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COMPARATIVE STUDY OF THE BANKRUPTCY PROCEDURE OF STATE-OWNED ENTERPRISES AND THEIR SETTLEMENTS WITH CREDITORS IN UKRAINE AND EU COUNTRIES: ECONOMIC AND LEGAL ASPECTS

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Abstract. One of the key prerequisites for ensuring the stability of the national economy in the conditions of war and deepening crisis processes is the effective functioning of debt restructuring mechanisms and bankruptcy procedures. Given Ukraine's European integration course, studying international experience in reforming the institution of bankruptcy is of particular importance, in the countries of the European Union, as well as in countries such as China, where new modern legislation in the field of insolvency has been introduced. Particular attention is required to the issue of fair, transparent and effective settlements with creditors, including the procedure for satisfying the claims of different groups of creditors, the priority of repayment of obligations, as well as mechanisms for reaching agreement within the framework of restructuring plans. Successful resolution of these issues is critically important for ensuring a balance between the interests of the debtor and creditors, restoring confidence in the financial and economic system and increasing the country's investment attractiveness. Studying the best international practices allows borrowing effective solutions and adapting them to national realities. Therefore, the study of the current state, problems and prospects for reforming the institution of bankruptcy in Ukraine is timely and has not only theoretical but also practical significance for ensuring the economic stability of the state, the development of the legal system and integration into the legal space of the European Union. The purpose of the study is to conduct a comprehensive economic and legal analysis of bankruptcy procedures of state-owned enterprises and their settlements with creditors in Ukraine in comparison with the practices of the European Union countries to identify effective approaches to reforming national legislation. The research methodology consists of the following methods: comparative legal method, analytical method, historical legal method, formal logical method. The study found that the legislative regulation of bankruptcy procedures in Ukraine is gradually approaching European standards, through the implementation of the provisions of Directive (EU) 2019/1023 on debt restructuring and discharge. At the same time, the harmonization process requires not only a formal update of norms but also ensuring proper law enforcement practice. Comparative legal analysis showed that in the EU, the USA and China there are more flexible and economically oriented approaches to preventive restructuring, with special attention to early intervention, rehabilitation of enterprises and preservation of jobs. The Ukrainian model still retains a predominantly liquidation nature of the procedures, which reduces the economic efficiency of bankruptcy as a tool for financial recovery. A particular difficulty in Ukraine is the bankruptcy of state and municipal enterprises, which are often of strategic importance or are closely related to socially important functions. Because of this, the application of general bankruptcy procedures to them is limited, and the rehabilitation mechanisms are ineffective. Analysis of the experience of public-private partnerships in the context of bankruptcy indicates the need to create separate procedures that take into account the specifics of such projects. The effectiveness of enforcement proceedings and the protection of creditors' rights also remain problematic, especially in cases with

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state ownership. Without increasing the level of legal certainty and predictability of judicial practice, the reform in the field of bankruptcy will remain declarative.

Keywords: creditor, bankruptcy, settlements, insolvency, debtor, restructuring, liquidation, commercial court, commercial proceedings, bankruptcy proceedings.

JEL Classification: E51, G33, G34

1. Introduction

In the context of the current transformation of the legal system of Ukraine, especially in view of the processes of European integration and the implementation of the provisions of the Association Agreement between Ukraine and the European Union (Verkhovna Rada of Ukraine, 2014), the issue of the effectiveness of bankruptcy procedures, in particular with regard to state-owned enterprises, is becoming particularly relevant. In the context of the adaptation of Ukrainian legislation to the EU legal system in accordance with the Law of Ukraine "On the National Program for the Adaptation of the Legislation of Ukraine to the Legislation of the European Union" (Cabinet of Ministers of Ukraine, 2004), as well as in connection with the implementation of Directive (EU) 2019/1023 on the introduction of preventive restructuring procedures (Directive, 2019), there is a need for a critical rethinking of existing institutions in the field of insolvency (Law 985-IX, 2024).

The legislative regulation of bankruptcy procedures in Ukraine is carried out in accordance with the Code of Ukraine on Bankruptcy Procedures (Law 2597-VIII, 2018), which defines the general principles of insolvency proceedings for both the private and public sectors. However, in practice, there is a significant imbalance between legislative provisions and their implementation, especially in the field of bankruptcy of state-owned enterprises. The formal use of procedures, abuse by participants, manipulation of enforcement proceedings (Law 1404-VIII, 2016), as well as inconsistency with modern European standards limit the effectiveness of this institution as an instrument of market rehabilitation or liquidation.

While in European Union countries such as Germany, France, and Poland, the prevailing approach to bankruptcy procedures as an element of economic policy with clear procedural regulation, a balance between public and private interests, and preventive restructuring mechanisms (McCormack, 2022), in Ukraine there is fragmentation of law enforcement practice, particularly in the public sector. State-owned enterprises have a specific status due to their role in providing socially important functions, managing strategic infrastructure facilities, and participating in the implementation of social policy. The application of general private law norms to such entities without adaptation to their legal status leads to numerous problems, including the loss of state property, violation of creditors' rights, and distrust of the institution of bankruptcy.

In addition, international experience in this area is important, particularly the analysis of bankruptcy systems in Asia, as noted in the Falke study (2007), which emphasizes the gap between adopted laws and their actual application – a problem that is also specific to the Ukrainian context.

