

# SEITE 2025

## Monograph

COLLECTED SCIENTIFIC PAPERS OF THE  
VIII INTERNATIONAL SCIENTIFIC CONFERENCE

**TRENDS AND EMERGING ISSUES  
IN LAW: INCLUDING SECURITY,  
PSYCHOLOGY AND  
COMMUNICATION**

Opatija, Croatia · 12-13 May 2025



**“TRENDS AND EMERGING ISSUES IN LAW: INCLUDING  
SECURITY, PSYCHOLOGY AND COMMUNICATION”**  
*Monograph*

**Edited by Maryna Dei**

Collected Scientific Papers of the VIII International Scientific Conference  
"Trends and Emerging Issues in Law: Including Security, Psychology and  
Communication"  
Opatija, Croatia, 12–13 May 2025

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*The monograph presents selected scientific contributions from participants of the VIII International Scientific Conference SEITE 2025. The publication explores new and emerging trends in law, security, education, digital transformation, and interdisciplinary policy frameworks. It reflects the diversity of modern legal thought and the complexity of global challenges related to communication and justice.*

*The scientific works included in this monograph were reviewed and prepared for publication under the academic coordination of E-SCIENCE SPACE, an international platform for supporting academic publications. This monograph is intended for scholars, legal practitioners, educators, policy makers, and all those interested in contemporary legal discourse.*

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# FOREWORD

VIII International Scientific Conference “Trends and Emerging Issues in Law:  
Including Security, Psychology, and Communication (SEITE 2025)”  
12–13 May 2025 | Opatija, Croatia  
Edited by Maryna Dei

In times of rapid transformation, when global legal systems are confronted with war, technological disruption, and rising demands for transparency, the need for interdisciplinary scientific dialogue becomes not only relevant — but urgent. The VIII International Scientific Conference “Trends and Emerging Issues in Law: Including Security, Psychology and Communication (SEITE 2025)”, held on 12–13 May 2025 in Opatija, Croatia, gathered an international community of scholars, experts, and practitioners in an effort to explore current and emerging challenges through the lens of law, policy, and human development.

This monograph is a direct outcome of that exchange — a collective intellectual effort that reflects the diverse range of topics discussed during the event: from legal protections against workplace harassment to digital inheritance, from the education crisis during wartime to the strategic reconstruction of Ukraine. The authors represented here offer both critical insight and visionary thinking, addressing questions that transcend borders and disciplines.

As editor and organizer, I am proud to present this publication not merely as a conference proceeding, but as a call to continued collaboration among legal, educational, and security communities. I sincerely thank all contributors for their dedication and expertise. It is my hope that these collected papers will serve as a foundation for further research, policy formulation, and meaningful change.

With gratitude and respect,

Maryna Dei

Editor-in-Chief

SEITE 2025 Monograph

# SECTION 1. CURRENT TRENDS IN LAW AND LAW ENFORCEMENT

## MOBBING AND HARASSMENT IN THE WORKPLACE: LEGAL MECHANISMS OF COUNTERACTION

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### **Abstract**

The article examines the legal mechanisms for combating mobbing and harassment in the workplace within the framework of modern labor legislation. The author analyzes national legislation, including amendments to the Labor Code of Ukraine and the Code of Administrative Offenses, and identifies its shortcomings: vague definitions, difficulties in proving violations, and insufficient effectiveness of sanctions. Special attention is paid to international experience, particularly the Istanbul Convention and the European Social Charter, as well as judicial practice, which indicates low awareness among employees regarding their rights. The article provides recommendations for improving legal mechanisms, including the introduction of anonymous complaints, mandatory training, and strengthening the role of trade unions. The challenges of wartime, such as the rise of cyberbullying, are also discussed, along with innovative approaches, including the use of electronic services for monitoring violations. The author emphasizes the need for a comprehensive approach that combines legislative changes, prevention measures, and fostering a culture of respect in the workplace.

**Keywords:** mobbing, harassment, labor law, protection of workers' rights, European Social Charter, legal mechanisms of counteraction, electronic services.

### **INTRODUCTION**

Modern labor relations are characterized not only by economic interaction between employees and employers but also by a complex system of socio-psychological connections that can become a source of conflicts and violations. Among the most common negative phenomena in work environments today are mobbing and harassment – forms of psychological violence that violate both the labor rights of employees and their fundamental human rights. These phenomena have significant negative consequences not only for individuals but also for organizations as a whole, leading to decreased productivity, increased staff turnover, and damage to business reputation.

In the Ukrainian legal landscape, the issue of combating mobbing and harassment has gained particular relevance in the context of European integration and the need to harmonize national legislation with international standards. Special attention is given to ILO Convention No. 190, which establishes a comprehensive approach to preventing and

eliminating violence and harassment in the world of work. By ratifying this international document in 2022, Ukraine committed to implementing effective mechanisms for protecting employees, requiring significant changes in national labor legislation and its enforcement practices.

An analysis of the current legislation of Ukraine indicates the existence of certain legal instruments to counter mobbing and harassment, which, however, require significant improvement. Thus, the Labor Code of Ukraine contains general provisions prohibiting discrimination (Art. 2-1), the employer's obligation to ensure safe working conditions (Art. 13), including psychological comfort, but without direct mention of mobbing or harassment (Labor Code of Ukraine, 1971). This creates significant challenges in law enforcement practice, as the lack of clear definitions and procedures complicates the classification of these offenses and the protection of victims. An important step in improving the legal framework was the adoption of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding the Prevention of Sexual Harassment," which introduced special provisions on harassment. In particular, Article 175-1 was added to the Labor Code of Ukraine, defining sexual harassment as a form of discrimination and establishing mechanisms for protecting victims. However, these provisions do not yet cover all forms of mobbing, which limits their effectiveness in combating psychological violence in the workplace (Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Prevention and Counteraction to Mobbing (Bullying)", 2022).

The case law on mobbing and harassment in Ukraine is not yet significant, which indicates a low level of employee awareness of their rights and fear of negative career consequences. However, an analysis of existing decisions reveals certain trends. In most cases, courts recognize instances of psychological pressure or discrimination only in the presence of indisputable evidence, such as written testimonies, audio or video recordings, or official complaints. This, to some extent, underscores the need to develop clearer criteria for assessing such violations and improving evidence-gathering procedures.

To effectively combat mobbing and harassment in Ukraine, a comprehensive approach is needed, which should include: improving the legal framework by clearly defining the concepts of mobbing and harassment, establishing investigation procedures, and mechanisms for protecting victims; developing preventive measures, including mandatory training for employees and managers, and creating a system for internal investigations; increasing employees' legal awareness of their rights and ways to protect them; enhancing the role of trade unions and civil society organizations in monitoring and preventing these negative phenomena.

In recent years, the issues of mobbing (bullying) and harassment (sexual harassment) in the workplace have become the subject of active research by both Ukrainian and foreign legal scholars. In Ukraine, a significant contribution to this topic has been made by O. Yaroshenko (Sereda, Yaroshenko, & Soloviov, 2024), who thoroughly analyzed the legislative changes of 2022–2023, particularly the amendments to the Labor Code of Ukraine (LCU) and the Code of Administrative Offenses (CAO) introducing protections against mobbing. He emphasized the importance of defining mobbing as systematic actions aimed at humiliating an employee's dignity and identified its various forms, such as authoritarian, discriminatory, sexual, and others. Among Ukrainian researchers, V. Puzyrnyi (2018) and O. Pavlychenko (Pavlichenko & Pavlichenko, 2024) also deserve recognition for their studies on institutional

mobbing in public service, particularly its connection to performance evaluations and competitive hiring procedures. Their work highlights that mobbing often arises due to flaws in organizational culture and the lack of effective complaint mechanisms.

Regarding foreign scholars, the key contribution was made by Heinz Leymann (Sweden), who as early as the 1980s introduced the term "mobbing" as "psychological terror" in the workplace. He proved that this phenomenon is systemic in nature and often linked to power structures within organizations. In the United States, Kenneth Westhues (Canada) analyzed mobbing through the lens of social dynamics, comparing it to a "tornado" that arises from conflicts and intensifies due to a lack of intervention by management.

Legal mechanisms to combat mobbing in Ukraine underwent significant changes after the adoption of Law No. 2806-IX (2022), which introduced administrative liability for mobbing. However, researchers (Marysiuk, 2018; Simakova & Kravchenko, 2018; Yushko & Chekhun, 2020) highlight several challenges: the difficulty of proving the systematic nature of the actions (requiring audio recordings, correspondence, witnesses); the absence of a separate law on harassment, which is why such cases are often classified only as discrimination.

Ukraine is only taking its first steps in legally regulating mobbing but requires comprehensive reforms – from prevention to strict accountability.

