

# INSTITUTIONAL CONVERGENCE IN UKRAINE

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**Abstract.** *The aim* of the article is to develop recommendations for improving the level of institutional convergence in Ukraine. To this end, the following tasks have been set and solved: an assessment of the level of institutional convergence in Ukraine has been carried out, which includes an analysis of international indices characterising the quality of formal institutions and a further selection of indicators that are informative about convergent/divergent processes in the country; factors supporting institutional divergence in the country have been identified; recommendations have been developed to offset the importance of factors supporting institutional divergence. *Methodology.* The methodological and theoretical basis of the study is a systematic approach to the analysis of processes and phenomena, institutional economic theory, scientific works of the classics of economic science, leading modern domestic and foreign scholars on the problems of institutional efficiency. *Results.* The understanding of the essence of institutional convergence/divergence as a phenomenon characterising the local replacement of formal institutions by informal ones as a consequence of the unacceptable content of formal rules for a certain category of citizens and/or the low risk of being held accountable for their violation has been further developed. The level of institutional convergence in Ukraine is assessed on the basis of the analysis of international indices (Worldwide Governance Indicators, The Rule of Law Index, The International Property Right Index). It is noted that the indicator of the level of institutional convergence in Ukraine is an important factor that should be taken into account in the development and preliminary assessment of the effectiveness of socio-economic projects, since the usefulness of such actions for society and, consequently, the efficiency of resource spending depends on the extent to which the public is ready to accept any public or private initiatives. Recommendations have been developed to increase the level of institutional convergence by reducing the asymmetry of information in the communication system. It is determined that the asymmetry is a consequence of the high cost of information transmission and involvement of subjects in communication channels. It is proposed to digitise the systemic communication channels between the State, business and society, which will make the costs of attracting and transmitting information close to zero. *Practical implications.* A scientific and methodological approach to increasing the level of institutional convergence is developed. *Value/originality.* A methodology for assessing the level of institutional convergence in Ukraine is proposed, which involves the selection of informative indicators of convergent/divergent processes in the country from international institutional quality indices and the systematisation of the information obtained. The concept of increasing the level of institutional convergence, which includes the digitalisation of public communication channels, is developed.

**Key words:** institutional convergence, Ukraine, anti-divergent measures, informal institutions, formal institutions.

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## 1. Introduction

The role of the state, as the representative of the public interest, is to regulate life in the interests of its citizens. In theory, this regulation should take place through the formalisation of established traditions, norms and rules. In practice, however, in every country in the world, there is a greater or lesser degree of discrepancy between the formal institutions regulated by the state and the informal norms and rules followed by particular social groups. The desirable state in which these two categories are identical is called "institutional convergence", while the opposite situation, in which formal norms and rules do not de facto apply to all spheres of social relations, is called "institutional divergence".

When using the term "institutional convergence" in this study, attention should be paid to the context of its use in existing scholarship. Typically, this term refers to the state of convergence (similarity) of institutions used within different systems (Knack, 1996; Keefer & Knack, 1997; Savoia & Sen, 2012). For example, the similarity of formal institutions in the European Union (EU) (Schönfelder & Wagner, 2019; Kozzyuk, 2016; Iancu, 2009). Given that the formal and informal institutional environments are essentially self-sufficient social systems within a single society, the institutions that create them can be studied for their convergence. Accordingly, the term "institutional convergence" is logically used to denote the degree of this convergence, while the degree of divergence is characterised by the concept of institutional divergence.

A high level of institutional divergence in society leads to an increase in the transaction costs of interaction between citizens, which in the opposite case (under conditions of convergence) are borne by the state. In other words, when actors use informal institutions, they spend their own resources to guarantee the fulfilment of the terms of an informal contract, to search for information, to ensure security, etc. Consequently, divergence creates additional costs for the mechanism of the functioning of the economic system.

The purpose of the article is to assess the level of institutional convergence in Ukraine and to develop recommendations for its improvement. To this end, the following tasks have been set and solved: an assessment of the level of institutional convergence in Ukraine has been carried out, which includes an analysis of international indices characterising the quality of formal institutions and a further selection of indicators that are informative about convergent/divergent processes in the country; factors supporting institutional divergence in the country have been identified; recommendations have been developed to offset the importance of factors supporting institutional divergence.