In this regard, it is important to review the norms of the Bankruptcy Procedures Code and harmonize them with new EU approaches in the field of restructuring, financial recovery, and responsible management of state property in accordance with the Law of Ukraine "On Privatization of State and Communal Property" (Law 2269-VIII, 2018).

Thus, the relevance of the study of comparative studies of bankruptcy procedures of state-owned enterprises in Ukraine and the EU countries lies in the need to identify legal discrepancies, assess the level of compliance of national legislation with European standards, and develop recommendations for the implementation of effective legal mechanisms taking into account the public interest, principles of transparency, accountability and sustainable development.

Special attention deserves the analysis of approaches to satisfying creditors' claims in bankruptcy procedures of state-owned enterprises, in particular the order of payments, procedures for verifying claims, as well as the role of the state as a possible debtor, regulator and participant in property disputes at the same time. Comparison with the legal models of the EU countries allows us to outline the most balanced mechanisms of interaction between debtors and creditors in the conditions of preserving the public function of enterprises.

The object of the study is legal relations arising in the process of implementing bankruptcy procedures for state-owned enterprises in Ukraine and the European Union, considering their economic nature, functional purpose and role in the public sector of the economy.

The subject of the study is a comparative legal analysis of economic and legal mechanisms for regulating the bankruptcy of state-owned enterprises, the features of the national legal systems of Ukraine and the EU countries, as well as the institutional and procedural aspects of the application of relevant instruments in the context of ensuring financial stability, effective

management of state assets, and compliance with the principles of fair competition.

Research objectives:

1. To reveal theoretical and legal approaches to determining the essence and functions of bankruptcy procedures in the public sector, taking into account the dual nature of state-owned enterprises as business entities and carriers of public interest. Particular attention should be paid to the role of bankruptcy as a tool for rehabilitation or termination of activities, as well as mechanisms for satisfying creditors' claims in the context of limited public resources and potential conflict between creditors, employees and the state as an owner.

2. To investigate the legislative regulation of bankruptcy of state-owned enterprises in Ukraine and EU countries, in particular regarding the legal status of such enterprises in the insolvency procedure; the features of opening proceedings in bankruptcy cases; the procedure for recognizing and satisfying creditor claims; the role of the state in the arbitration process and the legal mechanism for settlements with creditors of different tiers (in particular, in the case of the participation of public obligations, tax debts, social payments, etc.). To identify key differences and common features between the Ukrainian regulatory model and the practices of the European Union countries.

3. Analyze the economic consequences and legal risks of applying bankruptcy procedures to state-owned enterprises, including: the impact on the labor market and the provision of public services; the risks of evading financial obligations to creditors; the danger of manipulative use of the procedure for privatization or asset divestment, as well as the issues of fairness and efficiency of settlements with creditors, in particular the priority of their claims, the duration of procedures and the influence of political factors on their implementation.

The research problem is the lack of a balanced model of interaction between state regulation and market mechanisms during the implementation of bankruptcy procedures in the public sector. In addition, the issue of the institutional capacity of the judicial system, transparency of financial reporting and the availability of effective debt restructuring mechanisms is relevant. In this context, comparative analysis allows us to identify the best practices of EU countries, identify adaptive mechanisms and propose optimal ways to reform the institution of bankruptcy of state-owned enterprises in Ukraine.

2. Methodology

The study applied a set of scientific methods that provided a comprehensive and systematic disclosure of the issues of bankruptcy of state-owned enterprises in Ukraine and the European Union. The methodological basis was modern approaches of legal comparative studies, economic and legal analysis and doctrinal synthesis. The comparative legal method became the main research tool, as it allowed to identify structural, substantive and procedural differences and similarities between the bankruptcy systems in Ukraine and in the EU countries. It made it possible to assess the legal compatibility of national legislation with the law of the European Union. The norms of the Code of Ukraine on bankruptcy procedures (Law 2597-VIII, 2018) were compared with the EU Directive 2019/1023 (Directive (EU), 2019), bankruptcy procedures were studied in Germany, Poland, France – countries that have established and representative models of state intervention in bankruptcy. For an additional comparative framework outside the EU, an assessment of the Chinese model was carried out, which is relevant in the context of the global trend of restructuring, according to the studies of Falke, Omar, Taiti. The criteria for selecting countries were: the presence of developed and reformed bankruptcy legislation (Germany, France), similarity of the legal system or post-socialist context (Poland), global interest and innovativeness of the approach (China).

Within the framework of this approach, the mechanisms for satisfying creditors' claims in bankruptcy procedures of state-owned enterprises were also investigated, the order of their prioritization, the issue of state participation as a creditor or guarantor of obligations, as well as approaches to debt settlement in the public sector.