## **RESULTS AND DISCUSSION**

Mobbing is the systematic psychological pressure on an employee by colleagues or management, manifested in the form of harassment, devaluation of work, isolation, spreading rumors, threats, or other forms of psychological violence (Soza Vidal & Bondar, 2022). The term was first used in ethology (the science of animal behavior) to describe collective attacks by weaker individuals against stronger ones. In social sciences, the concept was introduced by Swedish psychologist Heinz Leymann in the 1980s while studying workplace conflicts. However, the phenomenon itself existed much earlier. In the pre-industrial era, collective pressure on individual workers was exerted through informal norms of guilds and craft associations. With the development of industry in the 19th century, mobbing took on more organized forms: enterprise administrations often used harassment as a method of controlling workers. For example, in factory settings, strict hierarchies and the lack of legal protection made workers vulnerable to abuse (Marysiuk, 2018). In the 20th century, the growth of the labor union movement and the adoption of labor codes partially restricted mobbing, but it transformed into more covert forms, such as ignoring employees, spreading gossip, and unjustified criticism. Today, mobbing is recognized as a violation of labor rights in most countries, including Ukraine. Article 2 of the Labor Code of Ukraine prohibits discrimination and psychological pressure (Sereda, Yaroshenko, & Soloviov, 2024).

Harassment refers to any form of unwanted behavior aimed at violating a person's dignity, creating an intimidating, hostile, or degrading atmosphere (Zahorui & Zahorui, 2023). Its forms – from sexual harassment to racial or gender-based humiliation – are closely tied to patriarchal and authoritarian societal structures. In medieval guilds, female artisans often faced sexism, and during industrialization, male dominance in leadership roles led to systematic abuses. Legal recognition of harassment began only in the second half of the 20th century. For example, in the U.S., Title VII of the Civil Rights Act (1964) prohibited gender-

based discrimination, while the ILO Convention No. 190 (2019) recognized harassment as a global issue (Soza Vidal & Bondar, 2022).

A. Yushko emphasizes that mobbing (bullying) in labor relations is a serious socio-legal problem that disrupts not only an employee's professional activities but also their psychological state (Yushko & Chekhun, 2020). According to Article 22 of the Labor Code of Ukraine (LCU), mobbing is defined as systematic actions or inaction by employees, including management, aimed at humiliating the dignity or professional reputation of another employee (Labor Code of Ukraine, 1971). This definition covers a wide range of behaviors – from overt insults and threats to more subtle forms of pressure, such as ignoring, spreading rumors, or unjustified downgrading of work performance. Harassment, particularly sexual harassment, is a form of mobbing but has specific characteristics. It involves unwanted sexual actions, whether verbal or physical, that create a hostile or degrading environment. Unlike general mobbing, harassment often has a gender-based subtext and is more commonly experienced by women (Butynska, 2023).

The legal regulation of combating mobbing in Ukraine has undergone significant changes in connection with the alignment of legislation with European standards. In particular, norms on administrative liability for violations of labor rights (Article 173-5 of the Code of Ukraine on Administrative Offenses) have been introduced (Pavlichenko & Pavlichenko, 2024). However, in practice, the application of these norms is complicated due to evidentiary challenges. For example, the victim must provide compelling evidence (correspondence, testimonies from colleagues, etc.), which is not always possible due to fear of losing their job or facing stigmatization. The employer plays a key role in preventing mobbing. According to the law, they are obligated to ensure safe working conditions, including the development of internal anti-mobbing procedures (Sereda, Yaroshenko, & Soloviov, 2024). Unfortunately, many Ukrainian companies still ignore these requirements, leading to systematic violations.

V. Puzirny notes that mobbing as a socio-legal phenomenon has numerous forms of manifestation, each of which is characterized by specific features and consequences for the victim (Puzyrnyi, 2018). Among the main types of mobbing, authoritarian, displaced, "initiation," discriminatory, and sexual mobbing can be distinguished. Authoritarian mobbing manifests itself through the abuse of power by management, when a supervisor systematically humiliates a subordinate, sets unrealistic demands, or deliberately blocks their professional development. This form is particularly dangerous because the victim often has no means of defense due to fear of losing their job (Marysiuk, 2018). Displaced mobbing occurs when aggression directed at one person is transferred to another. For example, an employee under pressure from management may start harassing a colleague to vent accumulated aggression. This creates a chain reaction that destroys the collective psychological climate. The "initiation" phenomenon is often observed in new teams, where senior employees organize initiation rituals for newcomers. Although some of these actions may seem harmless, they often escalate into systematic bullying, especially if the victim cannot or does not want to "fit in" with the team. Discriminatory mobbing involves harassment based on personal characteristics such as gender, race, age, religion, or disability, leading to exclusion, unfair treatment, or hostile work conditions. Sexual mobbing includes unwanted sexual advances, harassment, or intimidation in the workplace, creating an environment of discomfort and fear for the victim. Each of these forms has severe psychological and professional consequences for the victim, including stress, decreased

productivity, and even long-term trauma. Legal and organizational measures are necessary to prevent and combat mobbing in the workplace.

Discriminatory mobbing is based on biases related to an employee's gender, age, race, religion, or other characteristics. It can manifest as denial of promotion, unfair distribution of responsibilities, or outright insults. A particularly dangerous form of mobbing is sexual harassment, which involves unwanted actions or comments of a sexual nature (Amelicheva, 2020). Unlike other types of mobbing, harassment has a clear gender subtext and is most often directed at women. It creates a hostile environment where the victim is forced to remain in a constant state of stress, negatively affecting not only their professional performance but also their mental health.

It is worth noting that the legal regulation of anti-mobbing measures in Ukraine has undergone significant changes in recent years. Specifically, Article 22 of the Labor Code of Ukraine defines mobbing as systematic actions aimed at humiliating an employee's dignity and prohibits such behavior (Labor Code of Ukraine, 1971). However, in practice, enforcing these norms is challenging due to the lack of clear evidence-gathering mechanisms. For instance, victims of sexual harassment often face distrust or accusations of provocation, especially when high-ranking officials are involved. Corporate culture plays a crucial role in preventing mobbing. Employers should develop clear anti-mobbing policies, conduct staff training, and establish anonymous reporting mechanisms for victims.

At the international level, there are several instruments regulating the issues of mobbing and harassment. The primary source is the International Labour Organization (ILO) Convention No. 190, adopted in 2019. This Convention is a significant international document aimed at combating violence and harassment in the workplace. Its adoption was the result of years of efforts by the international community in the field of protecting workers' rights and ensuring decent working conditions (Sereda, Yaroshenko, & Soloviov, 2024). The International Labour Organization (ILO) Convention No. 190 provides a clear definition of violence and harassment, enabling member states to develop appropriate legislative and regulatory frameworks. This includes physical, psychological, and sexual violence, as well as harassment that may occur in the workplace or in work-related contexts (Amelicheva, 2020).

It should be noted that states that ratify this Convention are obliged to take measures to prevent violence and harassment and to ensure effective mechanisms for responding to such cases. This may include developing legislation, conducting training for workers and employers, and establishing special commissions to investigate incidents. The International Labour Organization (ILO) Convention No. 190 emphasizes the importance of creating a work environment free from violence and harassment (Pavlichenko & Pavlichenko, 2024). This entails not only the physical safety of workers but also psychological comfort, where every employee has the right to respect and dignity. The Convention calls for the active participation of workers in processes aimed at preventing violence and harassment in the workplace. This may include involvement in policy development, training, and other measures related to the protection of workers' rights (Soza Vidal & Bondar, 2022).

The adoption of Convention No. 190 has prompted many countries to review their labor laws. National governments have begun implementing new legislation regulating issues of violence and harassment in the workplace, as well as establishing mechanisms to protect

victims. For instance, some countries have introduced mandatory training for employees and employers, as well as anonymous complaint mechanisms.

Recommendation No. 206, adopted by the International Labour Organization (ILO), is an important document outlining strategies and principles for preventing violence in the workplace. It aims to create a safe and healthy working environment, which is an integral part of workers' rights (Sereda, Yaroshenko, & Soloviov, 2024). This document emphasizes that workplace violence can manifest in various forms – from physical violence to psychological pressure and sexual harassment. This highlights the need for a comprehensive approach to understanding and preventing diverse forms of violence, which can have devastating consequences not only for individual workers but also for organizations as a whole. Recommendation No. 206 calls on ILO member states to intensify their efforts in developing and implementing legislation that ensures workers' protection from violence (Pavlichenko & Pavlichenko, 2024). This may include establishing clear policies, conducting training for management and employees, and implementing mechanisms for reporting incidents of violence without fear of retaliation. One of the key features of Recommendation No. 206 is its universality: it applies to all workers without exception, regardless of their status, working conditions, or industry. This is crucial because violence can occur in any context, and all workers have the right to a safe working environment (Soza Vidal & Bondar, 2022).

