
74. Solum, L.B. (1992). Legal personhood for artificial intelligences. *N C L Rev*, 70, 1231–1287. <https://scholarship.law.unc.edu/nclr/vol70/iss4/4> [in English].
75. Stone, C.D. (1972). Should trees have standing—toward legal rights for natural objects. *South Calif L Rev*, 45, 450-501 [in English].
76. de Swarte, T., Boufous, O., Escalle, P. (2019). Artificial intelligence, ethics and human values: The cases of military drones and companion robots. *Artif Life & Robot*, 24, 291–296 <https://doi.org/10.1007/s10015-019-00525-1> [in English].
77. Taddeo, M., Floridi, L. (2018). Regulate artificial intelligence to avert cyber arms race. *Nat*, 556, 296-298. <https://doi.org/10.1038/d41586-018-04602-6> [in English].
78. Tarisayi, K.S., Munyaradzi, E. (2021). A teacher perspective on the impact of internet shutdown on the teaching and learning in high schools in Zimbabwe. *Human Behav & Emerg Technol*, 3, 169-175. <https://doi.org/10.1002/hbe2.230> [in English].
79. Terzian, D. (2013). The right to bear (robotic) arms. *Penn State L Rev*, 117, 755–796. <http://www.pennstatelawreview.org/117/3/Terzian%20final.pdf> [in English].
80. The Associated Press (2022) U.N. takes step to put veto users under global spotlight. NPR. <https://www.npr.org/2022/04/27/1094971703/u-n-takes-step-to-put-veto-users-under-global-spotlight> [in English].
81. Tilovska-Kechedji, E., Bojović, M., Čvorović, D.S. (2018). Artificial intelligence influencing foreign policy and security. *J East Eur L*, 4, 7-18 [in English].
82. Treisman, R. (2022). Zelenskyy urges U.N. Security Council to boot Russia or dissolve for the world's sake. NPR. <https://www.npr.org/2022/04/05/1091050554/zelenskyy-un-security-council-speech> [in English].
83. Troianovski, A. (2022). Russia takes censorship to new extremes, stifling war coverage. New York Times. <https://www.nytimes.com/2022/03/04/world/europe/russia-censorship-media-crackdown.html> [in English].
84. United Nations Educational, Scientific and Cultural Organization [UNESCO] (2021). UNESCO member states adopt the first ever global agreement on the ethics of artificial intelligence. UNESCO. <https://en.unesco.org/news/unesco-member-states-adopt-first-ever-global-agreement-ethics-artificial-intelligence> [in English].
85. Van Noorden, R. (2020). The ethical questions that haunt facial-recognition research. *Nat*, 587, 354-358. <https://doi.org/10.1038/d41586-020-03187-3> [in English].

86. Wallach, W., Allen, C. (2009). *Moral machines: Teaching robots right from wrong*. Oxford University Press, New York [in English].
87. Wang, D., Wang, K. (2016). Paradise, panopticon, or laboratory? A tale of the Internet in China. Pierre Musso and the network society: From Saint-Simonianism to the Internet. *Springer International Publishing, Cham*, 27, 155-168. https://doi.org/10.1007/978-3-319-45538-9_7 [in English].
88. Wein, L.E. (1992). The responsibility of intelligent artifacts: Toward an automation jurisprudence. *Harv J L Technol*, 6, 103–154. <https://jolt.law.harvard.edu/assets/articlePDFs/v06/06Harv-JLTech103.pdf> [in English].
89. Williamson, E.D., Osborn, J.E. (1993). A U.S. perspective on treaty succession and related issues in the wake of the breakup of the USSR and Yugoslavia. *Va J Int L*, 33, 261–274 [in English].
90. Wrigley, S. (2019). Bots, artificial intelligence, and the general data protection regulation: Asking the right questions. *Trinity Coll L Rev*, 22, 199-211 [in English].
91. Zhu, H.H., Zou, J., Zhang, H., Shi, Y.Z., Luo, S.B., Wang, N., Cai, H., et al. (2022). Space-efficient optical computing with an integrated chip diffractive neural network. *Nat Commun*, 13, 1–9. <https://doi.org/10.1038/s41467-022-28702-0> [in English].

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KOSOVO INDEPENDENCY AND INTERNATIONAL STATUS IN THE 21ST CENTURY: ROLE OF POLAND AND CZECH REPUBLIC

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Abstract. This article is aimed to describe the process of Kosovo independence recognition, its main stages, chronology, and international status of Kosovo in 21th century under the scope of its economic and political engagement at the global arena through the reports and recommendations of international organization. Compliance of Kosovo state with the international criteria on the independency recognition is also presented in the article through overview of basic recognized legal requirements and approaches. Described the position of the sovereign state acting in accordance with its national interests and important role played by individual states, Poland and Czech Republic in particular, their military and political engagement, and social reaction to the conflict and Kosovo recognition, as well as by non-state, non-governmental and social actors, but also international organizations regarding path and recognition of Kosovo independency. Kosovo domestic state of play with respect to the independency path and international status are also presented for consideration.

Key words: Kosovo, European Union, NATO, foreign policy, Poland, Czech Republic, peace missions, Kosovo independency

Introduction. The aim of the article is to develop an evidence-based comprehensive study of the contemporary international approach to the conflict in Kosovo by showing and analyzing the key features of the conflict, as well as the main issues of EU countries, namely, Polish and Czech participation in the conflict. The key pillars of both approaches are important for the purposes of this study, i.e. a sovereign state acting in accordance with its national interests and important roles played by individual state agencies, as well as by non-state, non-governmental and social actors, but also international organizations.

Additionally, certain patterns of activity are tracked and identified in this research, taking into account the complexity of the research topic, which differs in its multifaceted, multidimensional nature.

In this respect the author used the following methods: historical (is used to study purposes and main action course of Kosovo authorities towards independency of the state and its recognition), general scientific (is used to chronologically analyse the stages and crucial facts, as well as statistical data related to the Kosovo status in the 21st century). The author used “case study” method to describe how particular states, namely Poland and Czech Republic, attitude and reaction to Kosovo independency.

Declaration of Kosovo independency. On February 17, 2008, representatives of the Kosovo population gathered in the Kosovo Parliament and declared its as independent, sovereign and democratic state. The restoration of Kosovo's independence happened immediately after this event. Additionally, efforts related to strengthen Kosovo's international position as an independent and sovereign state.

Through the Declaration of Independence, the Republic of Kosovo has taken "the obligation of responsible membership in the international community (Kosovo's Declaration of Independence, Atr.8) and has accepted" the observance of the principles of the United Nations Charter, the Helsinki Final Act, other acts of the Organization for Security and Cooperation in Europe, international legal obligations and the principles of international coexistence that govern relations between countries

(Kosovo's Declaration of Independence, Art.8). This obligation to honor international terms sends a clear signal that Kosovo is trying to abide by the international instruments and principles that apply to UN members before becoming a member of the United Nations. Moreover, while not a written condition of statehood, it has been argued that, in addition to the Montevideo criteria, the state must demonstrate a clear commitment to meeting international obligations.

According to the declarative theory of statehood, a state is defined as a subject of international law that meets certain structural criteria, regardless of whether that state has been recognized by other states (Montevideo Convention, Art. 3). Even if the actual situation in the state does not meet the statehood requirements of the Montevideo criteria, recognition becomes important evidence of a claim to statehood. Nevertheless, the Montevideo Convention codifies existing legal norms and its principles not only in relation to signatories but also to all subjects of international law as a whole (Montevideo Convention, Art. 3). The European Union follows similar principles and the main statement of its Badinter Committee is in line with the Montevideo Convention in its definition of a state: through ownership of territory, population and political power. The Badinter Committee also found that the existence of states was a matter of fact, while recognition by other states was purely declarative and not a determining factor of statehood (D. J. Harris. 2004:99). Many other countries outside the EU and outside Europe follow the same principle in recognizing the state. In this context, the Republic of Kosovo was no different. Immediately after independence, the major *de jure* powers around the world recognized the new state, and their numbers have grown steadily since then. With state recognition, at least for the time being, one of Kosovo's most important foreign policy goals, many have argued that statehood alone provides evidence of statehood (Digest of United States Practice in International Law 1976:20).