The analysis method was used to study the content of regulatory legal acts, scientific publications, international documents and statistical materials related to the legal regulation of bankruptcy of state-owned enterprises. The analysis covered both current legislative acts (the Code of Ukraine on Bankruptcy Procedures (Law 2597-VIII, 2018), the Law of Ukraine "On Privatization of State Property" (Law 2269-VIII, 2018), the Law "On Enforcement Proceedings", the Law on the Implementation of Directive 2019/1023, etc.), and doctrinal sources of Ukrainian and foreign authors who study the mechanisms of bankruptcy, restructuring, preventive rehabilitation. Particular attention was paid to the practices of settlements with creditors, as well as the problems of non-fulfillment of obligations by state-owned enterprises to suppliers, banks and employees. The method allowed to identify legal contradictions, duplication of functions of bodies, procedural shortcomings and problems of interaction between public and private creditors. The historical and legal method was used to clarify the genesis of the legal regulation of bankruptcy in Ukraine and the EU. The evolution of national legislation from the regulations of the 1990s to the adoption of the

Bankruptcy Procedure Code in 2018 and subsequent amendments in 2024 aimed at implementing the provisions of EU Directive 2019/1023 is traced. In the context of European integration, the transition from the liquidation model to the restructuring model is examined, as well as the development of the idea of a "second chance" for the debtor. The evolution of approaches to the priority of settlements with creditors in a historical context is separately examined – both in the EU countries and in Ukraine, where there was a gradual departure from the priority of state interests to a more balanced approach. The formal-logical method was used to clarify legal definitions, systematize terms, and logically harmonize legal constructs. With its help, the essence of the concepts of "bankruptcy", "state enterprise", "restructuring", "liquidation", "preventive procedure", "second chance", as well as "creditor's claim", "public debt", "satisfaction of claims" was analyzed. The method allowed to formulate substantiated conclusions regarding the need for regulatory clarification of approaches to prioritizing the claims of various categories of creditors within the framework of insolvency procedures of public sector entities. As for the selection of research sources, the basis of the analysis was the regulatory and legal acts of Ukraine, which directly regulate the institution of bankruptcy. Sources of foreign law, available through the HeinOnline, ElgarOnline, ProQuest, DOAJ databases, were also involved. Scientific literature for the study was selected according to the principles of relevance, professionalism and thematic relevance – with a focus on the public sector, European harmonization, international experience and economic and legal aspects of restructuring.

As a result of the application of these methods, it was possible to achieve a comprehensive scientific understanding of the current state of the institution of bankruptcy of state-owned enterprises in Ukraine, compare it with European standards, identify the features of the mechanisms of settlements with creditors in the context of public procedures and formulate practical proposals for the effective implementation of Directive 2019/1023 into Ukrainian legislation.

3. Resent Research Studies

The article by Zyatina and Zgama (2022) substantiates the thesis about the lack of harmonization of Ukrainian legislation with modern transnational standards on bankruptcy procedures, especially in the aspect of the foreign element. The authors rightly emphasize the need for unification of bankruptcy procedures for foreign and domestic entities and also emphasize the complexity of applying international law in the national legal system. This argument is worth agreeing with, because international solvency and protection of creditors' rights require unified regulation.

Bulyzhin's publication (2017) analyzes the experience of EU countries in the legal regulation of bankruptcy. The presence of two approaches is determined: restructuring (e.g., France, the Netherlands) and liquidation (e.g., Poland, Bulgaria). The author rightly emphasizes the importance of preventive restructuring mechanisms, but focuses mainly on general provisions, without specifying the role of state-owned enterprises. One can agree with the position on the need to transition from a liquidation to a rehabilitation model, especially in the context of preserving the economic value of public sector enterprises. At the same time, one would like to see more empirical data or cases of the application of legislation in practice in the study.

The study by Vilchyk (2023) deserves special attention, as it contains a comparative analysis of the institution of bankruptcy in Ukraine and Germany. The author reasonably points to a higher level of procedural certainty, the presence of specialized courts and the effective role of arbitration managers in German law. We fully share the position on the need to introduce preventive restructuring mechanisms in Ukraine based on the German Insolvenzordnung. However, the work does not consider the peculiarities of the status of state property in Germany, which could significantly supplement the comparative context.

In the article by Melnychenko (2020), the emphasis is placed on the legal mechanism of bankruptcy of state-owned enterprises in Ukraine. The author reveals the specifics of the legal status of such enterprises, which consists in the dual nature – on the one hand, they operate based on economic calculation, and on the other – they are carriers of the public interest. It is worth agreeing with the author's position on the need to reform the legislation to ensure the possibility of real application of bankruptcy procedures to state entities, avoiding a formal moratorium and introducing mechanisms for effective management of crisis assets. At the same time, in our opinion, the article does not pay enough attention to international experience – for example, to the mechanisms for the rehabilitation of state-owned enterprises in the EU or Asia, which could strengthen the comparative component.

Chorna's monographic study (2018) covers a global comparison of bankruptcy systems (Anglo-American, continental, and Asian), which highlights not only legal but also economic aspects. The analysis of the Chinese bankruptcy model is particularly useful, which, despite its relative novelty, has already demonstrated effectiveness in the field of corporate recovery. We share the author's approach to the need to consider the institutional environment, in particular the independence of courts and the role of creditors. We also support the idea of the impact of the "stigmatization" of bankruptcy on the effectiveness of the application of relevant procedures, which is

extremely relevant for Ukraine. However, the work does not sufficiently explore the sphere of the public sector as a separate object of analysis, which limits its applied value for our study.

Filatov's (2024) article quite rightly emphasizes that effective bankruptcy is not only a legal mechanism for terminating a business entity, but also an important tool for improving the economy. The author emphasizes the need to modernize approaches to asset rehabilitation and restructuring, introduce flexible mechanisms for preventing insolvency, and also the problem of abuse of bankruptcy moratoriums, which effectively block the implementation of market approaches. We fully agree with this thesis, especially in the context of state-owned enterprises, which are often in an artificially maintained state of unprofitability due to political expediency, rather than economic logic.