Recommendation No. 206 emphasizes the principles of non-discrimination and gender equality, which are fundamental to ensuring equal rights and opportunities for all workers. This is particularly important in the context of combating violence, as women and other vulnerable groups often face a higher risk of violence in the workplace (Pavlichenko & Pavlichenko, 2024). It is worth noting that ensuring safe working conditions is part of the broader concept of upholding human rights. Recommendation No. 206 underscores that protecting workers from violence is not only a matter of business efficiency but also a crucial aspect of social justice.

As previously mentioned, mobbing (bullying) and harassment (including sexual harassment) in the workplace constitute violations of fundamental human rights that require comprehensive international legal regulation. Although specific norms on these issues are outlined in ILO Convention No. 190, indirect protection mechanisms are also provided through the Istanbul Convention and the European Social Charter (ESC). While these documents do not contain direct definitions of mobbing, they establish a legal framework for combating its forms, particularly through the lens of gender equality and protection against psychological violence (Yushko & Chekhun, 2020). For instance, the Istanbul Convention (2011) aims to prevent violence against women, including in the workplace. Although it does not explicitly use the term “harassment,” its provisions cover it as a form of psychological or sexual violence. Article 40 of the Istanbul Convention requires states to criminalize “intentional conduct causing serious psychological harm” (Amelicheva, 2020), which may include systematic bullying or sexual harassment. Additionally, Article 12 of the Istanbul Convention obliges countries to take measures to eliminate stereotypes that contribute to gender-based violence – a particularly relevant provision for harassment, which is often rooted in gender inequality (Pavlichenko & Pavlichenko, 2024).

For Ukraine, the implementation of the Istanbul Convention entails the need to broaden the interpretation of workplace violence, particularly by introducing amendments to the

Criminal Code. For example, in France, under similar provisions, harassment is classified as a criminal offense with fines of up to 30,000 euros.

The European Social Charter (revised version of 1996) enshrines the right to "dignity at work" (Article 26), which the European Committee of Social Rights interprets as an obligation for states to prevent "systematic abusive conduct" in labor relations (Soza Vidal & Bondar, 2022). For instance, Article 3 of the ESC requires ensuring a safe working environment, including protection from psychological pressure. In the case of *Confédération Générale du Travail (CGT) v. France* (2013), the Committee ruled that the absence of anti-mobbing procedures in a company violated this article. Although the European Social Charter does not explicitly prohibit mobbing, its provisions on equality (Article E) and social dialogue (Article 28) provide a basis for developing national anti-discrimination laws (Yushko & Chekhun, 2020). For instance, Italy has used these principles to introduce mandatory anti-mobbing training for employers. It is worth noting that the Istanbul Convention and the European Social Charter complement each other. The Istanbul Convention emphasizes the gender dimension, which is critical in addressing harassment, while the European Social Charter ensures broader social protection, including non-verbal forms of pressure (Sereda, Yaroshenko, & Soloviov, 2024).

V. Puzirny emphasizes that despite the existence of international standards, their implementation faces a number of systemic challenges: from the lack of a unified definition of these phenomena to difficulties in implementation at the national level (Puzyrnyi, 2018). International instruments such as ILO Convention No. 190 (2019), the European Social Charter, and the Istanbul Convention use different terms to describe mobbing and harassment. For example, ILO Convention No. 190 defines them as "violence and harassment" but does not distinguish between forms of psychological pressure (Soza Vidal & Bondar, 2022). The Istanbul Convention focuses on gender-based violence, which narrows protection against harassment to women only. The European Social Charter (Article 26) refers to "systematic abusive conduct" but does not specify whether it includes economic pressure or cyberbullying. This inconsistency complicates the harmonization of national legislations.

International norms often have a recommendatory nature. For example, the European Social Charter does not provide for sanctions in case of violations but only obliges states to report on the measures taken (Sereda, Yaroshenko, & Soloviov, 2024). EU directives (e.g., 2000/78/EC) require the prohibition of discrimination but do not specify criminal penalties for harassment. In countries with well-developed anti-mobbing legislation (such as Sweden or France), these gaps are compensated by national laws. In Sweden, since 1993, a special law has been in place that obliges employers to investigate every case of bullying under the threat of fines (Pavlichenko & Pavlichenko, 2024). In France, harassment is criminalized (with fines of up to €30,000), but only for sexual harassment. Notably, for Ukraine, the absence of such mechanisms means that victims are forced to prove mobbing through administrative courts, which often proves futile due to a lack of evidence.

Mobbing and harassment are often covert in nature, which complicates evidence gathering. International standards do not provide unified rules. For instance, ILO Convention No. 190 merely states the need for "effective means of protection" but does not detail specific procedures (Soza Vidal & Bondar, 2022). In Italy, evidence may include correspondence or witness testimonies from colleagues, whereas in Ukraine, courts often require medical

reports confirming psychological harm. Moreover, victims frequently avoid legal action due to: fear of losing their jobs (especially in cases of vertical mobbing by management); stigmatization (for example, in harassment cases, women are often accused of "provocation"). Many countries, including Ukraine, formally adopt international norms but fail to integrate them into national systems. The reasons include: lack of political will – for instance, since 2019, Ukraine has not passed any of the three proposed anti-mobbing bills; insufficient awareness among employees – research by V. Pavlychenko shows that only 15% of Ukrainian workers are aware of ILO Convention No. 190 (Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine on Prevention and Counteraction to Mobbing (Bullying)", 2022); cultural barriers – in countries with patriarchal traditions (e.g., in Asia), harassment is often perceived as "normal" (Pavlichenko & Pavlichenko, 2024).

Modern Ukrainian labor legislation has come a long way in regulating the prevention of workplace mobbing, but it still has a number of systemic shortcomings that limit effective employee protection. Ukraine's legal framework in this area is being formed on the basis of amendments to the Labor Code of Ukraine (LCU), the Code of Ukraine on Administrative Offenses (CUoAO), and the Law "On the Principles of Preventing Discrimination," creating a comprehensive yet not entirely consistent mechanism for legal response (Sereda, Yaroshenko, & Soloviov, 2024). The fundamental definition of mobbing in Ukrainian legislation first appeared in Article 22 of the LCU, which was amended in 2022. According to this provision, mobbing (harassment) is defined as systematic actions or inaction by employees, including management, aimed at humiliating an employee's dignity or professional reputation or creating a hostile, degrading, or offensive environment for them (Pavlichenko & Pavlichenko, 2024). This definition is quite broad and covers various forms of psychological pressure, from verbal abuse to social isolation. It is important to note that Article 2 of the LCU, which defines the basic principles of labor law, was supplemented with a provision prohibiting mobbing, elevating its status to one of the fundamental principles of labor relations.

Note that administrative liability for mobbing was first introduced by Article 173-5 of the Code of Ukraine on Administrative Offenses (CUoAO), which provides for a fine ranging from fifty to one hundred non-taxable minimum incomes of citizens (UAH 850 to 1,700 as of 2023) for committing mobbing (Pavlichenko & Pavlichenko, 2024). However, this provision raises many questions in law enforcement practice. First, the amount of the fine is clearly insufficient to effectively deter offenses, especially when it comes to large corporations or government institutions. Second, this provision does not distinguish the severity of the offense, leading to the same punishment for a one-time insult as for systematic psychological pressure. Third, the procedure for holding someone accountable requires proving the fact of mobbing, which is often complicated by the lack of direct witnesses or documentary evidence.

The Law of Ukraine "On the Principles of Preventing Discrimination" (2012) expands protection against mobbing, classifying it as a form of psychological violence and harassment, which constitutes discrimination (Law of Ukraine "On the Principles of Preventing and Combating Discrimination in Ukraine", 2012). Article 1 of this law defines harassment as actions or inaction that result or may result in a violation of equal rights and freedoms of an individual. A distinctive feature of this law is that it provides for the possibility of filing lawsuits for compensation for moral damages, theoretically offering

broader opportunities for protecting violated rights compared to administrative fines under the Code of Ukraine on Administrative Offenses (Pavlichenko & Pavlichenko, 2024).

Analysis of judicial practice in recent years indicates the low effectiveness of these legal mechanisms. According to the State Statistics Service of Ukraine, in 2022, only 42 lawsuits related to mobbing were filed in courts, of which only 9 were satisfied (State Statistics Service of Ukraine, n.d.). This situation is due to several factors. First, the lack of clear criteria for proving mobbing leads to courts often dismissing claims due to insufficient evidence. Second, victims' fear of losing their jobs or facing further persecution limits the number of appeals to law enforcement agencies. Third, there is insufficient legal awareness among both employees and employers regarding the very concept of mobbing and the mechanisms for protection against it.