## 2. Genesis of institutional convergence/divergence

Institutional divergence as a phenomenon has various origins. It can stem from different perceptions within a society of effective ways of meeting individual needs, making it difficult to reach consensus on the content of formal institutions. At the same time, divergence can come from the state itself, or rather from its leaders. By ostentatiously introducing state institutions, they create the illusion that they are responding to society's demand for certain models of order. In practice, however, the country's leaders rely on the bureaucracy and tacitly apply informal rules and regulations in the state that maximise their own needs. In this case, the formal institutions serve both to maintain the appearance of meeting the demands of society and as an instrument of pressure on actors who act against the interests of those in power.

The institutional divergence created by the state spreads from top to bottom, penetrating all spheres of society. Over time, the idea that this is normal takes root in the minds of the population. Society learns to manoeuvre between formal and informal institutions, thinking less and less about the original social contract that gave rise to the state. At the same time, there is a stratum of citizens (mostly ordinary workers, farmers, pensioners, housewives) who, because of the isolation of their sphere of activity, rarely encounter manifestations of institutional divergence and therefore believe that they live in a relatively convergent society.

Overcoming the institutional divergence in the above case is extremely difficult because any direct regulatory action (through formal institutions) will bump up against the well-established ability of institutionally active citizens (those who most often turn to institutions to regulate their activities) to manoeuvre between formal and informal institutions. That is, the introduction of new formal rules and regulations will encourage society to adapt its actions to the new institutions without changing the paradigm of relations.

Stability of relations, an additional psychological factor that makes it difficult to overcome divergence. Kenneth Arrow, a Nobel Prize winner in economics, notes: "Social agreements are usually much harder to change than individual decisions. When you are obliged not only to yourself but also to many other participants in a common cause, the difficulty of changing this agreement becomes considerable." (Arrow, 1974)

In an environment where organisations are effectively regulated by informal institutions, changing the behaviour of each individual member, which would go against the established pattern of

behaviour in the organisation, would at best risk ostracising them. Therefore, individual members are not motivated to change their behaviour and thus maintain the divergent structure of the organisation. Under static conditions, collective behavioural change is also unlikely, because informal organisational institutions are usually created to protect the interests of the majority of their members, or the interests of the organisation's leadership (in the case of a hierarchical organisation), which has sufficient leverage to suppress the will to change in the rest of the organisation.

Theoretically, under the above conditions, institutional convergence, i.e., the state in which formal institutions actually regulate all spheres of society, can be achieved through repression or through incentives. The first involves the introduction of severe penalties for breaches of formal norms and rules, together with total control over their implementation. The second is to create incentives that encourage society to abandon its own informal norms and rules in favour of formal institutions. That is, the state should create conditions under which it would be more profitable for the population to live by the law than to break or evade it.

### **3. Assessment of the level of institutional convergence in Ukraine**

Since formal institutions are the quintessence of institutional convergence, international indices that characterise the quality of such institutions can be informative for the assessment. There are a number of reputable international indices that characterise the quality of institutions from different perspectives, namely the effectiveness of public administration, ease of doing business, respect for the rule of law, protection of property rights and freedom of economic activity. Each of them alone is not sufficiently informative to characterise the degree of convergence in a society. However, the internal indicators (or sub-indices) on which such indices are based can provide more useful information. Therefore, some of them can be considered as effective assessment tools.

The informative value of internal indicators depends on the content of the phenomena being assessed. That is, on the extent to which the origin of a particular conjuncture of social relations (expressed by the indicators) is related to convergent changes in the intuitive environment. Therefore, in order to develop a methodology for a comprehensive assessment of the level of institutional convergence in society, it is first necessary to analyse the internal indicators of various international indices for their origin in convergent/divergent processes.

The analysis starts with the aggregate indicators of the Worldwide Governance Indicators (Kaufmann, Kraay & Mastruzzi, 2010), which, unlike the other internal indicators of the institutional quality indices presented here, are not reduced to a common indicator (index score). In other words, this methodology assesses the quality of public administration on the basis of a variety of factors, without any generalising characteristic.

The World Bank compiles the Governance Indicators once a year, assessing institutions based on various criteria, including: Voice and Accountability; Political Stability and Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law; and Control of Corruption. The indicators are rated on a scale from 2.5 (highest) to -2.5 (lowest).