In July 2010, the International Court of Justice rejected Serbia's complaint that the move had violated its territorial integrity and "concluded that the declaration of independence on February 17, 2008 did not violate general international law" (Advisory Opinion of 22 July 2010, International Court of Justice).

In November 2018, 108 UN member states recognized Kosovo's sovereignty. Of these, 23 are members of the European Union and 25 are members of NATO. For a given work, it is essential to present the legal rules for the recognition of Kosovo by Poland and the Czech Republic.

The Government of the Republic of Poland recognized the Republic of Kosovo on February 26, 2008. "Recognizing the independence of the Republic of Kosovo, the Republic of Poland expresses its conviction that in its internal and foreign policy this state will follow the principles of universally recognized democratic norms and respect the models of international law. Recognizing the independence of the Republic of Kosovo, Poland expresses solidarity with other Member States of the European Union and with the international community. As a member of the North Atlantic Alliance and the European Union, Poland is committed to the further peaceful socio-political transformation of the Western Balkan states. The government also hopes that an independent Kosovo will be a good partner in the future to develop mutually beneficial political, economic and social relations"(Resolution on recognition by the Republic of Poland of the Republic of Kosovo from February 26, 2008).

The government of the Czech Republic took a similar position. On May 21, 2008, the government, at the request of the Minister of Foreign Affairs, agreed to establish diplomatic relations with the Republic of Kosovo, thus recognizing it as an independent state. "The policy of the Czech Republic is based on the belief that the recognition of Kosovo's independence will strengthen overall stability in the region, enable a realistic way out of the unsustainable reservation, and direct the efforts of the Western Balkan countries to the challenges of future membership in European and Euro-Atlantic institutions".

Diplomatic recognition of Kosovo as a part of the state independency recognition. The question may arise, is diplomatic recognition important for a country to survive? In fact, UN membership

is neither a necessary nor a sufficient condition for statehood to function, but if diplomatic recognition is not the main defining feature of a country, then what? Again, we have different definitions regarding the definition of statehood; government, legitimacy, physical control and the ability to issue documents and establish relationships with other countries do not always coincide with reality on the ground for many UN countries around the world. In this context, Kosovo's foreign policy after the declaration of independence was characterized by increased activity in shaping foreign policy and international cooperation. The Ministry of Foreign Affairs was established immediately after the entry into force of the Constitution of the Republic of Kosovo on June 15, 2008. Soon after, on the basis of Art. 65 sec. 1 of the Constitution of the Republic of Kosovo, the law on the Ministry of Foreign Affairs and the Diplomatic Service in Kosovo was adopted (Constitution of the Republic of Kosovo). Although the President of the Republic retained the highest powers in international affairs, the law regulates the authority and competence of Kosovo's institutions to conduct relations with other states and entities of international law, as well as to promote Kosovo's political and economic relations on the international stage, while respecting citizens' rights under border. For the first time, the Ministry of Foreign Affairs has been given the power to develop and coordinate policy towards other countries and conduct external affairs by expressing and protecting Kosovo's interests in relations with other countries and international organizations. The Ministry has also been given powers to represent Kosovo and its state institutions in foreign countries and intergovernmental international organizations, through embassies, missions or other representations, as well as the power to conclude treaties and other binding international agreements with other states and international intergovernmental organizations.

To this end, capacity building in the Ministry of Foreign Affairs began immediately. Staff working at home and abroad were recruiting, and the main preparations were at the stage of recruiting the first diplomatic corps ready to be sent abroad. The President of the Republic, on the basis of his constitutional powers and Art. 5 sec. 1 of the Law on the Ministry of Foreign Affairs and the Kosovo Diplomatic Service, appointed the first wave of diplomats for Kosovo's diplomatic missions. Initially, ten ambassadors were appointed in strategic countries: USA, Great Britain, Germany, France, Italy, Turkey, Belgium, Austria, Switzerland and Albania. There were only two diplomats working at each embassy; Charge d'Affaires and First Secretary.

The Government of the Republic of Kosovo has defined the following main objectives for the diplomacy: recognition of the state of Kosovo by UN member states and all EU countries, by regional countries and the inclusion of Kosovo as an equal member in all organizations and mechanisms of interregional cooperation; recognition as an Initiative member of the NATO Partnership for Peace; building a professional and effective diplomatic service, as well as opening diplomatic missions of the Republic of Kosovo in countries with regional or global influence. Another goal was to build an effective consular service in countries with a significant number of Kosovars and to provide necessary services to their citizens abroad; promoting Kosovo's economy worldwide by facilitating contacts between Kosovo and non-Kosovar companies and attracting foreign direct investment (Programme and core Objectives of the Ministry of Foreign Affairs).

When analyzing Kosovo's domestic policy, even after more than ten years of independence, the political situation in Kosovo seems fragile and unstable. During the transition period, the transition from the communist system to democracy, corruption is indeed present in all the Balkan countries. Although most of them are over twenty years old in a democracy, they have a serious problem with corruption. Being one of the newest countries in the world, Kosovo, despite the support of international actors, is currently experiencing what other Balkan countries had a few years ago. In addition to corruption, significant high levels of unemployment and slow progress in relations with Euro-Atlantic organizations, the popularity of the two largest parties in Kosovo, the Democratic Party of Kosovo (PDK) and the Democratic League of Kosovo (LDK), has declined. The main goal of both parties -

the PDK and the LDK - is to join the EU and NATO, but the slow progress of these two parties during the coalition rule towards EU and NATO accession significantly reduced the popularity of both sides. Significant population in Kosovo continues to believe in the possibility of unification with Albania, especially most KLA supporters never gave up hope of creating an Ethnic Albania / Greater Albania.

While one of the most important points in Ahtisaari's plan was that Kosovo had no right to reunification with another country, Self-determination never accepted this point and, moreover, never accepted an international presence after independence. In its political agenda, Self-determination emphasized the importance of joining both NATO and the EU, but the accession procedure should proceed in the "normal" way, in the same way as all other countries to date (Piro Rexhepi, 2017).

State of play of Kosovo economy in the 21st century under the international organizations' reports. Kosovo has the most open economy in the region. The state continues to work with the international community on measures to improve the business environment and attract foreign investment. Even though the Kosovo economy has shown significant progress in transitioning to a market-based system and maintaining macroeconomic stability over the past decade, it is still heavily dependent on the international community and the diaspora for financial and technical assistance. Kosovo's citizens are considered the poorest in Europe with an average annual income per capita of only \$ 4,068.21 (Kosovo GDP per capita, 2020). The level of unemployment is relatively high, around 20.5% of the population are unemployed (Kosovo Unemployment Rate, 2021). This difficult situation causes people to emigrate to different EU countries. More than half of state-owned enterprises had been privatized but knew there was no competitive environment within sectors and companies where there was no significant economic improvement.

According to the Report of the International Monetary Fund (IMF), the underdeveloped private and export sector, widespread informality, reliance on remittances is reflected in high rates of unemployment and inactivity, and a large trade deficit. Tackling these deep-seated challenges through structural reforms of the tax sector, financial sector, products and the labor market remains a priority for the job creation and growth needed to reduce unemployment, outward migration and the still large income gap with the rest of Europe. In a complex political environment, important structural reforms have been halted and pressure to introduce costly populist initiatives has increased (IMF Country Report, 2022). The fiscal rule remains an appropriate basis for fiscal policy and underpins the 2021 budget, although the implementation risks are significant. It includes large pension increases and room for other wage and benefit initiatives, relying on large and uncertain gains from tax administration reforms and war veterans' benefits. While authorities are required to adjust expenditure in case of revenue shortfall, this should be strengthened by reducing non-priority expenditure until the intended gains are achieved. Funding needs to be diversified to reduce the risk of bankruptcy and avoid crowding out private sector lending, while the holdings of government securities will be gradually diminished (Programme and core Objectives of the Ministry of Foreign Affairs).