Modern Ukrainian legislation on combating mobbing and harassment in the workplace has a number of systemic flaws, which have only intensified under martial law. Despite some progress in legal regulation in recent years, the effectiveness of employee protection remains insufficient both in peacetime and especially now, when the country is experiencing a full-scale invasion. As already noted, the main problem with the legislative regulation of mobbing in Ukraine is the lack of a unified approach to its definition. Although Article 22 of the Labor Code of Ukraine defines mobbing as systematic actions aimed at humiliating an employee's dignity, this formulation is too general and does not cover all possible forms of psychological pressure. For instance, the legislation lacks clear criteria to distinguish mobbing from conflict situations in the workplace, leading to arbitrary interpretations when classifying such cases. This becomes particularly problematic during wartime, when stressful situations have become part of everyday life, and the line between conflict and systematic harassment becomes even more blurred.

Another serious issue is the insufficient effectiveness of mechanisms for protection against mobbing. Article 173-5 of the Code of Ukraine on Administrative Offenses provides for administrative liability for mobbing in the form of a fine ranging from 850 to 1,700 hryvnias, which is an entirely inadequate punishment, especially for large enterprises. During wartime, this problem worsens, as many employees, particularly women who have experienced harassment, are simply afraid of losing their jobs and do not seek protection. Moreover, the procedure for proving mobbing is extremely complicated, as it requires providing written evidence or witness testimonies, with witnesses often refusing to testify due to fear of losing their jobs (Sereda, Yaroshenko, & Soloviov, 2024).

The issue of sexual harassment (harassment) in Ukraine is particularly acute, as there are virtually no specific norms directly regulating this area. In peacetime, harassment was often classified under Article 152 of the Criminal Code of Ukraine ("Violation of citizens' equality based on their race, nationality, religious beliefs, disability, or other grounds"), which does not reflect the essence of this phenomenon (Soza Vidal & Bondar, 2022). During wartime, the situation has worsened, as many women are forced to work in conditions where their male colleagues are under constant stress, often leading to an increase in cases of sexual harassment. At the same time, none of the laws adopted during the war provide special mechanisms to protect female employees from harassment.

An important issue is also the lack of mechanisms to prevent mobbing and harassment at the enterprise level. Unlike EU countries, where large companies are required to have internal policies against mobbing, in Ukraine, this is only a recommendation. During wartime, when

many businesses operate in cost-saving mode, the issue of establishing such mechanisms is not even considered. This is especially true for state institutions and enterprises, where the level of bureaucracy and impunity remains high even during wartime (Pavlichenko & Pavlichenko, 2024). Another serious problem is the absence of specialized bodies to handle complaints about mobbing and harassment. In peacetime, such complaints were reviewed either by state labor inspections or directly in court, which was ineffective. During wartime, this system has practically ceased to function due to the overload of law enforcement agencies and courts. At the same time, the institutions created during the war, such as ombudsmen for various issues, do not have the authority to protect against mobbing and harassment.

Mobbing and harassment in the workplace are serious violations of labor rights that can lead to psychological trauma, decreased productivity, and the dismissal of affected employees. To effectively combat mobbing and harassment, it is necessary to utilize a set of legal mechanisms, including internal procedures at the enterprise level, appeals to state authorities, and judicial protection (Soza Vidal & Bondar, 2022). The first step in countering mobbing and harassment is the establishment of an effective internal policy by the employer. According to Article 24 of the Law of Ukraine "On Labor Protection," the employer is obliged to ensure safe working conditions, including psychological comfort (Pavlichenko & Pavlichenko, 2024). This entails developing a code of ethics, implementing complaint investigation procedures, and appointing an authorized person responsible for preventing discrimination. It is crucial that every employee is aware of their rights and the mechanisms for seeking help. For example, collective agreements or internal labor regulations may include measures to combat mobbing, such as anonymous hotlines, training for managers and employees, and disciplinary actions for violations.

If internal mechanisms fail or the employer ignores the problem, the victim can turn to the State Labor Inspectorate. According to Article 259 of the Labor Code of Ukraine, inspectors have the right to conduct inspections regarding violations of labor rights, including psychological pressure (Labor Code of Ukraine, 1971). If mobbing or harassment is detected, the employer may be issued a warning or fined. Additionally, under Article 161 of the Criminal Code of Ukraine, discrimination, including systematic workplace harassment, can be classified as a criminal offense, leading to criminal liability.

It is worth noting that judicial protection is the last but most effective tool in combating mobbing and harassment. The victim can file a lawsuit for compensation for moral damages (Art. 237 of the Labor Code) or seek recognition of the employer's actions as unlawful. Gathering evidence is crucial: correspondence, witness testimonies from colleagues, medical reports on stress. There are legal precedents where victims have received compensation for psychological suffering caused by systematic pressure. Additionally, the role of trade unions in protecting employees should be mentioned. According to the Law "On Trade Unions," they have the right to represent employees' interests in conflict situations, including cases of mobbing. A trade union can initiate an investigation, participate in negotiations with the employer, or support an employee in court (Pavlichenko & Pavlichenko, 2024).

In the context of a full-scale war with Russia, strengthening legal mechanisms to protect against discrimination, psychological pressure, and sexual harassment has become an integral part of labor relations in Ukraine. The modern realities of martial law in Ukraine have led to a transformation in labor relations, including the widespread shift to remote

work. This has created new challenges in ensuring employee safety, particularly in countering mobbing and harassment. On the one hand, remote work promotes flexibility, but on the other hand, it complicates the detection and documentation of violations due to the lack of direct contact. Therefore, remote monitoring of labor relations has become a key tool for protecting employees' rights but requires clear legal regulation to prevent it from becoming an instrument of pressure (Sereda, Yaroshenko, & Soloviov, 2024).

Mobbing and harassment in the digital environment take on specific forms: cyberbullying, excessive monitoring, discriminatory comments during online meetings, sexist or offensive messages in corporate chats. During wartime, these phenomena may intensify due to psychological stress and impulsive communication. However, existing labor legislation norms (e.g., Articles 2–7 of the Law of Ukraine "On Labor Protection") often fail to account for the specifics of remote work, making it difficult to hold perpetrators accountable (Soza Vidal & Bondar, 2022). To effectively counter these issues, it is necessary to:

1. Legally define mobbing and harassment in the context of remote work, including cyberstalking and monitoring abuse.
2. Implement mechanisms for anonymous employee complaints through secure platforms.
3. Define the permissible scope of monitoring (e.g., tracking work hours without accessing personal messages).
4. Provide training for HR professionals on identifying digital mobbing.

It is crucial to strike a balance between productivity control and the right to privacy, as excessive employer interference can itself become a form of mobbing.

At this stage, digital technologies are penetrating all spheres of life, and electronic complaint submission and processing services are becoming a key tool in combating mobbing and harassment in the workplace. This mechanism is particularly relevant in wartime conditions, when traditional methods of protecting labor rights may be unavailable or ineffective. Electronic services provide speed, accessibility, and anonymity, which are critically important for victims of psychological pressure or sexual harassment (Yushko & Chekhun, 2020).

First, it should be noted that electronic complaint systems are based on the principles enshrined in international and national legal regulations. In particular, ILO Convention No. 190 obliges states to ensure accessible mechanisms for submitting complaints regarding violence and harassment in the world of work (Soza Vidal & Bondar, 2022). In Ukraine, these provisions are reflected in the Labor Code, the Law "On Ensuring Equal Rights and Opportunities for Women and Men," and other regulatory acts. Electronic services serve as a practical implementation of these legal norms, ensuring their effective enforcement.

An important advantage of electronic services is the ability to submit complaints anonymously. This is especially relevant for victims of harassment, who often hesitate to seek help due to fear of consequences or stigmatization. Anonymity allows them to raise the issue without risking their career or reputation, significantly increasing the likelihood of uncovering violations. At the same time, modern technologies ensure a sufficient level of confidentiality without violating legal requirements for personal data processing (Pavlichenko & Pavlichenko, 2024). Another key feature of electronic services is the ability to document evidence. In digital format, individuals can save screenshots of correspondence,

call recordings, emails, and other materials that can serve as evidence in further proceedings. This is particularly crucial in cases of mobbing, which often occurs in virtual spaces through corporate messengers or email. Unlike oral testimonies, digital evidence is more objective and less prone to distortion.

Response speed is another significant advantage of electronic services. Traditional complaint review procedures often drag on for weeks or even months, which can exacerbate the situation and deepen the psychological trauma of the victim. Electronic systems allow for the automation of certain processes, ensuring prompt notification of responsible parties and swift action. In some cases, it is even possible to implement artificial intelligence systems to warn of potential cases of mobbing based on correspondence analysis. However, the effectiveness of electronic services depends on overcoming a number of systemic challenges. The first is the digital divide. A significant portion of the population, especially in rural areas and frontline regions, lacks stable internet access or the necessary technical means. The second challenge is the low level of digital literacy, which complicates interaction with electronic platforms for certain categories of employees. The third key aspect is cybersecurity, as systems handling confidential data may become targets for hacker attacks, particularly from hostile forces (Sereda, Yaroshenko, & Soloviov, 2024).