Based on the analysis of the content of public administration quality indicators, Serdiuk (2022) found that the indicator of Political Stability and Non-Violence (PSNV) is the most informative about convergent/divergent processes in the state. Partially dependent on the civil liberties factor, the Political Stability and Non-Violence (PSNV) indicator measures the stability of formal institutions, the likelihood of abrupt change, political change, destabilisation and the likelihood of government overthrow by unconstitutional means or violence. The direct link between these phenomena and convergence or divergence processes is obvious, since the stability of formal institutions is the quintessence of society's perception of these institutions. In the opposite case, society will rely on informal institutions in its everyday life and thus move towards institutional divergence. At the same time, the phenomena derived from the stability factor of formal institutions, such as destabilisation, the likelihood of abrupt changes and changes in political course, are related at the micro level to the degree of loyalty that society has to formal institutions. For example, citizens who are dissatisfied with the existing formal institutions will be inclined to take actions aimed at changing them, including illegal ones. Thus, divergent processes will take place.

Given the direct link between the content of the PSNV and convergence/divergence processes, the indicator can be identified as a quantitative assessment of the degree of institutional convergence in society. At the same time, it should be noted that such an assessment cannot be interpreted as comprehensive, since the scope of the indicator is limited to phenomena that affect the stability of the state order. That is, social processes that pose a potential threat to existing formal institutions. Such processes are an undeniable, but not absolute, feature of convergence/divergence processes. Institutional divergence can also occur under

conditions of apparent political stability, when *de facto* formal norms and rules do not prevent the use of informal institutions.

Taking into account the factor of "non-informative stability", the assessment of convergence based on the PSNV indicator should be seen more as a consensus between the state and influential social groups. The key nuance for an objective assessment of convergence in this case is the extent to which influence is determined by the size of the group. In developed democratic, liberal countries, the *de facto* influence of each individual citizen is high, so that even a small group of such citizens has the potential to destabilise the political system. In authoritarian states, on the other hand, only a small group of elites is *de facto* influential. Thus, in the first case, the state's consensus with influential forces is a direct sign of institutional convergence, while in the second case, convergence is more likely to be limited to elites than to society as a whole.

The factor of "uninformative stability" can be levelled by a comprehensive assessment of the convergence/divergence phenomenon, taking into account the indicators of the level of stability together with the indicators of the influence of the broad masses of society. One of the key criteria for such an assessment is the level of the rule of law in the state, since in the modern world this factor determines the parity of relations in medium-sized societies. In other words, the higher the level of the rule of law in society, the more equal the influence of each citizen, and the less imbalanced the potential for destabilisation. Under such conditions, the state will be forced to reach a consensus with the population at large, which will lead to a movement towards institutional convergence.

A number of reputable international organisations research and assess various aspects of the rule of law. Among them is the World Justice Project (WJP), which has been annually compiling the relevant index for 139 countries since 2015. According to the assessment methodology, the Rule of Law Index is an integral indicator of 8 internal indicators that characterise: civil and criminal justice; restrictions on the powers of government institutions; objectivity of the application of law; ensuring fundamental rights; order and security; openness of government; and the level of corruption (World Justice Project, 2022). The index indicators are rated on a scale from 1 (highest) to -1 (lowest).

In addition to providing useful information on the influence of the general population, the Rule of Law Index is also an indirect measure of the level of institutional convergence in a society, as it characterises the degree to which the authorities adhere to formal norms and rules. It should be noted that the indicators in the index have different levels of information about convergence/divergence.

It has been established (Serdiuk, 2022) that within the WJP index, the most informative indicators of convergent/divergent processes are the absence of corruption (AC) and the effectiveness of the right enforcement (RE). The AC indicator characterises the level of corruption of public authorities. It covers three forms of corruption: abuse of influence for personal or collective gain, bribery, and misuse of public funds or other resources (World Justice Project, 2022). Given that any manifestation of corruption is a direct sign of institutional divergence, the AU indicator should be considered informative for assessing the level of institutional convergence. With regard to the factor of public influence, the AU indicator characterises citizens on the basis of their material wealth. That is, corruption as a phenomenon creates the conditions for individuals to gain influence by bribing the creators and protectors of formal institutions (the authorities). As a result, the person who has committed such a bribe *de facto* leaves the sphere of influence of formal institutions and gains more influence over other citizens. The AC indicator therefore fulfils both assessment criteria.

According to the methodology, the RE indicator measures how impartially the legal framework is applied and how the rules set out in laws and administrative procedures determine behaviour within and outside government (World Justice Project, 2022). Impartiality in the application of the law, or in other words, the impartiality of the actions of the protector of formal institutions, is a direct sign of institutional convergence. In the opposite case, when there is "selective justice", formal institutions of law are in a divergent state in relation to society.