In addition to political issues, Kosovo shall also respect the economic recommendations proposed by the IMF, as bringing Kosovo's main pillars closer together is crucial for EU membership. In 2008, Kosovo applied for membership of both the IMF and the World Bank, and at the end of June 2009 Kosovo became the 186th member of the IMF (IMF Press Release No. 09/240, 2009) and the newest member of the World Bank group (Press Release No:2009/448/ECA, 2009).

Conclusion. The status quo in Kosovo is still unstable. The situation on the ground could be described as a stalemate. De facto, Kosovo is an independent state in many respects, but de jure prospects for independence are cloudy. Kosovar Albanian political leaders believe that both international law and the facts on the ground entitle them to de jure statehood and insist that the international community should provide an unambiguous timetable for independence. At the same time, Serbian political leaders in Serbia proper and in Kosovo insist that they must have a say in determining any future political arrangements for the area, claiming that according to U.N. Security Council Resolution

1244, the territory remains a sovereign part of Serbia. Serbian leaders in Belgrade appear intent on delaying final status consideration for as long as possible, most likely because the Kosovo issue is so loaded internally that no Serbian politician can afford to risk endorsing anything other than the status quo ante.

The granting of independence to Kosovo has greatly divided the countries of the European Union and the world's superpowers. China, Russia and the Orthodox countries recognized that NATO did not have a mandate to shell Serbia and Kosovo in the format it had been done. They were strongly opposed. They also negatively reacted to the decisions of the United States and its allies when Kosovo gained independence. Analyzing the reaction of Poland and the Czech Republic to the recognition of Kosovo's independence, these countries largely differ. Poland turned out to be one of the countries that quickly recognized Kosovo's independence. On February 26, 2008, the Government of the Republic of Poland adopted a resolution recognizing the independence of Kosovo. The Czech Republic, like Poland, was also aware that the attitude it would demonstrate towards the developments in Kosovo would be one of the elements in building the image of the Czech Republic as a state capable of leading the European Union. However, compared to Poland, the government which very clearly supported Kosovo's independence did not attach much importance to the Balkan agenda, and the Kosovo issue was quite cautious. In the Czech Republic, the decision to recognize Kosovo was taken on May 21, 2008.

Additionally, notwithstanding that international organizations' recommendations often conflict with the public interest, Kosovo needs and is working hard to implement them. Also, following the Kosovo Progress Reports, economic indicators and their performance over the years have highlighted major concerns. Even though the transition to the EU, as main intention of Kosovo, is not easy and takes a long time, the Kosovo authorities and government have to work hard to become an official candidate for EU membership. Even if a large number of people consider that the implementation of certain standards is meaningless and contrary to the public interest, the majority of Kosovo's inhabitants (89%) are very enthusiastic about Kosovo and support it to become a member of the EU and agree to go through all the processes and reforms to get there (E.Vucheva, 2008).

References:

1. Advisory Opinion of 22 July 2010, International Court of Justice, <https://www.icj-cij.org/files/case-related/141/141-20100722-ADV-01-00-EN.pdf>
2. Česká republika uznala nezávislost Kosova, <https://www.vlada.cz/cz/media-centrum/aktualne/ceska-republika-uznala-nezavislost-kosova-35465/>
3. Constitution of the Republic of Kosovo, <http://www.kryeministri-ks.net/repository/docs/Constitution1Kosovo.pdf>.
4. Countries that Recognize the Independence of Kosovo <https://www.graphicmaps.com/which-countries-recognize-kosovo>
5. D. J. Harris. 2004. Cases and Materials on International Law. London. Sweet and Maxwell. P. 99.
6. Digest of United States Practice in International Law 1976. Washington DC: US Government Printing Office. P. 19–20.
7. IMF Country Report, ISBN/ISSN:9781616359324/1934-7685, Republic of Kosovo 2021, Article IV consultation – Press release; and staff report, January 2022.
8. IMF, Press Release No. 09/240, 2009. Kosovo Becomes the International Monetary Fund's 186th Member.
9. Kosovo GDP per capita, <https://tradingeconomics.com/kosovo/gdp-per-capita>
10. Kosovo Unemployment Rate, <https://tradingeconomics.com/kosovo/unemployment-rate>
11. Kosovo's Declaration of Independence of 17 February 2008. Article 8.
12. Montevideo Convention of 1933. Article 3. <https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf>

13. Montevideo Convention of 1933. Article 3. <https://www.ilsa.org/Jessup/Jessup15/Montevideo%20Convention.pdf>
14. Piro Rexhepi, 2017, In Kosovo, too, there's a future for a leftist party of economic and social justice <https://www.theguardian.com/commentisfree/2017/jun/12/kosovo-leftist-party-social-justice-vetevendosje>
15. Press Release No:2009/448/ECA. Kosovo Joins World Bank Group Institutions.
16. Resolution on recognition by the Republic of Poland of the Republic of Kosovo from February 26, 2008, <https://www.premier.gov.pl/wydarzenia/decyzje-rzadu/uchwala-w-sprawie-uznania-przez-rzeczpospolita-polska-republiki-kosowo.html>.
17. The Programme and core Objectives of the Ministry of Foreign Affairs, <http://www.mfa-ks.net/en/politika/483/njohjet-ndrkombtare-t-republiks-s-kosovs/483>
18. Vucheva Elitsa. 2008. Only a third of Croats enthusiastic for EU membership. EU Observer. <http://euobserver.com/9/27124>

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OVERCOMING GENDER DISPARITIES

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Abstract. The article deals with the contemporary situation of gender and its implementation peculiarities in European countries. The article analyzes various approaches to the notion, gender disparity situation and reveals the burning challenges which the contemporary world faces now. The article highlights the present situation with gender asymmetry in STEM and ways of its transformation due to the unequal ratio of men and women employed in educational and scientific areas that would lead to employment problems in future.

Much attention has been paid to the criterion for assessing gender equality, namely Gender Equality Index, an indicator that reflects the disparity in achievement opportunities between men and women in the European Union. Also, statistical data was presented that shows the great gender gap and identifies countries with a high / low gender equality index. Gender Equality Index is compared to the Global Gender Gap Index that shows the extent of the gender gap across four key dimensions that serve as a basis for developing effective measures to reduce the gender gap.

The article points out the ways promoting the implementation of the principles of gender equality in European countries.

Key words: gender equality, gender equality index, gender implementation, gender issue, gender gap.

Introduction. The issue of gender continues to be a perplexing one in our contemporary world. One can find numerous publications touching this issue on, starting with the meaning of the word “gender”, its peculiarities, problems, misconceptions etc. and finishing with the results of the researches with the plausible ways of implementations. When dealing with the notion of gender some scientists primarily mean the social component of constructed role of the individual.

Gender issue can be viewed in several aspects, but the main aspect lies in changing role of the categories of femininity and masculinity which is understood as a product of the socio-cultural context. The issue of gender identity is closely connected with the issue of gender relations and therefore of gender disparities. One can face with the problem of gender disparity practically in any sphere of our life, e.g. employment educational, medical, environmental, political etc. The most acute problem of gender asymmetry lies in educational and professional spheres that later will lead to research, employment and professional training disproportions.

Nowadays the gender issue is not only social, cultural or biological issue, but also becomes a philosophical one; when we regard our role in a society and ask ourselves “who we are, what we are and what role in a society we would like to play?”

It is vitally important not only to mention this problem, but also to develop some mechanisms to prevent the existing discrimination at the state level.