The most critical issue remains the effectiveness of response mechanisms. Even the most advanced technical solutions become meaningless if employee complaints are not reviewed within the established deadlines or are left unanswered. To avoid this, it is necessary to implement transparent procedures for monitoring the processing of appeals, including:

1. automated tracking of complaint statuses with notifications for applicants;
2. clear review deadlines (e.g., 10–15 days for standard cases);
3. escalation mechanisms in case of delays (e.g., automatic redirection to a higher authority or ombudsman);
4. public statistics on system performance (resolution rate, average processing time, etc.).

To increase trust in electronic services, it is advisable to engage civil society organizations and international partners in monitoring their operations. It is also important to develop alternative communication channels (SMS requests, hotlines, mobile offices) to ensure accessibility for all categories of citizens. Technological solutions (such as using blockchain to record inquiries or AI-based filtering of mass violations) should be complemented by institutional changes – upskilling employees of responsible authorities and establishing interagency groups for the prompt resolution of critical cases.

## **CONCLUSION**

Mobbing and harassment in the workplace remain serious challenges for labor relations in Ukraine, requiring comprehensive legal, organizational, and social mechanisms to counteract them. The legal framework, particularly Laws No. 2759-IX and No. 2557-IX adopted in 2022, establishes clear definitions of mobbing as systematic psychological or economic pressure and provides for administrative liability for such acts. However, in practice, the enforcement of these norms is complicated by difficulties in gathering evidence, victims' fear of losing their jobs, and insufficient awareness of available protection tools. Harassment, particularly sexual harassment, although regulated by separate provisions

(such as the Law "On Ensuring Equal Rights and Opportunities for Women and Men"), often goes unreported due to the stigmatization of victims and the lack of effective rapid response mechanisms. The experience of EU countries and the U.S. demonstrates that only a combination of legal sanctions, preventive measures, and support for public initiatives (such as #MeToo) can reduce the scale of these phenomena.

For Ukraine, the key steps include further improving legislation, particularly expanding the definitions of harassment, introducing mandatory internal workplace investigations, and ensuring anonymous complaint channels. Equally important is fostering a culture of respect in work environments, where employers and employees recognize the unacceptability of any form of violence. Only a systemic approach combining legal guarantees, effective oversight, and social awareness will create a safe environment for the professional growth of every individual.

A promising direction for further research is the analysis of the effectiveness of national legislation norms, particularly the study of legal practice in cases related to mobbing and harassment, with the aim of identifying regulatory gaps and challenges in proving offenses. It is important to assess the adequacy of protection mechanisms for affected employees, including the effectiveness of sanctions, compensation procedures, and the role of state inspections. For a comprehensive analysis of the problem, it is necessary to involve experts in labor law, sociology, psychology, and corporate governance, as mobbing and harassment are multifaceted issues. Additionally, an important direction is a comparative analysis of international experience, particularly the study of best practices in the EU, the U.S., Canada, and other countries in the prevention and counteraction of mobbing and harassment. This includes an analysis of regulatory models, such as EU directives on gender-based harassment, as well as rapid response mechanisms, such as ombudsmen or anonymous hotlines. The findings could be adapted to the Ukrainian context, taking into account cultural and organizational specifics.

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# ATHLETES' RIGHTS AT THE OLYMPIC GAMES : BETWEEN ETHICS AND LAW

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## **Abstract**

The article examines the evolution of the legal status of athletes from antiquity to the present day, analyzes key international documents (the Olympic Charter, the World Anti-Doping Code, decisions of the Court of Arbitration for Sport), and determines their impact on the guarantees of participants' rights in the Games. Special attention is paid to controversial aspects, such as the participation of athletes from aggressor countries, the politicization of sports, discrimination based on gender, race, or religion, as well as ethical dilemmas related to doping and technological interventions. The mechanisms for protecting athletes' rights, including the role of CAS, are examined, and their shortcomings – such as lengthy procedures, high costs, and political bias – are identified. The authors propose ways to improve the system, including the development of a Global Code of Athletes' Rights, increased athlete participation in decision-making, the implementation of alternative dispute resolution methods, and ensuring transparency in anti-doping procedures. The article emphasizes the need to strike a balance between the autonomy of sports organizations, the principles of the rule of law, and the protection of athletes' fundamental freedoms in the context of globalization and the commercialization of sports.

**Keywords:** Olympic sport, International Olympic Committee, Olympic Charter, athletes' rights, anti-doping control, legal guarantees, judicial system.

## **1. INTRODUCTION**

The Olympic Games, as a global sports forum, bring together millions of athletes, coaches, fans, and organizers around the ideals of fair competition, mutual respect, and peace. However, behind the facade of Olympic harmony lies a complex system of legal and ethical challenges faced by athletes. The issue of protecting their rights becomes particularly urgent in the context of sports globalization, the commercialization of competitions, and the politicization of the Olympic movement. The study of athletes' rights at the Olympic Games lies at the intersection of law, ethics, political science, and sports management, making a unified approach to resolving these issues particularly challenging. The Olympic movement is governed by a range of international documents, including the Olympic Charter, the World Anti-Doping Code (WADA), international human rights conventions, and the national laws of host countries. However, unlike traditional legal systems, Olympic law has a unique status – it blends international norms and private agreements.

In the context of the ongoing war between Russia and Ukraine, the issue of participation of Russian and Belarusian athletes in international competitions, particularly the Olympic Games, takes on special significance. This issue touches upon both ethical norms and legal aspects concerning athletes and competition organizers. Sport has traditionally been considered a domain governed by the principles of fair play, equality, and peace. However,

when athletes from aggressor countries that support military actions participate in international competitions, it raises ethical questions. Specifically, is this not disrespectful to the victims of aggression and their families? Does this not undermine the core values of the Olympic Movement, which promote peace and unity? From a legal standpoint, the International Olympic Committee (IOC) establishes rules regarding the participation of athletes from aggressor countries. In particular, the IOC recommends that such athletes compete under a neutral flag and only in individual events, provided they do not support the war and have no ties to their countries' military structures. However, as practice shows, not all athletes from Russia and Belarus meet these criteria. Some openly support the war or have connections with military structures in their countries. This raises doubts about the effectiveness and fairness of the current IOC rules.

Results and discussion. The Olympic Movement, founded on the ideals of peace, justice, and equality, has come a long way from the ancient competitions in Olympia to modern global sporting mega-events. However, alongside the evolution of the Games, the legal status of athletes has also changed – from amateur participants with no formal guarantees to professionals with a complex set of rights and obligations. This process has been linked to social, political, and economic transformations, as well as the gradual recognition of the need for legal protection of athletes within the framework of international sports law (Dubinska, 2019).

The first Olympic Games, held in Ancient Greece from 776 BC, were not only athletic competitions but also a religious and political phenomenon. The participants – free Greek citizens – had no legally enshrined rights, and their status was determined by traditions and ethical norms. Winners received symbolic awards (olive wreaths), but their fame could bring political influence or material benefits. At the same time, violations of the rules (such as bribing judges) were severely punished, indicating the existence of certain regulatory mechanisms (Dolynnyi, 2020).

The modern Olympic Movement was initiated in 1896 by Pierre de Coubertin, who sought to combine the ideals of antiquity with the principles of modern sports. However, in the early 20th century, athletes were primarily considered amateurs, and their rights were limited by moral rather than legal norms. For instance, participants were prohibited from receiving compensation for their performances, which excluded professionalism and restricted their economic rights.

During the 20th century, the Olympic Movement faced a number of challenges that necessitated a reevaluation of athletes' status. First, the growing political influence on the Games (boycotts during the Cold War, the exclusion of South Africa due to apartheid) demonstrated that athletes could become hostages to political decisions. Second, the commercialization of sports rendered the ban on professionalism obsolete. In the 1980s–1990s, the IOC allowed professionals to compete (e.g., in basketball), marking a crucial step in recognizing their labor rights (Kampo, 2017).

A significant milestone was the adoption of the Olympic Charter – the foundational document defining the rights and responsibilities of all participants in the Movement. It enshrines:

1. equality of athletes regardless of race, gender, or religion (Principle 6);
2. prohibition of discrimination (Principle 4);

3.the obligation to comply with anti-doping rules (Kalmanovych & Bitsheva, 2019).

However, the Charter long remained a declarative document, with no real mechanisms for protecting rights. For example, until the 1990s, athletes did not have the right to appeal decisions of the IOC in independent courts. A turning point came with the establishment of the Court of Arbitration for Sport (CAS) in 1984. This institution, initially dependent on the IOC, later gained independent status and began resolving disputes between athletes, federations, and organizers. For instance, in the 2000s, CAS overturned disqualifications based on false doping tests.

Another important step was the recognition of sports as part of international law. The European Court of Human Rights repeatedly invoked Article 6 (the right to a fair trial) in cases involving disqualifications, and in 2014, the UN recognized access to sports as a human right (Inshyn & Melnyk, 2021).