In order to improve the quality of the assessment and to completely eliminate the factor of "uninformative stability", along with the identified indicators of the Rule of Law Index, indicators that characterise the level of parity of influence of citizens should be taken into account. In this case, narrow-profile indices may be informative, as certain aspects of institutional bias may reflect informal state policy towards citizens. At the same time, generalised indices such as the Rule of Law Index may mask important convergent/divergent features due to the scale of assessment. Therefore, in order to objectify the assessment of the degree of institutional convergence, indicators from a narrowly focused index should be considered alongside indicators from the general "social stratification index".

A narrower index that characterises the degree of stratification of society by influence is the International Property Rights Index compiled by the Property Rights Alliance (Property Rights Alliance, 2022). This index is an integral measure of three sub-indices assessing the legal and policy

environment, physical property rights and intellectual property rights. Each of the sub-indices in turn contains internal indicators that are scored on a scale from 10 (highest) to -10 (lowest).

In the modern world, de jure guarantees of property rights protection apply to all segments of the population, and therefore any deviation from this norm can be seen as a sign of institutional divergence, based on the actual deprivation of legal rights of citizens and thus weakening their influence. Therefore, the property rights protection indicator is potentially informative about the manifestations of institutional convergence/divergence.

According to the results of the study (Serdiuk, 2022), it was found that the indicator of protection of physical property rights (PPR), which belongs to the sub-index "Physical Property Rights", meets the narrow-profile assessment criterion. The inadmissibility of the use of forced alienation of property rights (except in certain cases provided for by law) is a sign of institutional convergence in the state. In the context of the stratification of society, this means that de facto influential groups of people do not have the practical ability to appropriate the property of other citizens.

Thus, based on the results of the analysis of international indices of institutional quality, it was found that the most informative indicators of convergent/divergent processes in the state are: political stability and absence of violence (PSNV); absence of corruption (AC); effectiveness of law enforcement (RE); protection of physical property rights (PPR). Therefore, they are eligible for evaluation (Figure 1).

The assessment found that the state of the institutional environment in Ukraine is close to divergence. This is particularly true for the manifestations of institutional divergence leading to corruption. Political stability and the absence of violence are also quite low. However, this can be explained by the annexation of Crimea and the war in eastern Ukraine<sup>1</sup>.

The low level of institutional convergence in Ukraine (or, on the other hand, the high level of divergence) makes it expedient to implement measures aimed at improving it.

#### 4. Identification of factors that support institutional divergence in the state

Individual motives that lead people to use certain institutions are shaped by the external environment. This environment de facto determines the behavioural guidelines of social actors (Alchian, 1950). In this case, interest comes from the potential opportunities created by the guidelines, and constraints set limits to the guidelines. If an individual social participant is aware that the existing guidelines create opportunities for him/her to benefit by depriving another of resources, he/she is more likely to follow this path. The logical structure of behaviour is as follows: guideline – acceptability of competition for a resource; motive – obtaining benefits; interest – maximising benefits at the expense of another; constraints – allowing to obtain benefits at the expense of another. At the same time, it can be expected that the other party will also follow this path.

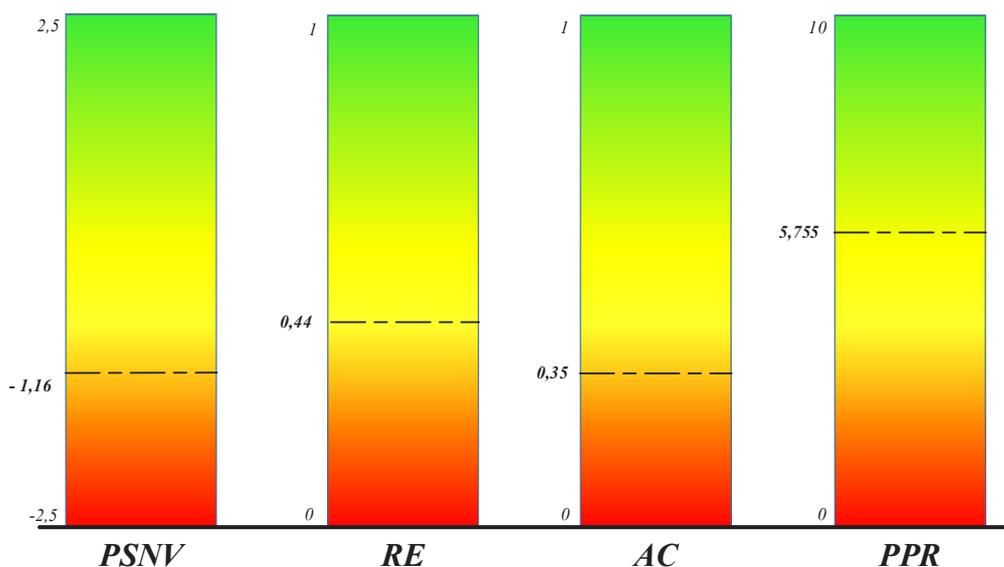


Figure 1. Scores of the "institutional convergence/divergence" indicators for Ukraine