Analysis of current scientific research and publications. Much attention to the problem of gender in various aspects is paid by American and European researchers. Dealing with the problem of gender identity and gender relations, examining and analyzing the intercultural reasons for gender differences we should mention the research works of both foreign and Ukrainian researchers, psychologists such as Butler, J, Heidi, G, Goyan, I. Kimmel, M, Perez, C., Sadusky, J Skyba, E., Storozhuk, S Tkachenko T, Yarhouse, M., and others. The issue of gender disparity is quite actual and seeks for careful consideration as well as the ways of its overcoming also need further examination.

The main purpose of the article is to study the peculiarities of solving the gender issue in the world in general and in Europe in particular. To this aim we have to 1) determine the criterion for assessing gender equality; 2) to study the present situation with gender issue in Europe, identifying countries with a high / low gender equality index and 3) look at the ways promoting the implementation of the principles of gender equality in the social process in Europe.

Formulation of the main material. Nowadays the issue of gender is widely spoken about. The problem of gender equality continues to be quite acute both in Europe and in our country. Analyzing the recent publications, we can say that the notion “gender” today refers primarily to the social role of the individual in our world. Gender issue demonstrates which social roles a woman or a man has to play in a given socio-cultural context through behavior, gait, manner of dress, speech, ways and forms of self-realization as a person (Skyba, Tkachenko, 2021: 18–24). The changes taking place in the social and professional role of individuals, both for men and women, are influencing the strengthening of gender asymmetry. Gender asymmetry is a disproportionate representation of the social and cultural roles of both sexes (as well as ideas about them) in various areas of life. As we can see from the UNESCO report: “Only 17 women have won a Nobel Prize in physics, chemistry or medicine since Marie Curie in 1903, compared to 572 men. Today, only 28% of all of the world’s researchers are women. Such huge disparities, such deep inequality, do not happen by chance. Too many girls are held back by discrimination, biases, social norms and expectations that influence the quality of education they receive and the subjects they study”. This report was commissioned by the United Nations Educational, Scientific and Cultural Organization and reveals the burning problems which the contemporary world faces now (UNESCO science report, 2015).

Although, we must pay tribute to the fact that the education system is trying to do everything possible to interest girls in previously purely male disciplines. Recently, there has been a humanization of technical school education. STEM is being transformed into STEAM, and then into STREAM by adding liberal arts that girls prefer (Nikitina, Ishchenko, 2022). In the system of higher education, gender asymmetry is manifested in the unequal ratio of men and women employed in this area. Formally, there are several times more women in education than men, but at the same time, there are much more men in management.

Globally, women have less access to research funding. The performance evaluation includes such performance characteristics as the number of publications and patents of the author, the frequency of citation of these works and the amount of funding received. In science, performance is measured in terms of research, teaching, and other scientific activities (such as board membership), with research having the highest weight. Publications in prestigious journals or conference proceedings are ranked highest, while teaching is ranked lowest. US studies show that women scientists tend to be more likely to teach and be involved in research than in research, in particular, as evidenced by the number of publications. At the same time, young scientists are expected to spend 80-120 hours a week in the laboratory, which creates inconvenience for women with children (UNESCO science report, 2015).

The situation related to research funding is also typical for patents. In all countries, in all sectors and in all fields, the percentage of women who obtain patents is less than that of their male counterparts.

The criterion for assessing gender equality. In 2010, the Secretariat of the World Economic Forum in Geneva introduced The Gender Equality Index, an integral indicator that reflects the disparity in

achievement opportunities between men and women. The index takes into account four parameters: economic equality, access to education, health status and survival prospects, and political influence. Each of them are divided into sub parameters. When calculating the indicator of economic equality, the gender ratio in the national labor force, income of men and income of women, the number of men and women in leadership positions and the number of men and women in technical occupations are taken into account. The Gender Equality Index is a tool to measure the progress of gender equality.

Gender Equality Index was acknowledged as a reliable measurement tool for gender equality in the European Union, in an audit carried out by the European Commission's Joint Research Centre (Gender Equality Index, 2021).

Since the same year (2010), The Gender Equality Index has been used by the United Nations in the Human Development Report. It gives more visibility to areas that need improvement and ultimately supports policy makers to design more effective gender equality measures.

Gender equality index data. The World Economic Forum annually compiles and publishes the Global Gender Gap Index. This report measures the extent of the gender gap across four key dimensions: economic participation and opportunity, educational attainment, health and survival, and political opportunity, and then assigns each country a score of 0.000 (or 0%, the lowest possible gender equality) and 1000 (100%, the highest possible gender equality). The analysis of each country is intended to serve as a basis for developing effective measures to reduce the gender gap. The 2021 edition of the Global Gender Gap Index examined and ranked 156 countries and territories around the world (Gender Equality by Country, 2022).

According to The World Economic Forum Report, Top 10 Countries with the Highest Gender Equality (2022 World Economic Forum) are as follows:

- Iceland – 89.2%
- Finland – 86.1%
- Norway – 84.9%
- New Zealand – 84.0%
- Sweden – 82.3%
- Namibia – 80.9%
- Rwanda – 80.5%
- Lithuania – 80.4%
- Ireland – 80.0%
- Switzerland – 79.8%

At the other pole there are Top 10 Countries with the Least Gender Equality (and Largest Gender Gaps):

- Afghanistan – 44.4%
- Yemen – 49.2%
- Iraq – 53.5%
- Pakistan – 55.6%
- Syria – 56.8%
- DR Congo – 57.6%
- Iran – 58.2%
- Mali – 59.1%
- Chad – 59.3%
- Saudi Arabia – 60.3%

As we can see, 7 out of 10 European countries are in the top. They include four Nordic countries: Iceland, Norway, Finland, and Sweden; as well as their European neighbors Ireland, Switzerland, and Lithuania (the lone Eastern European country). Overall, the EU scored 68 out of 100 in the Gender Equality Index published by the European Institute for Gender Equality (2021). Compared to last

year, this figure increased by only 0.6 points. Luxembourg, Lithuania and the Netherlands made the biggest improvements compared to last year's edition. Slovenia was the only country that fell behind. There are large differences in gender equality scores across countries. They range from 89.2 in Iceland to 52.6 in Greece.

Iceland, which is in Europe's top, began to implement the principle of gender equality back in the 19th century. In the year 1850, "Iceland was the first country in the world to grant equal inheritance rights to both men and women." Prior to that proclamation, women had rights to just one-third of the inheritance. In 1917, Iceland gave women and men equal rights over their children. Iceland enacted the Act on Equal Status and Equal Rights Irrespective of Gender in 2008 "to prevent discrimination on the basis of gender and to maintain gender equality and equal opportunities for the genders in all spheres of society." (Eimieho, 2022).

As of 2017, for the seventh year running, Iceland has topped the World Economic Forum's survey for gender equality. Out of 144 countries, this small island has ranked number one in political empowerment amongst women, number one for closing the gender income gap (government ambitions look to finalize this in 2022) and boasts corporate quotas which ensure women currently hold 44% of representation on company boards (Chapman, 2022).

Since 2015, the Swedish innovation agency VINNOVA has successfully integrated a gender perspective into its activities and promoted gender equality in the allocation of funds for research and innovation. VINNOVA recognizes gender equality as a necessary condition for the sustainable development of society and innovation. Funds managed by VINNOVA must benefit women and men equally. Since 2015, the number of female project managers has increased by about 10% (from about 30% to 40%), and the overall distribution of funding is now 40–60%, in line with national gender equality goals. VINNOVA's work is based on three key questions:

- Who is funded? The focus is on the project team and its gender composition;
- What is funded? This is an attempt to include a gender perspective in the goals and methodology of the project, if appropriate. Applicants should provide information about their motivation (or justification against) including a gender perspective;
- How is the process carried out? The Review Committee is composed with gender equality in mind, trained in gender bias and knows how to assess the relevance of gender to the subject area (EIGE, 2022).