It is worth noting that modern elite sports, particularly in the context of the Olympic Games and other international competitions, operate within a complex legal framework where international regulatory documents play a key role. These acts not only establish competition rules but also define the legal status of athletes, guaranteeing their rights and obligations. Among the most important documents are the Olympic Charter, the World Anti-Doping Code, UNESCO conventions, and the decisions of the Court of Arbitration for Sport (CAS). They form a comprehensive regulatory system that combines ethical principles, professional standards, and legal norms (Marionda, Syvokhop, Tovt et al., 2024).

## **2. THE OLYMPIC CHARTER AND LEGAL STATUS OF ATHLETES**

The Olympic Charter, which is the foundational document of the International Olympic Committee (IOC), defines the fundamental principles of the organization of the Games, as well as the rights and obligations of all participants in the Olympic Movement. Its first edition was developed by Pierre de Coubertin in 1894 and initially upheld the ideals of amateur sports. However, modern versions of the Charter, with the latest amendments introduced in 2023, reflect the processes of professionalization and commercialization in contemporary sports. The document consists of several key sections, among which the most significant are: fundamental principles (such as equality, non-discrimination, and the protection of athletes' health), rules for organizing the Games (including athlete eligibility and the role of National Olympic Committees), sanction mechanisms for violations of established norms, particularly disqualification procedures.

One of the most important provisions directly concerning athletes' rights is Principle 6, which strictly prohibits any form of discrimination based on race, gender, or religion (Dolynnyi, 2020). This principle has gained particular relevance in recent years amid public debates on the participation of transgender athletes in competitions. Another significant achievement is the inclusion in the Charter of the right for athletes to appeal decisions through the Court of Arbitration for Sport (CAS) (Article 61), which has become a key tool for protecting their interests (Inshyn & Melnyk, 2021). At the same time, the Charter imposes substantial restrictions, particularly regarding athletes' commercial rights – they are not allowed to use Olympic symbols for personal branding without special permission from the

IOC (Article 40). This has repeatedly drawn criticism from human rights advocates as an excessive restriction on freedom of enterprise.

The World Anti-Doping Code (WADC), adopted in 2004 under the auspices of the World Anti-Doping Agency (WADA), became the second most important document regulating the status of athletes in the international arena. Its primary goal is to harmonize anti-doping rules across all countries and sports, establishing unified standards in the fight against prohibited substances and methods. The Code envisions a comprehensive approach to the doping problem, which includes not only testing and sanctions but also educational programs and preventive measures (Aparov, 2017).

An important aspect of the World Anti-Doping Code (WADC) is the affirmation of the presumption of innocence for athletes (Article 3.2), which requires strict laboratory standards to be followed during sample analysis (Kalmanovych & Bitsheva, 2019). In 2019, this principle led to the disqualification of 27 athletes being overturned due to errors in the testing procedure. The Code also grants athletes the right to appeal to the Court of Arbitration for Sport (CAS), which has repeatedly helped uphold their interests. An example is the case of Norwegian skier Johannes Høsflot Klæbo in 2022, who successfully challenged a disqualification decision based on circumstantial evidence of doping use.

However, the Anti-Doping Code also contains a number of controversial provisions that have drawn criticism from human rights advocates. One of the most problematic norms is the principle of collective responsibility, which allows entire national teams to be banned. This practice contradicts the fundamental legal principle of individual guilt, whereby punishment should only apply to those who have actually violated the rules. Another contentious issue is the conflict between anti-doping procedures and the right to privacy – specifically, Article 5.6 of the Code requires athletes to continuously disclose their whereabouts for out-of-competition testing, which has been repeatedly criticized as excessive interference in private life (Inshyn & Melnyk, 2021).

Among other important international documents that influence the status of athletes, the UNESCO Convention on Sport, adopted in 2015, holds a special place. This international act was the first to legally recognize sport as a human right (Article 1) and required participating states to develop effective mechanisms to protect athletes from violence, corruption, and discrimination (Marionda, Syvokhop, Tovt et al., 2024). Ukraine ratified this Convention in 2018, which contributed to the creation of a number of state programs supporting athletes, particularly in the areas of social protection and medical insurance.

The decisions of the Court of Arbitration for Sport (CAS) have effectively acquired the status of case law in global sports. Established in 1984, this body has become the "supreme court" of sports jurisdiction, with rulings that are binding for all participants of the Olympic movement (Bordiuhoa, 2009). A striking example is the case of Chinese swimmer Sun Yang in 2020, when CAS overturned his lifetime ban, ruling that the sample collection procedure for doping tests was unlawful. This decision underscored the importance of adhering to procedural safeguards in sports investigations.

When analyzing the current state of international sports law, one cannot overlook the existence of serious contradictions between various regulatory documents. For example, the World Anti-Doping Code allows for the provisional suspension of athletes from competitions even before the investigation is completed, whereas the UNESCO Convention requires strict

adherence to the presumption of innocence. Such discrepancies create legal uncertainty and may lead to violations of athletes' rights.

Thus, international instruments have established a rather complex and multi-tiered system for the protection of athletes' rights. However, its effectiveness depends on striking a balance between the autonomy of sports organizations and universally accepted standards of the rule of law.

### **3. CASE LAW AND PRECEDENTS**

Note that legal precedents in sports are of particular importance, as they not only resolve specific conflicts but also shape legal approaches that become the basis for similar situations in the future. The case law of the Court of Arbitration for Sport (CAS), national courts, and other jurisdictional bodies has become an important source of sports law, complementing international regulations and the internal statutes of sports organizations (Inshyn & Melnyk, 2021). One of the most significant precedents in sports law was the Bosman ruling (1995), which fundamentally transformed the regulation of footballer transfers in Europe. The case arose due to restrictions imposed by the Union of European Football Associations (UEFA) on player transfers after contract expiration. Belgian footballer Jean-Marc Bosman challenged these rules in the European Court, which ruled that they violated the principles of free movement of workers in the European Union. This decision had far-reaching consequences: it not only abolished transfer restrictions but also led to a significant increase in player salaries, reshaped the transfer window system, and impacted the economics of football as a whole. The Bosman ruling demonstrated that national and European labor law can take precedence over the internal regulations of sports federations.

Case law has also significantly influenced the regulation of discrimination issues in sports. In 2020, the CAS considered the case of Indian sprinter Dutee Chand, who was disqualified due to elevated testosterone levels. The court required the IAAF to review its regulations regarding female athletes with differences in sexual development, recognizing that they might be overly strict and insufficiently individualized (Marionda, Syvokhop, Tovt et al., 2024). This decision contributed to the further refinement of anti-discrimination norms in sports regulations.

A separate category consists of precedents related to the protection of child athletes' rights. In 2018, the European Court of Human Rights examined a case concerning the exploitation of young gymnasts in Romania, where it was determined that intensive training from childhood could violate a child's right to education and normal development. This ruling prompted many countries to introduce special regulations limiting training loads for underage athletes (Dolynnyi, 2020).

Case law has also played a key role in shaping mechanisms for protecting athletes' rights in contract terminations. The Webster case (2006) established the principle that a football player could terminate a contract early by paying compensation calculated based on the residual value of the contract, rather than traditional transfer fees. This approach was further developed in subsequent cases and became an important element of sports labor law.

Particular attention is drawn to precedents related to the protection of athletes' personal data. In 2019, a German court ruled that the practice of publishing full doping test results

was unlawful, as it violated the right to privacy. This decision influenced WADA's policy regarding the disclosure of doping testing information.

Analyzing the impact of legal precedents on the development of sports law, several key trends can be identified. First, case law is gradually expanding athletes' rights, limiting the discretionary powers of sports federations. Second, it promotes the harmonization of sports law with the general principles of labor law and human rights. Third, precedents increasingly take into account the specificities of certain categories of athletes (minors, women, athletes with disabilities). However, the precedent system also has its drawbacks. The absence of a unified centralized decision-making system leads to similar cases being resolved differently in different jurisdictions. Additionally, many decisions are made under temporary political pressure, which can undermine the stability of legal regulation.

As previously mentioned, the legal status of athletes at the Olympic Games is shaped by a complex framework of international, national, and corporate norms governing their relationships with National Olympic Committees (NOCs) and the International Olympic Committee (IOC). This system of legal relations is based on the principles of the Olympic Charter, international treaties, national legislation, and individual contracts, creating a unique legal landscape that combines elements of public and private law (Pop, 2013). The primary document defining the legal status of Olympic participants is the IOC Olympic Charter. It stipulates that every athlete taking part in the Games automatically falls under the jurisdiction of the IOC and is obliged to comply with all its provisions. This creates a special type of legal relationship in which the athlete, even as a professional, *de facto* becomes a subject of international sports law with a limited scope of rights compared to the organizers. A key element of this status is the mandatory signing of the so-called "Olympic Agreement," which includes a number of restrictions on commercial activities, the use of symbols, and public statements during the Games.