<sup>1</sup> The indicator value for 2021 was used for the assessment. The indicator for 2022 is not yet available. However, it is clear that given Russia's full-scale invasion of Ukraine in February 2022, the indicator for this year will be significantly lower.

Institutional divergence creates freedom of action for social actors. That is, a person can choose which institutions to use to achieve his or her goals (formal or informal). Under conditions of prevailing divergence, the returns to using formal institutions will be minimal, as most actors will play by informal rules. For example, if courts and officials are de facto part of a system of informal relations, and a legitimate decision is against the interests of that system, an appeal to the judiciary will have no effect. The aggrieved party will therefore be inclined to seek a solution within the system of informal relations.

Despite the low effectiveness of formal institutions in the context of institutional divergence, they remain an effective tool for overcoming the divergence itself. It should be noted that institutional divergence in a state is always relative. If divergence were absolute, i.e., all citizens followed informal rules, such rules would eventually be formalised and the society would move to a state of absolute institutional convergence. This implies that in any divergent society there is a significant layer of citizens who rely on formal institutions. These are usually ordinary workers, farmers, retired people and housewives who, because of the isolation of their sphere of activity, have little contact with the system of informal relations. There is also a proportion of citizens who use informal rules because formal institutions are ineffective. This means that formal institutions are more in line with their interests than informal ones, but they choose effective informal ways to solve their problems. All these people therefore represent a potential force for counteracting institutional divergence.

Since in a divergent society there is always an influential stratum of citizens who tolerate formal institutions, it is obvious that this force will be used by those with a claim to power (even if they are a key link in the system of informal relations). They will declare their commitment to formal institutions and appeal to them as effective tools for overcoming social and economic problems. In such circumstances, when a significant part of society demands institutional convergence, rejecting formal institutions entails risks and losses. The exposure of informal activities by interest groups (e.g. those seeking power) creates risks for those who will be held accountable. The extent of this risk depends on the activity and awareness of the impartial part of society, under whose pressure judges and officials (if they are involved in the system of informal relations) will not dare to sabotage the implementation of formal rules. Such risks will encourage offenders to take measures to conceal their illegal activities, which will require additional resources. It follows that, in the context of institutional

divergence, all those involved in the informal system of relations incur additional costs that would not have been incurred in the case of convergence.

Additional costs are not always an argument for actors to refuse to participate in the system of informal relations, as the benefits of participating in such a system may significantly outweigh the costs. It follows that the condition for actors to refuse to use informal institutions is that the costs of concealing illegal activities outweigh the benefits of engaging in the system of informal relations.

### **5. Recommendations for increasing the level of institutional convergence**

As noted above, the cost of concealing illegal activities depends on the degree of risk of exposure, which in turn depends on the activity and awareness of society. The activity of society is an endogenous factor that depends on general attitudes and internal motives. It cannot be achieved by institutional measures alone. However, it is possible to create favourable conditions. In particular, by raising public awareness of the real situation in the country.

In the context of solving the above problem, it is necessary to pay attention to the peculiarities of information dissemination within the system. The main principle of information dissemination is as follows: observation – transmission, or observation – analysis – conclusion – transmission (if necessary). In the first case, the result of the above sequence of actions is first-level information, characterised by a limited content of the phenomenon. Second level information (the second case) is more meaningful, but more susceptible to subjective perception.

Depending on the structure of the organisation (the state should also be seen as an organisation), actors use one or another principle of information dissemination. Existing communication systems determine the cost of information transmission, which, together with motives, determines the degree of information dissemination in society. In other words, if an actor has a certain interest in disseminating information that he/she knows, and if it costs him/her little effort or money to do so, he/she is likely to disseminate it to interested parties.