Sweden has also revised the system of resources distribution for research work at universities. The earlier model led to a deficit in the university's budget and allocated resources based on position. Since 70% of university professors were men, consequently, about 70% of research resources were automatically allocated to men. In the new model, those deemed eligible for funding can apply for additional merit-based research resources (assessment of scientific achievement and collaborations in previous years). Launched in 2018, the overall distribution of research resources at the end of that year was 50% male and 50% female. The old model created a blocking system for junior and novice researchers, especially teachers (often women), who therefore had less opportunity to pursue their research interests. A consequence of gender mainstreaming work is that the research resource allocation model rewards research achievement (resource allocation) in a more transparent and equitable manner (EIGE, 2022).

Ways of implementing the gender equality principles. How do European countries that are not in the Top 10 solve the gender issue? Laws on gender equality are included in the Constitutions of all European states, and each of them does its best to involve women in positions that were previously traditionally male.

Poland, for example, launches Small Grant Scheme (SGS) 2020 Call for Women Scientists in Engineering (SGS) – National Research and Development Center. This is part of the applied research program implemented under the Norwegian Financial Mechanism, established under the priority

sector "Innovation, Research, Education and Competitiveness", which aims to improve the efficiency of Polish applied research and was proposed in response to the underrepresentation of women researchers as both in terms of quantity and their professional role in the technical sciences. The purpose of Grant Scheme was to support research projects led by female researchers in the technical sciences. Thus, the objectives of the SGS are twofold: to develop scientific research in Poland and to strengthen the scientific careers of women scientists participating in the program by creating conditions that allow them to advance in their scientific careers.

The SGS Call for Proposals is intended to support research projects, including the following types of research and development:

- fundamental research,
- Industrial research
- Experimental development

One of the challenges facing the Polish scientific community is to increase the proportion of women researchers, both in terms of numbers and in terms of their professional role in technical sciences. Engineering sciences are the least feminized compared to other areas of science. Therefore, measures aimed at solving this problem should use the potential of women researchers and promote their career development.

In 2018, some Hungarian universities launched a new funding scheme for researchers raising young children. The purpose of the competition is to support women researchers with small children and single fathers with small children who are preparing a scientific dissertation for the degree of Doctor of Science. Applicants must meet the following criteria: (1) apply for a grant within four years of the birth of their youngest child; (2) have spent at least one year at home on parental leave; or (3) to care for a disabled or chronically ill child under the age of 14 (EIGE, 2022).

To ensure gender equality, Malta revised its research funding rules in 2017. Priority is given to the project that best takes into account the implementation of gender equality in the study.

In recent years, Ukraine has made sufficient progress in the implementation of gender policy. Much has already been done, but much remains to be done. Thus, the focus remains on the need to improve legislation, the integration of gender approach into sectoral reforms, and the strengthening of the national gender mechanism. This requires political will and the involvement of all relevant actors, as well as an adequate investment of resources. The issue of popularizing the principle of equal rights and opportunities for men and women and the formation of a common anti-discrimination culture remains topical. It is important to strengthen the political representation of women at all levels.

Forward movement is seen in two parallel directions. The first is the strengthening of special gender legislation and specific measures for its implementation, the inclusion of individual gender goals and objectives in the reform agenda, the strengthening of the national gender mechanism and its implementation in real practice. The second is the implementation of an integrated gender approach in all strategies, policies and reforms in Ukraine, which will ensure equal rights and opportunities for women and men in all spheres of public life. The first steps in the field of education have already been taken (Nikitina, Ishchenko, 2022: 108–114).

Conclusions. The world has made great strides towards gender equality in the recent past, but we still have a long way to go to ensure that women have equal opportunities to earn a living, participate in society and have a voice.

Women and girls make up half the world's population, which is equivalent to half the potential of humanity. Gender equality, one of the most important human rights, plays a key role in ensuring peace and harmony in society and the full realization of human potential on the basis of sustainable development. Engaging women in society has been proven to increase productivity and economic growth.

In the article we have made an attempt to study the peculiarities of the gender issue in the world in general and in Europe in particular. So, we determined the main criterion for assessing gender equality and studied the present situation with gender issue in Europe. Also, we identified the countries with the highest and the lowest gender equality index. Finally, we offered the ways to promoting the implementation of the principles of gender equality in the social process in Europe.

Unfortunately, humanity has a long way to go to achieve full equality between men and women in terms of their rights and opportunities. It is imperative to end gender-based violence in all its manifestations, ensure equal access for women and girls, men and boys to education, health care, economic resources and create equal opportunities for citizens to participate in political life. This also applies to employment opportunities in general and leadership positions.

References:

1. Chapman M. (2022). Gender Equality in Iceland. Retrieved from: <https://guidetoiceland.is/history-culture/gender-equality-in-iceland>
2. EIGE (2022). Equal funding of innovations – VINNOVA (SE). Retrieved from: <https://eige.europa.eu/gender-mainstreaming/toolkits/gear/equal-funding-innovations-vinnova-se>
3. Eimieho S. (2022). Facts about women’s rights in Iceland. Retrieved from: <https://borgenproject.org/womens-rights-in-iceland/>
4. Gender Equality by Country 2022. (2022) Retrieved from: <https://worldpopulationreview.com/country-rankings/gender-equality-by-country>
5. Gender Equality Index 2021: Fragile gains, big losses (2021). Retrieved from: <https://eige.europa.eu/news/gender-equality-index-2021-fragile-gains-big>
6. Nikitina, I. P., Ishchenko, T. V. (2022). Transforming stem into steam. Publishing House “Baltija Publishing”. Retrieved from: <https://doi.org/10.30525/978-9934-26-228-9-47>
7. Nikitina, I. P., Ishchenko, T.V. (2022). Implementation of stem education system in Ukraine. *Scientific Journal of Polonia University*, 51(2), 108–114. Retrieved from: <https://doi.org/10.23856/5114>
8. Skyba E., Tkachenko K., (2021). Gender challenges of modern societies. *Philosophy, economics and law review*. Volume 1, no. 2, 2021 p. 18–25 Retrieved from: <https://phelr.dduvs.in.ua/wp-content/uploads/2022/02/2nd/2.htm>
9. UNESCO science report: towards 2030 (2015). *Cracking the code: Girls’ and women’s education in science, technology, engineering and mathematics (STEM)*. Retrieved from: <https://unesdoc.unesco.org/ark:/48223/pf0000235406>

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THEMATIC PATTERNS OF RUSSIAN DISINFORMATION

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Abstract. The article presents a description of a text collection representing disinformation messages about the war in Ukraine published on one of the Telegram channels in order to influence the Russian-speaking community in Germany. The main subjects that Russian propaganda used at the beginning of its full-scale invasion of Ukraine were determined on the basis of deductive thematic analysis, content analysis, and semantic and stylistic analysis of the texts. It has been established that the similarity of the subjects of Russian disinformation and the identity of their coverage in different countries allows us to talk about a full-fledged system of moderation by official Russia not only traditional media, but also social networks; a special news selection for commenting, the so-called agenda, and a certain way of commenting them. The same type set of topics and the identity of their coverage in different countries gives reason to conclude that they have been transformed into peculiar patterns, according to which a carefully constructed image unfolds through the story. The task: to compromise Ukraine, as well as European countries and politicians who did not support the Kremlin's military aggression; to impose a favorable for Russian vision of its attack on Ukraine; to cause panic with threats of global military conflict with the use of nuclear weapons among European citizens, and an energy and food crisis in Europe; to destabilize the domestic political situation within Germany; to demonize the image of the US to divert attention from the real aggressor and to compromise the partnership between the European Union and the US.

Key words: Russian-speaking community, Germany, the war in Ukraine, Telegram, disinformation in social networks, media.