The work of Tkalych, Samoilenko and Huk (2022) highlights the little-studied but extremely important issue of bankruptcy of a private partner within a public-private partnership. The work correctly points out the gaps in the legislation of Ukraine regarding mechanisms for protecting the interests of the state in the event of bankruptcy of a private investor, which is especially relevant in infrastructure projects. We agree with the authors that the legal regulation of PPPs in Ukraine is currently fragmentary and does not provide a proper balance between the risks of both parties. This has a direct impact on state-owned enterprises that act as a public partner.

The publication by Tyshchenko (2025) raises the issue of introducing simplified bankruptcy procedures in Ukraine in accordance with the European Directive (EU) 2019/1023. The author argues, with good reason, that the Ukrainian bankruptcy system remains complex, expensive, and inaccessible to most debtors, including small state-owned enterprises. We agree with the position that the introduction of simplified bankruptcy could significantly accelerate the cleansing of the market from ineffective assets and facilitate the restructuring of viable entities. However, the author does not pay enough attention to the potential risks of such an approach, in particular the risks of abuse of the procedure by unscrupulous officials or the systematic write-off of state assets. In the context of the public sector, these threats are particularly critical.

Regarding international experience, the works of Falke (2007) and Omar (2013) analyze the bankruptcy reform in China, which took place with the adoption of the bankruptcy law in 2006. Falke notes in his article that the new Chinese legislation, despite the political complexity, allowed the introduction of corporate rehabilitation mechanisms that are actively used by state-owned corporations. The author emphasizes the importance of combining market and administrative levers, which can be a valuable example for Ukraine. We support this view, since in the case of state-owned enterprises, where the state simultaneously acts as an owner, creditor, and regulator, classic market models of bankruptcy often prove to be ineffective. Omar considers the problems of implementing Chinese law in practice, in particular, difficulties in the activities of the courts, conflicts of interest when involving arbitration managers, and political pressure on rehabilitation processes. The author rightly notes that even the most modern legislation will be ineffective without an independent judiciary and a transparent management system. We agree with this statement and see an analogy with the Ukrainian context, where the introduction of new norms without changing the institutional culture does not produce the expected result. At the same time, the Chinese model contains elements that can be adapted in Ukraine: control over the restructuring of strategically important assets.

The collection Kusumaningrum and Liemanto (2023) highlights the features of business and legal transformations in developing countries, with an emphasis on legal instruments to support insolvent enterprises. The authors argue the importance of developing local procedures based on a combination of legal transplant and domestic regulatory context. We agree with the thesis that mechanical copying of Western models in countries with economies in transition, such as Ukraine, does not bring proper results without taking into account institutional weakness, distrust of the judicial system and political interference in the bankruptcy of state-owned enterprises. At the same time, the authors lack practical concretization of mechanisms that could be adapted to the conditions of Ukraine, which leaves their conclusions at the level of general principles.

Moreover, Begg and Portes (1993) analyze the experience of financial restructuring of enterprises in Central and Eastern Europe at the early stage of market economy transformation. They point to a serious problem of outdated debt structure, lack of adequate judicial infrastructure and political pressure, which leads to chronic insolvency. Particularly valuable is their idea that restructuring should not be just an accounting act, but an institutionally motivated process of creating a new model of corporate governance. We fully share this position, since state-owned enterprises in Ukraine often use restructuring as a mechanism for temporary "hiding" from responsibility without actual reform.

Interesting from an applied point of view is the study by Sternadelová (2011), which proposes to use the Net Present Value (NPV) method when valuing assets in the bankruptcy procedure of industrial enterprises, considering NPV allows making economically sound decisions about rehabilitation or liquidation. We support this opinion, since in Ukrainian practice a formal approach to property valuation without a real

analysis of its potential still dominates. However, the author limits herself to only economic tools, without touching on the legal barriers to implementing this approach in judicial procedures, which is a certain drawback of the study.

In her seminal work, Taiti (2018) examines the cultural and social stigmatization of bankruptcy in China, the EU, and the US. The author argues that it is the social context that plays a key role in the perception of bankruptcy not as a failure but as a second chance. In the EU, in particular, the implementation of Directive 2019/1023 on restructuring aims to change public attitudes towards bankruptcy. This position is quite relevant for Ukraine, where the bankruptcy of a state-owned enterprise is often interpreted as a political failure or sabotage, rather than as an economic necessity. We agree with the importance of deconstructing the negative image of bankruptcy, but we believe that this should be accompanied by strict control against abuse and corruption schemes in the liquidation of state assets.

McCormack (2022) provides an in-depth comparative analysis of national approaches to cross-border bankruptcy in the EU. The author emphasizes the importance of harmonizing procedures but points out that legal cultures remain very different. Of particular interest is the analysis of the mechanisms for mutual recognition of judicial decisions within the framework of Regulation (EU) No. 2015/848. For Ukraine, which seeks integration into the EU legal space, this experience has significant practical value. We share the author's opinion that legal transplant is possible only if there is sufficient institutional capacity, which in Ukraine is still fragmentary.

Finally, Huang (2021) examines the conflicts between the US and China over audit oversight, which affect the credibility of corporate reporting, particularly in the event of reorganization or bankruptcy. This aspect is indirectly related to insolvency proceedings, as effective bankruptcy is impossible without transparent financial reporting. We agree with the thesis that regulatory credibility and the possibility of independent auditing are critical for the judicial review of bankruptcy cases. In Ukraine, there is a widespread practice of manipulation of reporting in state-owned enterprises, which requires a systemic review.