Contractual relations between athletes and their National Olympic Committees have a complex, multi-tiered structure. At the first level is the funding agreement for training, which typically obligates the NOC to provide the athlete with training facilities, medical support, and financial assistance in exchange for the exclusive right to represent the country in international competitions. In practice, this often leads to conflicts when athletes attempt to change their sporting nationality or withdraw from national team participation due to the NOC's failure to fulfill its obligations (Pisareva, 2014). A notable example was the scandal involving Ukrainian fencer Olga Kharlan in 2023, when she challenged in court the actions of the Ukrainian NOC regarding the denial of funding.

The second level of contractual relations is related to participation in the Olympic Games themselves. Before being sent to the Games, every athlete is required to sign a series of documents regulating their behavior during the competitions, including consent to anti-doping tests and restrictions on commercial activities. Particularly significant is the provision stating that all disputes regarding participation in the Games must be resolved exclusively through the Court of Arbitration for Sport (CAS) in Lausanne, which effectively limits athletes' access to national judicial systems (Inshyn & Melnyk, 2021). A separate category consists of agreements between athletes and the IOC regarding the use of their images and commercial rights. According to modern rules, all athletes automatically grant the IOC exclusive rights to the commercial use of their performances during the Games, which is especially relevant in the digital age, where content is actively monetized through

official OTT platforms. This provision has repeatedly drawn criticism from professional sports associations, which consider it an excessive restriction of athletes' economic rights (Pop, 2013). In 2021, a group of prominent Olympians, led by American swimmer Michael Phelps, launched a campaign to change these rules, but the IOC only made minor adjustments to its policy, allowing athletes limited use of their images on social media.

The complexity of contractual relationships is further compounded by the fact that many athletes are simultaneously members of professional leagues or clubs that have their own agreements regarding participation in international competitions. For example, in basketball, there is a special agreement between the NBA and the IOC that regulates the terms under which NBA stars can participate in the Olympics. These "release agreements" often include intricate insurance mechanisms designed to protect clubs from financial losses in case of player injuries during the Games. Similar practices exist in other sports, adding another layer of contractual complexity.

Particular attention is drawn to conflicts related to intellectual property. In 2018, the renowned Jamaican sprinter Usain Bolt won a case against one of the IOC's official sponsors, which had used his image in advertising without an additional agreement (Marionda, Syvokhop, Tovt et al., 2024). This precedent demonstrated that even during the Games, athletes retain certain rights to their personal brand, which they can defend in court.

Modern trends in the development of the Olympic movement indicate a gradual expansion of athletes' rights in contractual relations. In 2022, the IOC officially recognized the Athletes' Commission as a representative body for the first time, which facilitated more active efforts to protect their interests. However, many issues remain unresolved, including the fair distribution of broadcasting revenues, protection of personal data, and guarantees of medical assistance after retirement.

It should be noted that the legal status of athletes during the Olympic Games is characterized by significant restrictions on traditional rights and freedoms, justified by the unique nature of the competitions and the need to ensure their successful execution. These restrictions are comprehensive, covering political, commercial, and disciplinary spheres, creating a distinct legal framework that differs substantially from the ordinary legal status of professional athletes (Gavrylin, Merdov, & Bilobrov, 2017).

#### **4. LEGAL RESTRICTIONS IN THE OLYMPIC CONTEXT**

Political restrictions on athletes' rights are among the most controversial aspects of participation in the Olympic Games. According to Rule 50 of the Olympic Charter, any form of political, religious, or racial propaganda is prohibited on Olympic venues, during ceremonies, and in official areas. This provision has repeatedly sparked public debate, especially after instances where athletes attempted to express political protests during the Games. A notable example is the 1968 incident when American track and field athletes Tommie Smith and John Carlos raised their fists in black gloves during the medal ceremony as a protest against racial discrimination, leading to their disqualification and expulsion from the Olympic Village. In 2020, the IOC somewhat relaxed these restrictions by allowing "limited" forms of protest before competitions but maintained the ban on any political demonstrations during events and ceremonies (Marionda, Syvokhop, Tovt et al., 2024). This

policy was reaffirmed during the 2021 Tokyo Games when German gymnast Elisabeth Seitz was warned about possible sanctions for wearing makeup in the colors of the LGBTQ+ flag.

Commercial restrictions represent another important aspect of the legal status of Olympians. Rule 40 of the Olympic Charter imposes strict limitations on athletes' commercial activities during the Games, prohibiting any advertising or promotion of personal sponsors during the so-called "Olympic period," which typically lasts from 9 days before the opening ceremony until 3 days after the closing ceremony (Inshyn & Melnyk, 2021). These restrictions have been the subject of numerous legal disputes, particularly in Germany, where in 2019, the antitrust authority ruled them excessive and anti-competitive. In response, the IOC amended Rule 40, allowing limited advertising activity with prior approval but maintaining significant restrictions. In practice, this leads to situations where athletes, especially those in less popular sports, lose a substantial portion of their potential earnings during the most important competitions of their careers. A notable example was the controversy surrounding American swimmer Ryan Lochte in 2016, who was forced to remove all mentions of his personal sponsors from social media during the Rio Games.

Disciplinary restrictions form the third major group of limitations on athletes' rights. According to the Olympic Charter, all participants of the Games automatically fall under the jurisdiction of the IOC and must comply with a wide range of behavioral rules that govern not only sports-related aspects but also personal life during the Games. Such restrictions include:

1. prohibition on visiting nightclubs and other entertainment venues;
2. restrictions on interacting with the media without permission from the delegation's leadership;
3. compliance with a strict media protocol during ceremonies;
4. adherence to a curfew in the Olympic Village (Kalmanovych & Bitsheva, 2019).

It is worth noting that violating these rules can lead to serious sanctions, including disqualification and exclusion from the Games. In 2012, for example, Swiss footballer Michel Morganella was sent home from the London Games after making a public gesture toward fans following a lost match, which was interpreted as offensive.

A special category of disciplinary restrictions consists of anti-doping rules. Athletes are required to:

1. provide accurate information about their whereabouts for out-of-competition testing;
2. obtain special permissions for the use of medicinal drugs;
3. immediately report any medical procedures (Marionda, Syvokhop, Tovt et al., 2024).

## **5. PRIVACY, DATA PROTECTION, AND THE DIGITAL ATHLETE**

It should be noted that the system of disciplinary restrictions is constantly evolving. Following the cyberstalking scandal involving athletes during the 2016 Rio Games, the IOC introduced new rules restricting the use of social media during competitions to prevent cyberbullying. In 2021, a ban on using TikTok and other video services to broadcast from

Olympic venues without special permission was added. The legal mechanism for implementing these restrictions has its own peculiarities. All athletes, before participating in the Games, are required to sign a special agreement that includes their consent to comply with all IOC rules. This agreement has an international legal nature and typically does not fall under the jurisdiction of national courts, creating a unique legal situation where athletes effectively waive some of their usual rights in favor of a special Olympic regime.

Modern practice shows a trend toward gradually easing certain restrictions, particularly in commercial activities and the expression of personal views, but the overall system remains quite rigid. This has drawn criticism from human rights advocates, who argue for a more balanced approach that considers both the interests of the organizers and the personal rights of athletes (Inshyn & Melnyk, 2021). In response, the IOC established the Athletes' Rights Commission in 2021, tasked with reviewing existing restrictions and proposing ways to modernize them.

The Olympic Games system involves significant interference in athletes' private lives, raising serious concerns about the protection of their personal data. This issue has become especially relevant in the context of sports digitalization, as athletes' personal data has become subject to intensive collection, analysis, and commercialization. The legal status of athletes in this area is shaped by the intersection of international sports law, national data protection legislation, and the corporate policies of competition organizers (Pisareva, 2014). Y. Dolynnyi notes that participation in the Olympic Games requires athletes to provide a vast array of personal data covering various aspects of their lives (Dolynnyi, 2020). This includes biometric data (e.g., anthropometric indicators, DNA profiles, medical examination results), training and competition metrics (heart rate, endurance, reaction speed), location information (via the Whereabouts system for anti-doping control), financial data (for prize payments), and media content (photos and videos during competitions). With the advent of "smart" training systems and devices, the volume of such data has increased significantly. For instance, during the Tokyo 2021 Olympics, athletes used more than 15 different types of monitoring devices, enabling the collection of detailed information about their physical condition.

The International Olympic Committee (IOC) formally adheres to a Data Protection Policy that complies with GDPR standards, but in practice, this policy contains numerous exceptions. Specifically, the IOC has the right to transfer athletes' data to third countries with lower protection standards, retain information for 10 years after an athlete's career ends, and use it for commercial purposes without additional consent. Such practices have repeatedly been the subject of legal disputes. In 2019, a German track and field athlete filed a complaint with European data protection authorities over the mandatory collection of biometric data, but such cases rarely lead to significant changes in the IOC's policies.