Introduction. Thematic analysis as one of the intellectual and textual research methods helps to reveal the main ideas or meanings encoded in the messages, to understand the most important thing – what is purpose of the communication. The concepts of "theme" and "thematic selectivity" are directly related to the theory of agenda setting, which became the object of scientific analysis back in the 70s in the 20th century, originating from the times of the "Cold War" between the West and the socialist camp. However, it is extremely relevant even now in the learning of the new types of wars, which are called "hybrid warfare".

Agenda concept theorists M. McCombson and D. Shaw proved that the subject matter of the messages published in the media and the importance given to such messages by information consumers are directly proportional to each other. Satisfying the human need for orientation (it concerns the necessity of understanding what is happening around), the media act as an important knowledge supplier and interpreter about the world and events in it (M. McCombs, D. Shaw, 1972). The consequence of this is the increasing subordination of people and societies to the ideas promoted by traditional and new media. Information consumers become vulnerable to informational influence, instead, the media turn into tools of manipulation.

The UN Human Rights Council recognized the manipulation of information as a violation of human rights, a direct threat to democracy and security in the world, and called on states to unite to oppose disinformation by creating an environment free from information abuse.

Foreign information intervention needs scrupulous attention not only networks, which are called the most important and state-of-the-art weaponry (Demartino, 2020: 9). Russia's infor-

mation intervention in Ukraine demonstrates how disinformation has created a fake information reality, where real, unprovoked, full-scale military aggression against a sovereign state has become possible. Russian information intervention is studied by Patrick Duggan, Oscar Johnson, Robert Sealy, Yana Puglerin, Stefan Meister, Yolanta Darchevska, Janis Berzins, Ulrik Franke, Andrii Demartino, Peter Pomerantsev, Georgy Pocheptsov, and others. Researchers note that even though the subject of information and communication technologies as one of the key elements of the Russian strategy implementation of external aggression has acquired scientific importance and research interest, it remains the least studied. There is also a lack of information base, and general approaches to the research ignore a wide range of practical techniques and methods of Russian disinformation influence.

The purpose of our research is to study the content of one of the Telegram channels, which is aimed at the Russian-speaking community in Germany, to form a collection of disinformation texts about Russia's war against Ukraine, to identify the key issues of Russian disinformation, and to describe them.

Research methods. Such methods as discourse analysis, content analysis, deductive thematic analysis, as well as semantic and stylistic analysis were used to achieve the goal.

The research information base. The content analysis results of the telegram channel "Germany from the first person", later renamed to "N Kremlin Valley N", which were published in March 2022, are presented here. "Germany from the first person" / "IN Kremlin Valley N" is one of the typical disinformation public telegram channels that began to work actively after the Russian full-scale invasion of Ukraine. The unprovoked military aggression against a sovereign state, the failure of the Russian blitzkrieg, which task was to capture Kyiv in three days and the whole of Ukraine in two weeks, as well as the immediate solidarity protest of the majority of European and world states against the Russian invasion demanded the maximum information intervention from the aggressor state. Russia is exerting its best efforts to influence the citizens of other European states to ensure a unified, favorable Russian view on the beginning and course of the war in Ukraine, as well as to achieve the desired final result in this war.

The analyzed channel is purely propagandistic, open to dissemination, multiplication of misinformation, and creation of mass effect. Therefore, Telegram users having discovered disinformation complained about the violation of their right to receive reliable information. The channel was sanctioned but immediately resumed its work under a different name, keeping all the previous content, but significantly losing its audience. Before closing, the audience of "Germany from the first person" was 89,257 people; under the name "IN Kremlin Valley N" the resource gathered 45,300 readers.

The first messages are dated March 9, 2022. 430 messages were published from the first day of the channel's operation until March 31. The target audience is the Russian-speaking community of Germany and Russian citizens. A considerable number of Russian-speaking citizens live in Germany.

A considerable number of Russian-speaking citizens live in Germany. Data from open sources indicate that there are 4-4.5 million Russians in the country. These are mostly descendants of ethnic Germans who left German lands in the 18th–19th centuries and immigrated to Russia, and during the 20th century the descendants of these German emigrants returned to Germany forming one of the largest communities of immigrants, which are called "Russian Germans". Another part of the Russian-speaking community in Germany is made up of citizens of various nationalities who are natives of the former Soviet Union or the new states formed on its ruins.

Precisely this audience is a consumer of Russian information content in Germany, and through this community Russian disinformation tries to achieve its goals, namely: to ensure support for pro-Russian ideas, to change the perception of real events to the perception favorable to the aggressor, to cause distrust in the German authorities and objective media, to radicalize society, and to cause political and social chaos.

Telegram is one of the largest social media platforms that are actively used in the world. The global survey of Statista company shows that this mobile application will have half a billion users worldwide in 2022, making Telegram one of the top five most downloaded applications in the world. In 2021, approximately three-quarters of Telegram users chose the application specifically to receive the latest news (Statista, 2022). At the same time, Telegram is called the least open network for external monitoring, and anonymity, the ability to publish files of various formats and large sizes without indicating the author makes it easy to spread aggressive content.

The thematic analysis of the published texts made it possible to identify the following meta-themes of Russian disinformation, which was spread by the channel at the beginning of the Russian aggression:

1. Sanctions against Russia and the energy crisis in Europe. United Europe should be separated.
2. Russia and its president Vladimir Putin.
3. Ukraine and its president Volodymyr Zelensky.
4. The USA, President Joe Biden, and NATO.
5. Germany, Federal Chancellor Olaf Scholz, and German politicians.
6. The Russian army in Ukraine.
7. Ukrainian refugees.

Sanctions and the energy crisis in Europe. Most often the channel published texts united by the topic of sanctions against Russia as a punishment for the invasion of Ukraine, as well as about the energy crisis that awaits Europe due to the announcement of sanctions against Russia. The goal is to deny the effectiveness of sanctions, to show their worthlessness, as well as the inability of the Western Europe countries and the USA to be effective in opposing Russia and helping Ukraine.

In the reports dealing with the subject of sanctions, it is mentioned that they will not have any serious consequences, because only luxury brands, such as Gucci, McDonald's, and Coca Cola will allegedly leave Russia. Sanctions will not harm the Russian economy; on the contrary, they will be the cause of its development. Instead, Europe and the world did a lot of harm to themselves by punishing Russia with sanctions.

The dominant topic "energy collapse" has two sub-topics – bicycles instead of cars in Europe, because gasoline and gas prices are very high due to the lack of Russian energy resources, and strikes due to high fuel prices in various European countries.

Despite the optimism of Russian propagandists that the sanctions do not harm the Russian economy, the latter already feels and will continue to feel their devastating consequences for itself, and therefore disinformation channels are trying to sway public opinion on the subject of a cold and hungry winter in Europe, high fuel prices, cause dissatisfaction with the actions, in particular, of the German government, which supported sanctions against Russia.

Russia does not like the solidarity of European countries that condemn Russian aggression and impose sanctions. Accordingly, Russian propagandists exploit one of the archetypal propaganda narratives: the good East and the evil West. The East represents powerful Orthodox Russia with its patriarchal values, and the West represents "degenerate" Europe with its liberal values. Besides, Russian propaganda aggressively manipulates the historical past of European states, artificially heating administrative-territorial conflicts: "Poland divided Ukraine and determined the territory that is going to take for itself." "Germany claims the western part of Poland, and Poland wants to take the Kaliningrad region, which Germany also claims."

Russia and its President Vladimir Putin. The propaganda channel presents the topic "President of Russia Vladimir Putin" as follows: "he is the most influential person in the world, who is respected in America and Europe, although he is feared", "Putin is a serious person. Everyone thinks that he scares and he will not warn twice (about the use of nuclear weapons)", "Poland on its knees will beg Putin to join it Russia to get rid of NATO's terror."