A comparative study of bankruptcy procedures for state-owned enterprises in Ukraine, the European Union, the USA, China and the countries of Central and Eastern Europe allows us to draw a number of thoroughly scientifically based conclusions regarding the features of legal regulation, challenges of law enforcement and the potential for reform. First of all, we agree with the conclusions of McCormack (2022), who emphasizes the need to harmonize national legislation with EU Directive 2019/1023, but emphasizes the importance of considering national legal and economic contexts. In this regard, we agree that without an institutional basis (effective courts, independent audit, anti-corruption guarantees) the formal implementation of EU norms in Ukraine will not lead to a qualitative change in bankruptcy procedures for state-owned enterprises.

At the same time, we have critical comments on the positions that provide for a simplified implementation of the "second attempt" without changes in the culture of law enforcement. We support the conclusions of Taiti (2018) that the stigmatization of bankruptcy in post-Soviet countries, including Ukraine, is a significant obstacle to effective restructuring. However, we cannot fully agree with the idea of eliminating the negative image of bankruptcy, since in the conditions of the public sector, bankruptcy is often the result of abuse or inefficient management, which requires legal liability.

An important institutional aspect is the availability of transparent financial procedures. Huang (2021) and Falke (2007) emphasize the importance of financial reporting and auditing, especially in authoritarian or post-Soviet economies. We fully agree that without systematic and mandatory independent auditing, it is impossible to effectively restructure or liquidate state-owned enterprises. This is also confirmed by Ukrainian practice, where the lack of reliable financial information leads to delays in procedures or deliberate bankruptcy.

A comparison with the experience of Central and Eastern European countries, analyzed in the classic work of Begg and Portes (1993), allows us to agree with the statement that enterprise restructuring in a transition economy cannot be effective without limiting state intervention. The Ukrainian system, on the contrary, demonstrates excessive state involvement in bankruptcy procedures, which creates risks of political influence and reduced efficiency of procedures.

A practical model of using economic criteria in bankruptcy decisions is analyzed in Sternadelová (2011), who proposes the NPV methodology for determining the feasibility of enterprise rehabilitation. We agree with this approach, since it is based not only on legal, but also on economic justification, which is relevant for Ukraine. In our legal field, however, a formal approach to asset valuation without taking into account the potential of the enterprise still dominates.

Also noteworthy are the materials of Kusumaningrum and Liemanto (2023), which demonstrate an interdisciplinary approach to the analysis of bankruptcy, combining legal and business aspects. Such an approach is also appropriate for Ukraine, where the problem of bankruptcy is not only legal, but also has a deep economic and social nature.

The study CMS Expert Guide to Restructuring and Insolvency Law: Ukraine (2024) highlights the key features of the legal regulation of restructuring

and bankruptcy in Ukraine with an emphasis on settlements with creditors. It is noted that the current legislation provides for both pre-trial debt settlement and a formalized bankruptcy procedure. Priority in settlements is given to secured creditors, and the claims of unsecured creditors are repaid last, which reduces the effectiveness of protecting their interests. The complexity of selling the assets of state-owned enterprises is emphasized due to restrictions associated with the status of state ownership, which complicates the formation of a liquidation estate. The authors draw attention to the low level of actual satisfaction of creditors' claims and the need to improve the procedures for registering claims and transparency of bankruptcy, especially in the public sector.

The article Poliakov, Kulinich, Vechirko, and Lavrov (2024) examines the relationship between the financial performance of Ukrainian enterprises and the risk of their bankruptcy. The focus is on return on assets (ROA) as a key indicator of solvency. The authors establish that it is low profitability that has the greatest impact on the likelihood of financial insolvency, surpassing other financial parameters such as liquidity or short-term solvency in significance. The study emphasizes that the effective use of assets plays a crucial role in preventing crisis situations and ensuring the ability of enterprises to fulfill their obligations to creditors. These findings are of particular importance for the formation of a policy for restructuring state-owned enterprises in Ukraine and assessing the economic feasibility of applying bankruptcy procedures.

Considering the above, we conclude that the effectiveness of legal regulation of bankruptcy of state-owned enterprises is possible only with a comprehensive approach – a combination of legal reforms, economic assessment and institutional strengthening. International experience can be a source of valuable solutions, but only if it is adapted to Ukrainian realities, and not formally borrowed.

4. Research Results

In the current conditions of global transformation of economic systems and integration of national economies into world markets, the issue of effective legal regulation of bankruptcy procedures is becoming particularly relevant.

Let us consider the regulation of bankruptcy of state-owned enterprises in Ukraine and the EU in more detail.

The regulation of bankruptcy of state-owned enterprises in Ukraine is carried out within the framework of general insolvency legislation, considering individual norms that determine the features of the state's participation as an owner or creditor, as well as the features of the legal status of the entities themselves. The basic regulatory legal act in this area is the Code of Ukraine on Bankruptcy Procedures (Law 597-VIII, 2018), which entered into force on October 21, 2019, which defines the general rules for initiating and implementing procedures for rehabilitation, liquidation, restoration of solvency, etc. Although the Code formally applies to state-owned enterprises, it does not provide for exhaustive regulations taking into account their specifics as objects of public property.