However, low communication costs and limited incentives to disseminate information may not be sufficient to make information available to the general public. The cost of obtaining information is important. In the case of first-level information, the cost of acquisition is determined by the direct or indirect costs associated with monitoring the information source (time, technical equipment, hired staff, etc.). In the case of second-level information, the cost of analysis is added (own mental effort,

expert work, computer equipment, etc.). Therefore, the degree of diffusion can be expressed as the ratio of the sum of the costs and benefits caused by the transfer of information to each subsequent person.

In other words, information will be disseminated as long as the benefits of its transmission to each subsequent person exceed the costs of its acquisition and dissemination. At the same time, it should be noted that the cost of obtaining information extrapolated to each individual decreases with the number of people to whom the information is disseminated. This means that, unlike the transmission factor, the cost of acquiring information does not depend on the number of people who possess it, and therefore, when comparing costs and benefits individually, the cost of disseminating information will decrease with the number of people to whom the information is disseminated.

Assuming that the amount spent on acquiring information is a constant value, the degree of its dissemination is mainly determined by the marginal cost of information transmission. Over time, these costs have decreased due to the development of information communication systems. For example, from the very beginning, information about certain events was passed on verbally. Later, they started using mail, telegraph, telephone and finally moved to digital information transfer. It should be noted, however, that at least in Ukraine, the potential of digital technologies is not fully exploited, although there has been some progress in this regard, such as the Diia application.

Digital technologies make it possible to reduce the marginal cost of information transfer to zero (Gupta, 2019). The only issue here is to create and promote digital platforms that bring together information producers and recipients. Today, local examples of such platforms are Yelp – a website for the dissemination and search of information on the quality of services in the local market (restaurants, hairdressers, etc.); Booking is an online hotel booking system that offers a wide range of possibilities for disseminating and searching for information on the quality of accommodation; Google Maps is a set of applications for mapping services with an integrated function for decentralised description of social facilities; and others. However, such platforms have a limited number of users, partly due to the subjectivity of both the platforms and the consumers. That is, consumers of information understand that firstly, the private owner of the platform has his own agenda and may therefore distort information to some extent to suit one's own interests, and secondly, information producers may also be biased or simply have no incentive to report events objectively.

In view of the above, it can be concluded that in order to attract as many active users as possible to digital platforms, two key conditions should be ensured: firstly, trust in the information contained on the platform; secondly, benefits from the dissemination and receipt of information. In the first case, the state can act as an a priori source of trust (although, as previously demonstrated, not unconditional trust). That is, the platform should be created by the state, which will create in the minds of many potential users the idea that there is no mercenary purpose for such a step. Trust in the information, coupled with the appropriate context of use, should contribute to the growth of the benefits that users derive from both the dissemination and consumption of information.

Consequently, it is advisable to create a nationwide digital platform where residents of the country can share information about events and the situation on the ground. The platform should be structured in such a way that users have access to interconnected information according to the following scheme: state – region – community – organisation. For example, at the organisational level, users will share information about the situation in the companies or institutions where they work. If necessary, they can submit complaints or suggestions to local, regional or national authorities. Any complaint or suggestion should be followed up with an official report. Under such conditions, the likelihood of malpractice being exposed will increase, as will the cost of concealing it. At the same time, visualising the results of citizens' participation in public life at the individual level will create an idea of the collective importance of the public, which will help to increase its activity.

The rising costs of concealing malpractice due to increased public activism and awareness will reduce the usefulness of using informal institutions. At the same time, additional costs will not be able to completely eliminate the risk of exposure, and therefore it can be expected that a significant number of people involved in the system of informal relations will abandon this system in favour of formal "rules of the game". Such actions will characterise the shift of society towards institutional convergence.

## 6. Conclusions

The study proves the expediency of implementing measures in Ukraine aimed at increasing the level of institutional convergence, especially in terms of stopping the activities of informal institutions that grant illegal privileges to individual citizens in exchange for material rewards. In other words, it is necessary to eliminate informal institutions

that enable corruption. This can be done by raising citizens' awareness of events and processes taking place in businesses, the community and the state. To this end, communication channels between the state, businesses and society should be digitised using digital platforms such as the Diia app.

The digitalisation of communication channels will make it easier for citizens to control the actions of politicians, civil servants, administrators, managers, entrepreneurs, etc. This type of control

will have a positive impact on the effectiveness of the application of the law and the protection of rights to physical property (RE and PPR indices).

Easier access to information for citizens will increase the costs of concealing wrongdoing by those using informal institutions. In this respect, informal rules and regulations will become an unattractive alternative to formal institutions, contributing to institutional convergence.

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