After US President Joe Biden's statement that Putin is a war criminal, the narrative becomes aggressive and defensive at the same time: "none of the Western leaders would dare to say to Putin's face that he is a war criminal, and the press can write anything"; "now the whole world blames Putin for all their failures"; "Putin is hated because he is inconvenient for the USA, Yeltsin could be twisted and turned, because what this drunkard would do."

About Russia, the channel informs like this: "... there will never be a deficit in Russia. Russia does not need Europe and America. Russia has everything necessary for the development." "Russia is a too humane country. Russia had to give 2–3 days to all peaceful people to leave the country and then, simply bomb all of Ukraine to smithereens."

So, these texts serve the myth about Russia as a world superpower, with a powerful economy, nuclear weapons, and a strong army that opposes aggressive America. Allegedly, only Russia provides balance in the bipolar world, no one, except Russia, can oppose the USA, which seeks to destroy Europe and rule the whole world. This narrative is fed by the images of Soviet Cold War propaganda. Its task is to cause fear, and panic, increase the constant feeling of danger, and anxiety and form an opinion about Russia / Putin as the only right partner, capable of protecting and resisting evil.

Ukraine and its president Volodymyr Zelenskiy. Against the background of deep disappointment with Putin, President Zelenskiy in March gained high popularity and authority in the world due to his resistance to Russia. The world press told a lot about Zelenskiy as a courageous president. Through its channels, Russian propaganda spreads information that tries to undermine the authority of the Ukrainian leader, destroy belief in him and convince both Russians and the world community of Putin's greatness, even though his army has begun to suffer its first defeats.

Russian disinformation developed the topic "President of Ukraine Volodymyr Zelenskiy" in the following narratives: "Zelenskiy is an actor who has no idea what politics is", "Zelenskiy lost the country due to unprofessionalism, and if he had agreed to fulfill the Minsk agreements, he would have had gas pipeline, and a strong ally in the person of Putin", "Zelenskiy is a drug addict, he escaped to Poland a long time ago, he is not in Kyiv", "Zelenskiy is a weak person, "National Corps" and "Azov" prepared a coup to overthrow Zelenskiy, that is why he escaped", "Zelenskiy should be on his knees asking Putin for negotiations." This narrative after the failure of the Russian blitzkrieg in Ukraine is transformed into "Zelenskiy does not agree to negotiations, postpones them because he wants to make money from the war."

The topic "Ukraine" in the corresponding texts collection is presented as follows: "Ukraine has never existed and now it will become a part of the Russian state, so other countries should not interfere in the affairs of Russia or other states that once belonged to the Soviet Union." "Ukraine has never been humiliated as much as the Americans are doing now. Ukraine is a thing that is acted out by other countries. Europe betrayed Ukraine." "Ukraine is shrinking territorially every day, Russian soldiers feel at home there." "Ukraine is ready to sign the capitulation agreement, to give up territorial claims regarding Crimea, Luhansk, and Donetsk regions."

"In Ukraine, the state supports the Nazis, the president, and his children are also Nazis, and school textbooks write about Nazis from the Azov battalion." "Victoria Nuland tells about secret laboratories for the production of chemical weapons operating in Ukraine."

Conclusion: constructing the topic "Ukraine", Russian propagandists have a goal, firstly, to develop a negative image of Ukraine and Ukrainians, to form the opinion that Ukraine, its president, and the government are the source of aggression that must be eliminated, that Russia is performing a rescue mission for throughout Europe and the world, destroying a negative target. Secondly, Ukraine, like Georgia, is deserved to be punished because it did not choose a pro-Russian course of development but strives for European integration, so it is the source of its problems. Russia punishes such people so that others do not want to follow. Thirdly, Ukraine is not a state at all; it is a part of Russia. The Ukrainian government is weak and pathetic; you don't have to deal with it. Russia is great and strong,

and peace and prosperity in Europe and the world depend on it, you should not bet on a weak Ukraine, let Putin do what he wants because the fate of the former Soviet republics, Europe, and the world depends on him. Supporting Ukraine does not make sense, but it can provoke a global conflict with the use of nuclear weapons.

The USA, Joe Biden, and NATO. The topic "the US President Joe Biden" is disclosed by the Telegram channel as follows: "Joe Biden is a war criminal; he is the main American aggressor."

The topic "the United States of America and NATO" serves to divert the community's attention from Russia's crime and its army in Ukraine, and instead to focus on the USA and NATO and their participation in military conflicts in the world: "The USA planned to attack Russia first, but Trump prevented". The idea that Russia defends itself is cultivated, and America kills people by interfering in the internal politics of other states. Claims against America go as far as "invaders on Indian lands", and "slave" labor of blacks for white Europeans". Accordingly, "it's time to punish the US for terrorism in other countries."

It should be noted that the topic of the United States belongs to the "eternal" topics of Russian propaganda, which it has inherited since the Cold War, and since then it has not stopped developing it for both domestic and foreign audiences. A consortium of public organizations investigating Russian propaganda in eleven European countries since the beginning of the Russian invasion of Ukraine records the simultaneous deployment of the ominous image of the United States in other countries as well, that only confirms the conclusion about the purposeful nature of spreading such messages (Pasichnyi, 2021; Riaboshtan, Iluk, 2022).

NATO appears as a powerless organization that is not capable of being a reliable partner: "NATO cannot be trusted, these are frivolous people", "in the French parliament they advocated leaving NATO", "NATO does not believe in the victory of the Ukrainians, NATO does not believe in itself either because knows that everything will end with Russia's victory, but they are just making money on the war".

Summarizing, we note that the main purpose of the stories about the USA and NATO is to convince that not Russia, but the USA and NATO are responsible for the conflict in Ukraine, they provoked it, they put Ukraine under attack, and now they have left it without appropriate help. Ukrainians are not fighting for their country, but are a bargaining chip in the US intrigues.

Moreover, official Russia is very concerned about the political partnership between the United States and the European Union, this political unity is outside the strategic interests of modern Russia, accordingly, and numerous messages are aimed at compromising the United States. Russia actively exploits various stereotypical images of the United States, which were used by the Soviet Union during the Cold War. It promotes the conspiracy theory that the US is "jealous" of Europe because the European economy is booming and the American economy is in decline, so the US specifically unleashed a military conflict in Europe to weaken the European Union.

Germany and its politicians. The resource highlights this topic as follows: "Germany is a non-independent state that depends on the USA"; "there is no freedom of speech"; "If you express an alternative opinion, you will be immediately taken by the police immediately and they "put you on the bottle" (an allusion to particularly brutal sexual torture), take away your property", "90% of German citizens are homeless (that is, they do not own real estate), they do not understand politics because they are forced to work hard to pay for migrants."

Scientists, who are studying the influence of Russian propaganda on European countries, say that one of the tasks of this activity is to show the failure of democracy as a social order. Using the democratic principles of freedom of thought and freedom of the press, the possibilities of an "open society", Russia directs its efforts to fight against democracy (Pasichnik, 2021: 74).

Further, the theme of "Germany and its policies" unfolds as follows: supporting Ukraine, "the Germans are provoking the Russians", "if Putin decides to bomb this former fascist country, then

we must ask him to allow those Russian citizens who currently live in Germany to return to Russia". "Does not Germany want a war with Russia for the third time? If Germany gets involved in a military conflict with Russia now it will end in Germany's defeat again, so the Germans should protest against aid to Ukraine." "Life in Germany became uneasy because of providing aid to Ukraine." "German politicians are weak, it is impossible to listen to them; they look like frightened hares, in contrast to brave, self-confident, intelligent Russian politicians." "Merkel has more courage than Scholz." "Scholz will lose to Putin."