A separate step towards adapting Ukrainian legislation to European standards was the adoption of the Law of Ukraine No. 3985-IX of September 19, 2024, which amended the Code of Bankruptcy Procedures in order to implement the provisions of Directive (EU) 2019/1023 of the European Parliament and of the Council on preventive restructuring mechanisms, discharge of debt and increasing the efficiency of insolvency proceedings. However, it should be noted that the provisions of this law are focused mainly on the private sector and only briefly touch on the public segment, which creates a legal gap in the context of bankruptcy of enterprises that are of strategic importance or perform public functions.

In the context of adapting national legislation to the norms of the European Union, the Law of Ukraine "On the National Program for Adapting the Legislation of Ukraine to the Legislation of the EU" (Law 1629-IV, 2004) is of particular importance, which establishes the legal basis for harmonizing norms in the field of commercial law, including bankruptcy. In the same vein, the provisions of the Association Agreement between Ukraine and the European Union (2014) should be considered, which provides for the gradual alignment of Ukrainian legal mechanisms, including bankruptcy procedures, with European legislation. At the same time, in terms of regulating legal relations regarding state property, the Law of Ukraine "On Privatization of State and Municipal Property" (Law 2269-VIII, 2018) is of great importance. This law establishes procedural links between the bankruptcy and privatization processes, which is extremely relevant in the liquidation of state-owned enterprises, for example those subject to privatization in the procedure of competitive asset sales.

The accompanying regulatory instrument is the Law of Ukraine "On Enforcement Proceedings" (Law 1404-VIII, 2016), which regulates the procedure for implementing court decisions, regarding the recovery of assets within the framework of bankruptcy procedures, where the state or state bodies may act as creditors.

Thus, the bankruptcy of state-owned enterprises in Ukraine is regulated by a set of legislative acts, which at the same time do not create a holistic, specialized model of insolvency specifically for public sector enterprises. Unlike the practices of EU

countries, in Ukraine there is still an imbalance between general norms and specific needs of state-owned enterprises, which requires further harmonization and systematization of norms in accordance with European standards.

The bankruptcy system in the European Union has undergone significant transformations, through the adoption of Directive (EU) 2019/1023 of the European Parliament and of the Council on a framework for preventive restructuring, discharge of debt and disqualification from holding management positions, which marks a paradigm shift from liquidation to debtor rehabilitation. This directive is a key instrument for harmonizing Member States' approaches to resolving insolvency and aims to provide a "second chance" for viable businesses (McCormack, 2022).

Regarding the main provisions of Directive (EU) 2019/1023, it provides for a preventive nature (the main idea is to respond in a timely manner to the threat of insolvency before its legal occurrence, which allows enterprises to restructure debts before opening formal bankruptcy proceedings), identification of the role of the court (although the procedure may be extrajudicial, the court intervenes at key stages – approval of the plan, introduction of a moratorium on satisfying creditors' claims, approval of the plan without the consent of individual classes of creditors), definition of a moratorium (the debtor receives temporary protection from forced execution of obligations (usually for 4 months with the possibility of extension to 12), which avoids fragmentation of assets) and prohibition of discrimination (the directive obliges Member States to ensure equal access to restructuring procedures for both natural and legal persons, regardless of the size of the enterprise).

These provisions indicate that the EU is shaping a system focused not on punishing the debtor, but on economic rehabilitation. This approach is based on the principle of "preserving the value of the enterprise" as a key objective.

The article "The Bankruptcy of State Enterprises in Ukraine through the Prism of the Practice of the European Court of Human Rights" (Melnychenko, Podilchak, Bondarenko, & Alonkin, 2023) examines the legal aspects of bankruptcy of state enterprises in Ukraine, considering the practice of the European Court of Human Rights. The authors draw attention to the fact that bankruptcy procedures are often accompanied by violations of the rights of creditors, due to delays in payments and insufficient transparency of the process. It is emphasized that the state is responsible for ensuring an effective and fair bankruptcy mechanism that would meet the requirements of the European Convention on Human Rights. In this regard, the need to reform Ukrainian legislation and bankruptcy practice is emphasized to achieve compliance with European standards and protect the rights of all stakeholders.

The implementation of the Directive in the Member States is variable. For example, Germany has adapted its Schutzschirmverfahren (protective umbrella procedure), which provides the debtor with the possibility of reorganisation with limited court intervention while maintaining control over management; France applies the sauvegarde and redressement judiciaire procedures, which also meet the requirements of the Directive. Importantly, the French model focuses on balancing the interests of labour collectives and creditors; Italy has transformed its own legislation within the framework of the new Codice della crisi d'impresa e dell'insolvency, which gives priority to out-of-court agreements and pre-trial intervention. In Central European countries (Poland, Czech Republic, Hungary), digital tools for filing and monitoring cases are being actively implemented, which significantly increases the transparency and efficiency of procedures (Buliszyn, 2017; Kusumaningrum, & Liemanto, 2023).

According to Falke (2007), an effective bankruptcy system should ensure: timely access to the procedure, a fair balance of interests of all groups of creditors, minimization of transaction costs, prevention of "abuse of the procedure."

The European model demonstrates high coherence with these criteria. As Taiti (2018) emphasizes, the low level of stigmatization allows European entrepreneurs to resort to restructuring procedures more often without fear of losing business reputation.

The description of foreign experience in regulating bankruptcy procedures demonstrates both common features and significant differences in approaches to resolving insolvency, especially in the public sector. The comparative analysis allows identifying effective institutional solutions, legal mechanisms, and implementation issues that may be relevant for improving the Ukrainian model.

Let's consider in more detail the experience of other foreign countries.

With the adoption of the new Enterprise Bankruptcy Law in 2007, China has implemented a fundamental reform in the field of financial insolvency, extending its scope to state-owned enterprises for the first time. The law provides for three main procedures: liquidation, restructuring (reorganization) and amicable settlement. An innovative aspect was the introduction of a court-supervised rehabilitation mechanism with the involvement of a creditors' committee (Falke, 2007). Despite this, as noted by Omar (2013), the practical implementation of the bankruptcy procedure in the PRC remains significantly influenced by local authorities, which complicates the neutrality of the process. The lack of independence of the judicial system, as well as the limited level of transparency and participation of creditors, remain the main challenges in the implementation of these provisions.

The countries of Central and Eastern Europe, after the transition to a market economy, were forced to implement new legal mechanisms of bankruptcy within the framework of market logic. The analysis of Begg and Portes (1993) shows that in the early stages of reforming the business sector in these countries, the main problems were the weakness of the institutional capacity of the courts, political pressure on the rehabilitation processes, as well as low discipline in the implementation of bankruptcy court decisions. In response, the countries of the region improved their legislation, implementing EU directives and introducing specialized commercial courts. The authors note that in these countries, despite the presence of modern legislation, the implementation of its provisions is often blocked due to the lack of legal culture, limited training of judges, political instability and corruption risks. At the same time, the experience of South Korea demonstrates the success of institutional reform, through the creation of a separate infrastructure of judicial control over the restructuring of debtors.

Of particular interest is the study by Taiti (2018), which compares the impact of cultural stigmatization of bankruptcy in China, the United States, and Europe. The author argues that in jurisdictions where bankruptcy is perceived as a financial mechanism rather than a social defeat, the prevalence of restructuring procedures is significantly higher, and the level of re-entrepreneurship is higher. In particular, the United States has a "second chance" principle, which allows the debtor to quickly resume business activity after bankruptcy, in contrast to the more conservative approach in Asian countries.

In general, international practice shows that the effectiveness of bankruptcy procedures largely depends not only on the content of legal norms, but also on their practical implementation, the institutional capacity of the judiciary and executive, as well as the economic context of the functioning of the relevant legislation. The study of these aspects is extremely important for the further harmonization of Ukrainian legislation with EU law and the adaptation of best practices to the national environment.

European experience has direct practical value for Ukraine, especially in light of the implementation of Directive 2019/1023 (Law 3985-IX, 2024). Early intervention, digitalization, flexibility of procedures and a move away from a punitive approach to insolvency are the elements that can significantly increase the effectiveness of national legislation. Focusing on preserving viable businesses, rather than just liquidation, is the cornerstone of the European legal doctrine in the field of bankruptcy, which should be fully implemented in Ukraine.

The issue of bankruptcy of state-owned enterprises in Ukraine is systemic and covers both the institutional and legal aspects and the economic efficiency of the procedures. Unlike the countries of the European Union, where insolvency procedures, including those concerning public entities, are based on the principles of preventive intervention, preserving the economic value of the enterprise and protecting the interests of all stakeholders, in Ukraine these procedures are often applied formally or are used to evade obligations (Melnychenko, 2020; Vilchyk, 2023).

Among the key problems inherent in the Ukrainian model of regulating bankruptcy of state-owned enterprises, it is worth highlighting:

1) Lack of special regulation for state-owned enterprises. The Code of Ukraine on Bankruptcy Procedures (Law 2597-VIII, 2018) does not take into account the specifics of the legal status and socio-economic role of such entities, which leads to legal uncertainty and abuses in the process.

2) Ineffective early response tools. In EU countries, in particular, in accordance with Directive (EU) 2019/1023, preventive debt restructuring mechanisms and early warning procedures have been introduced. In Ukraine, such approaches are only beginning to be implemented (Law No. 3985-IX of 19.09.2024), but in practice their implementation is fragmented.

3) Corruption risks and politicization of processes. Bankruptcy procedures of state-owned enterprises are often accompanied by non-transparent competitions of arbitration managers, conflicts of interest, and the influence of political actors, which significantly reduces the effectiveness of law enforcement (Filatov, 2024).

4) Lack of a unified methodology for assessing the effectiveness of procedures. In Ukraine, there is no unified system for monitoring the economic and social consequences of bankruptcy, which makes it impossible to objectively assess the feasibility of applying a particular procedure.

5) Insufficient protection of creditors' rights and public interests. Unlike the models of Germany, France, or Poland, which provide for a balance between private and public interests, Ukraine lacks effective mechanisms to ensure public control over the bankruptcy process of strategically important enterprises (McCormack, 2022).

In the context of adapting national legislation to EU standards (in accordance with the Law of Ukraine No. 1629-IV "On the National Program for Adapting the Legislation of Ukraine to the Legislation of the European Union"), it is considered appropriate to implement the following systemic measures: developing a separate bankruptcy procedure for state-owned enterprises, taking into account their specifics, strategic importance and special management regime; institutionalizing preventive restructuring mechanisms in accordance with Directive (EU) 2019/1023, which provides for the possibility of financial recovery without opening a formal insolvency case;

strengthening the independence and responsibility of arbitration managers, creating a single national body for supervising the quality of bankruptcy procedures with an open register of proceedings, using indicators for assessing the effectiveness of bankruptcy according to the criteria of preserving the value of the enterprise, restoring solvency, protecting the rights of employees and creditors, and developing the practice of public control and public participation in bankruptcy processes of strategically important enterprises through the creation of specialized supervisory boards or public commissions (CMS, 2024).