Therefore, the main goal of the narrative "Germany and its politicians" is to undermine trust in the country's government, to cause protests, because Germany does not care about its citizens, only migrants receive benefits, and Germans are forced to work excessively, without rest to ensure this political course of the government. There is no freedom of speech here, the state can take away private property, and henceforth, due to Ukraine's support, there will also be high fuel prices and food shortages.

Another important task of Russian propaganda in this narrative is to create fear of war among German citizens. Convince that the German government, not supporting Putin and Russia, not approving Russia's attack on Ukraine, is creating conditions for a war on German territory and Russia is a strong country, historically Germany has lost to Russia and is losing now. And again the question will arise - who Berlin will belong to?

Russia aggressively perceives the refusal of other countries to support its political course. It is generous to those politicians who have pro-Russian views and directs flows of misinformation at opponents.

The Russian army in Ukraine. This topic has the following development: "Russian troops in Ukraine are protecting truly Russian lands", that is, they came to liberate their territories from Ukrainian "Nazis", and not invaded a sovereign state. "The Russian army is the most powerful in the world and only idiots can dare to fight with it." "The Russian army did not win an instant victory in Ukraine, because it treats the civilian population humanely, behind which the Ukrainian army is hiding." "Russian troops protect world peace and confront the biggest global threat - the USA." The Ukrainian military is joining the ranks of the Russian army, and the violence of the Russian military against the civilian population and the terror in the occupied territories is fictional and staged.

Ukrainian refugees. In the geopolitical strategy of the Kremlin, refugees have become an instrument for pressure on Europeans, because it changes their usual way of life, and accordingly, often causes dissatisfaction with the policies of governments that accept refugees from the war in their countries. This was the case with the refugees from Syria, and it is the same with the refugees from Ukraine. Russian propagandists, knowing about the complex political debate within Germany regarding refugees, as well as responding to the solidarity of Germans and other Europeans in supporting refugees from Ukraine, are actively developing this topic.

Therefore, the channel informs its readers about, firstly, "while Ukrainian men are fighting, their women who fled to Germany "offer" themselves to other men". "They are a living commodity for the German and global sex industry." And secondly, those Ukrainian refugees worsen the well-being of Germans: "As long as Ukrainian refugees are enjoying in Germany, the Germans themselves have to tighten their belts." This is how attention is shifted from the colossal humanitarian catastrophe, the cause of which is the war launched by Russia against Ukraine; shift the emphasis - and Ukrainian refugees are not victims of war, but those who deserve condemnation and should be deprived of support.

The topic of Ukrainian refugees is divided into two subtopics. Here we note that mainly women and minor children are fleeing the war in Ukraine. Therefore, the channel tells its readers that, firstly, "while Ukrainian men are fighting, their women who fled to Germany "offer" themselves to other men." "They are a living commodity for the German and global sex industry". And secondly, Ukrainian refugees worsen the well-being of Germans: "As long as Ukrainian refugees are enjoying

life in Germany, the Germans themselves have to tighten their belts." This is how attention is shifted from the colossal humanitarian catastrophe, the cause of which is the war launched by Russia against Ukraine; shift the emphasis – and Ukrainian refugees are not victims of the war, but those who deserve condemnation and should be deprived of support.

Conclusions. Thus, we have studied, in detail, the text collections formed on the messages content of the Russian disinformation telegram channel "Germany from the first person" / "IN Kremlin Valley N", and have compared them with the results of other research about Russian disinformation deals with the war in Ukraine, which is aimed at European countries, and have come to the following conclusions: the similarity of the topics of Russian disinformation and the identity of their coverage in different countries allows us to talk about a full-fledged system of moderation by official Russia not only traditional media, but also social networks; a special selection of news for commenting, the so-called agenda, and a certain way of commenting on them.

The same set of topics and the identity of their coverage in different countries give reason to conclude about their transformation into peculiar patterns, according to which a carefully constructed image unfolds through the story, for example, Ukraine is a Nazi country and a source of danger, Germany is an undemocratic country that exploits its citizens to keep migrants; Germany is a weak country that lost all wars to Russia; Russia is a politically, economically, and culturally powerful state; Putin is a world leader, Zelenskyi is a drug addict and a clown, etc.

A detailed description of the research topics helps to draw the following conclusions regarding the goals of Russian disinformation: to compromise Ukraine, as well as European countries and politicians who did not support the Kremlin's military aggression; to impose a favorable for Russia's vision of military operations in Ukraine; to cause panic because of threats of a global military conflict using nuclear weapons among the citizens in European states and because of the energy and food crisis in Europe; to destabilize the domestic political situation inside Germany; to demonize the US image to divert attention from the real aggressor and to compromise the partnership between the European Union and the US. Analysis of the content of Telegram channels allows us to talk about the management of their information flows.

References:

1. Darczewska, J. (2014). The anatomy of Russian information warfare. The Crimean, a case study. *Point of View*. P. 1–37.
2. Demartino, A. P. (2020), "False Mirror": The Role of Social Media in the Russian Federation's Operation to Annex Crimea. Kyiv: Samit-knyha [Sammit-book].
3. Horbulin, V. P. (2016). "Hibrydna viina" yak kluchovyi instrument rosiiskoi heostrategii revanshu ["Hybrid war" as a key instrument in the Russian geostrategy of revenge]. *Stratehichni prioritytety* [Strategic Priorities]. 2014. № 4 (33). P. 5–12 [in Ukrainian].
4. Tsentr stratehichnykh komunikatsii (2022). Krytyka peremovyn ta zhachy pro bizhentsiv u Yevropi: kremlivska propahanda v telegram [Criticism of negotiations and horror about refugees in Europe: Kremlin propaganda in Telegram]. URL: <https://spravdi.gov.ua/krytyka-peremovyn-ta-zhachy-pro-bi-zhencziv-u-yevropi-kremlivska-propaganda-v-telegram/> [in Ukrainian].
5. McCombs M. (1972). The Agenda-setting Function of Mass-Media /
6. M. McCombs, D. Shaw // *Public Opinion Quarterly*. Vol. 36. № 3. P. 176–187.
7. McCombs M. (1993). The Evolution of Agenda-Setting Research: Twenty-Five Years sn in the Marketplace / M. McCombs, D. Show // *Journal of Communication*. Vol. 43. № 2. P. 58–67.
8. Pasichnyi, R. Ya. (2021). Vplyv suchasnoi rosiiskoi propahandy na krainy Yevropy [The influence of modern Russian propaganda on European countries] *Visnyk NTUU "KPI". Politolohiia. Sotsiolohiia. Pravo*. 2 (50). Kyiv. P. 70–75. [in Ukrainian].

9. Pocheptsov, H. H. (2016). Smysly i viiny: Ukraina i Rossiia v informatsiinykh i smyslovykh viinach [Meanings and wars: Ukraine and Russia in information wars and wars of meanings]. Kyiv: The National University of Kyiv-Mohyla Academy [in Ukrainian].
10. Pocheptsov, H. H. (2015). Suchasni informatsiini viiny [Modern information wars]. Kyiv: The National University of Kyiv-Mohyla Academy [in Ukrainian].
11. Pomerantsev, P. (2019). This Is Not Propaganda. Adventures in the War Against Reality. London: Faber and Faber Limited.
12. Riaboshtan, I., Iluk, K. (2022). A “Telegram Empire” run by Russian intelligence during the big war]. URL: <https://ms.detector.media/trendi/post/29697/2022-06-20-a-telegram-empire-run-by-russian-intelligence-during-the-big-war/>
13. Sttista (2022): Reasons to use Telegram. URL: <https://www.statista.com/statistics/1252822/reasons-to-use-telegram/>
14. Subota, I. (2022). Antysanktsiini naratyvy Kremlia: pro scho rozpovidaie rosiiska propahanda u Yevropi [Anti-sanctions narratives of the Russian propaganda in Europe] [in Ukrainian]. URL: https://lb.ua/news/2022/08/12/526085_antisanktsiyni_narativi_kremlya_pro.html

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