Therefore, harmonizing national bankruptcy legislation with EU legal systems requires not only updating the regulatory framework, but also creating an effective institutional infrastructure with clear guarantees of efficiency, transparency, and accountability of insolvency procedures.

5. Conclusions

As a result of the research, an analysis of the bankruptcy procedure of state-owned enterprises in Ukraine and EU countries was carried out and the following conclusions were drawn.

1. Within the framework of the conducted research, it was found out that the essence of bankruptcy procedures in the public sector is characterized by a complex legal nature, which combines elements of private and public law. The theoretical and legal approach to the analysis of such procedures indicates that the functions of bankruptcy in the case of state-owned enterprises go beyond the purely property settlement between the debtor and creditors. Such functions include: restructuring (restoration of solvency), social and protective (guaranteeing the rights of employees), fiscal (minimization of the negative impact on the budget) and institutional and health (optimization of the composition of the public sector). The peculiarities of the legal status of a state-owned enterprise determine the specifics of the application of insolvency procedures to it, which requires a comprehensive approach when developing a national legal policy in this area.

2. A comparative legal analysis of domestic legislation and regulatory legal acts of the European Union has revealed both common and distinctive features in the regulation of bankruptcy of state-owned enterprises. A common feature is the gradual recognition of the feasibility of preventive restructuring as an alternative to liquidation, which is in line with the pan-European trends enshrined in Directive (EU) 2019/1023. At the same time, unlike European jurisdictions (Germany, France, Italy), Ukraine does not have a special legal regime for enterprises with a state share. Ukrainian legislation still does not provide for proper differentiation of bankruptcy procedures according to the status of the debtor, which creates significant risks of legal uncertainty, especially when considering cases of insolvency of enterprises that are of strategic importance for the economy or national security. It is also worth noting that in EU countries a number of additional mechanisms are used that allow for public control over the course of bankruptcy procedures of such enterprises, in particular through specialized courts or supervisory bodies, as well as the mandatory presence of an assessment of social consequences when making a decision on liquidation. In Ukraine, these elements are not legally enshrined, which necessitates a review of approaches to the legislative regulation of bankruptcy of public sector entities.

3. The analysis of economic consequences and legal risks showed that the use of standard bankruptcy procedures for state-owned enterprises without considering their social role and financing characteristics can lead to negative macroeconomic effects, such as loss of budget funds, increased unemployment, reduced tax revenues and imbalance in the public services market. In addition, in the bankruptcy procedure for state-owned enterprises there are risks of abuse by the competitive administration, the possibility of non-transparent privatization of assets and insufficient protection of the rights of the state as a shareholder. This requires the introduction of mechanisms to prevent such abuse, in particular through special control by authorized executive bodies, as well as strengthening the role of audit and transparency of financial reporting at all stages of the proceedings.

The study also paid attention to the peculiarities of settlements with creditors in bankruptcy procedures of state-owned enterprises. It was found that due to the specifics of the public sector, these settlements have several difficulties and require separate legal regulation. In particular, the lack of clear priorities for satisfying the claims of creditors, in particular state and municipal bodies, as well as the presence of arrears with budget payments create additional risks of delays and incomplete fulfillment of financial obligations. In the EU countries, there are clear mechanisms for ranking creditors, which allow ensuring transparency and fairness in the distribution of assets in bankruptcy procedures, including separate norms for public creditors. In Ukraine, the lack of specialized norms regarding the sequence and priorities of settlements of state-owned enterprises with creditors complicates the procedure and may lead to conflicts of interest. Because of this, the authors emphasize the need to introduce legislative changes that will provide for a separate regime for settlements with budget, municipal and private creditors, considering the public interest and strategic importance of enterprises. It is also important to introduce control and reporting mechanisms to

ensure proper fulfillment of financial obligations of state-owned enterprises to creditors at all stages of the bankruptcy procedure. Eventually, the settlement of issues of settlements with creditors is an integral part of a comprehensive approach to reforming the institution of bankruptcy of state-owned enterprises, which will contribute to increasing the transparency, fairness and efficiency of the relevant procedures, as well as strengthening trust in the system of state economic management.

Thus, theoretical and comparative legal analysis provides grounds for concluding that it is necessary to form a special legal regime for the bankruptcy of state-owned enterprises in Ukraine, which should consider both the economic specifics of the functioning of such entities and modern standards of EU law. It seems advisable to introduce preventive restructuring procedures, mandatory criteria for assessing the public expediency of initiating bankruptcy, as well as expanding the opportunities for the state to exercise effective control over the sale of assets of strategic enterprises. Systematic adaptation of Ukrainian legislation to the requirements of Directive 2019/1023/EU will allow not only to increase the efficiency of bankruptcy procedures, but also to strengthen trust in state economic policy in the context of market transformation.

Regarding further scientific research, we consider it advisable to study judicial practice regarding the bankruptcy of state-owned enterprises, as well as to compare preventive restructuring procedures in Ukraine and in EU countries.

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