One of the most controversial aspects is the Whereabouts system, which requires athletes to update their location information daily (Marionda, Syvokhop, Tovt et al., 2024). It demands precise details about their residence (down to the room number), a "60-minute time slot" every day for potential surprise testing, and penalties for missed tests (three missed tests within 12 months result in disqualification). In 2020, the European Court of Human Rights ruled that certain aspects of this system were disproportionate, particularly concerning underage athletes, but the IOC only made minimal adjustments to the procedures without substantial changes.

Athletes' personal data has become a valuable asset in the sports industry. It is used to sell analytics to bookmakers, include players in video games without additional compensation, and create digital twins for testing sports equipment. In 2022, a group of Dutch speed skaters won a lawsuit against a sports equipment manufacturer for unauthorized use of their biomechanical data, highlighting the issue of insufficient control over the commercial exploitation of such information.

Modern broadcasting technologies enable the collection of vast amounts of data on every athlete – from precise muscle movements through computer analysis to emotional reactions via facial recognition and even physiological indicators using specialized sensors (Inshyn & Melnyk, 2021). However, this data is often inadequately protected. In 2018, a leak of football players' heart rate data during matches occurred, confirming systemic issues in safeguarding athletes' privacy.

It is worth noting that in 2023, the IOC announced a new data protection strategy, which includes the creation of a special compensation fund for the use of data, the implementation of blockchain technologies to control access, and the expansion of athletes' "right to be forgotten." However, experts doubt the effectiveness of these measures without a radical change in the approach to relations with athletes.

## **6. ETHICAL CHALLENGES AND THE CONFLICT BETWEEN LAW AND FAIRNESS**

Modern Olympic sports have become an arena for complex ethical dilemmas, where legal norms often clash with notions of fairness. These conflicts are particularly evident in the fight against doping and the use of cutting-edge technologies, where the line between fair play and artificial performance enhancement becomes increasingly blurred. The principle of "fair play" is the foundation of the Olympic movement, but its practical implementation in anti-doping efforts raises serious ethical issues. On the one hand, the ban on pharmacological intervention in an athlete's body aims to protect health and ensure equal competition conditions. On the other hand, the modern anti-doping system often leads to:

1. collective punishments, where innocent athletes suffer due to violations by others;
2. disqualifications for minimal concentrations of substances that provide no competitive advantage;
3. violations of privacy rights due to constant monitoring systems (Popichev, 2014).

An example of this ethical dilemma was the case of Chinese swimmers in 2021, when 23 athletes were allowed to compete in the Games despite positive doping tests, as they had used banned substances under doctors' prescriptions.

The advancement of technology has created a new type of ethical problem – so-called "mechanical doping." This includes: the use of exoskeletons and neuroimplants; genetic modifications to enhance endurance; artificial intelligence for analyzing opponents' tactics. In 2022, a scandal erupted involving Dutch speed skaters who used neurostimulation during training. Although the technology was not explicitly banned, many experts considered it contrary to the spirit of sports. The scandal surrounding the Dutch speed skaters in 2022

was a vivid example of this issue. The athletes used neurostimulation during training—a technology that activates specific areas of the brain through electrical impulses, improving concentration, endurance, and reaction speed. While there was no direct ban on such practices in the official rules, many experts and fans deemed it unfair, as it provided a technological advantage, violating the principle of fair competition.

The main problem with mechanical doping is that it calls into question the very essence of sport as a competition of natural abilities, training, and willpower. If an athlete can enhance their performance through technology rather than their own efforts, it turns sport into a competition between engineers and biotechnologists rather than athletes (Gavrylin, Merdov, & Bilobrov, 2017). Additionally, there is a risk of unequal access to such technologies: wealthy countries and clubs will be able to afford expensive developments, while others will find themselves at a disadvantage. Another important aspect is safety. Neuroimplants, genetic modifications, and other experimental methods may have unpredictable side effects, but athletes seeking an advantage may ignore the health risks. This jeopardizes not only the integrity of competitions but also the lives of athletes.

M. Pisareva emphasizes that sport should be an arena of equality and mutual respect, where every participant, regardless of race, gender, religion, or political beliefs, has equal opportunities to succeed (Pisareva, 2014). The Olympic Charter underscores that all participants in the sports movement must adhere to the principles of mutual understanding, friendship, and solidarity, which excludes any form of discrimination. Political neutrality is one of the fundamental principles of sports organizations. They must remain free from political influence, thereby ensuring fairness and equality for all athletes. However, in the modern world, where sports and politics often intersect, achieving complete political neutrality is a complex task. Freedom of expression is a fundamental human right, including for athletes. Yet, in the context of sports competitions, expressing political views can lead to controversy and violations of neutrality principles. Therefore, it is crucial to strike a balance between the right to free expression and the need to maintain neutrality and equality in sports.

The use of doping is a serious problem that undermines the foundations of sports ethics and fairness. Doping gives athletes an unfair advantage, violating the principles of fair play. Moreover, it poses serious health risks to athletes, including the potential development of severe illnesses and premature death (Bilotskyi & Bublychenko, 2015). Anti-doping organizations, such as the World Anti-Doping Agency (WADA), establish strict rules and conduct regular testing of athletes. However, despite these measures, the problem of doping remains relevant, requiring continuous improvement in control and education in this field.

## **7. COMMERCIALIZATION AND SYSTEMIC VIOLATIONS OF ATHLETES' RIGHTS**

The commercialization of sports leads to significant financial investments, infrastructure development, and increased popularity of sporting events. However, excessive commercialization can have negative consequences. The growth of financial interests may lead to a decline in athletic achievements when commercial interests outweigh sporting ones (Dolynnyi, 2020). Commercial agreements can restrict athletes' rights, including their freedom to choose sponsors, participate in certain competitions, or express personal views.

Commercial pressure can also have adverse effects on young athletes, including psychological stress and undesirable training practices. The task of sports organizations is to strike a balance between commercial interests and athletes' rights, ensuring their well-being and development. This includes establishing transparent rules regarding sponsorships, media deals, and other commercial aspects that consider the interests of all participants in the sports process.

Violations of athletes' rights at the Olympics are a systemic problem encompassing a wide range of issues – from unfair disqualifications and judging errors to politically motivated decisions and bureaucratic barriers. The international Olympic movement is formally governed by the principles enshrined in the Olympic Charter, which proclaims equality, impartiality, and respect for athletes' rights. However, in practice, these ideals often significantly diverge from reality. Athletes regularly face discrimination based on nationality, gender, or age, opaque disqualification procedures, politically motivated sanctions, and errors in anti-doping laboratory operations. The primary mechanism for protecting athletes' rights is the Court of Arbitration for Sport (CAS), which handles appeals against decisions by the International Olympic Committee (IOC) and sports federations. Yet, this system is far from perfect – proceedings are often prolonged, the cost of appeals is prohibitive for many athletes, and final rulings sometimes appear politically biased (Popichev, 2014).

A telling example is the case of American runner Katerina Belokini, who was disqualified in 2020 for missing a doping test. However, it was later revealed that WADA had failed to properly notify her of the testing requirement, and CAS ruled the punishment unjustified. This case clearly demonstrated how crucial clear communication is between anti-doping agencies and athletes.

## **8. SYSTEMIC VIOLATIONS OF ATHLETES' RIGHTS AND POLITICAL INFLUENCE IN THE OLYMPIC MOVEMENT**

Particular attention should be paid to the situation of Ukrainian weightlifters who were stripped of their medals after the 2012 London Olympics due to positive doping tests. It later turned out that the laboratory had made serious errors, but restoring justice took years, and many athletes were never able to reclaim their well-deserved awards. In addition to doping scandals, discrimination against athletes based on gender identity remains a serious issue (Marionda, Syvokhop, Tovt et al., 2024). For instance, South African runner Caster Semenya spent years fighting against IAAF rules that limited testosterone levels in female athletes. Although the CAS ultimately deemed these regulations legal, the case sparked widespread public debate and raised questions about the need for a more flexible approach to such situations.

When analyzing the mechanisms for protecting athletes' rights, it is important to note that the existing system has several significant flaws. First, the CAS appeals process often drags on for months, making it ineffective in cases requiring swift decisions. Second, the high cost of legal proceedings renders them inaccessible to athletes from developing countries. Third, CAS rulings are often influenced not only by legal considerations but also by political factors, undermining trust in this institution.

### 8.1. Politics and the Olympic Games: A Persistent Conflict

Since the revival of the Olympic Games in 1896, politics has been inextricably linked to sporting competitions. As early as the 1936 Berlin Games, the Nazi regime used them for propaganda, which contradicted Olympic principles. After World War II, the Cold War intensified conflicts: boycotts, team exclusions, and censorship became tools of political pressure. For example, in 1980, the U.S. and a number of Western countries boycotted the Moscow Games due to the Soviet invasion of Afghanistan, and in 1984, the Soviet Union and its satellites retaliated by not sending athletes to Los Angeles. In both cases, athletes became hostages to political decisions, deprived of the right to compete due to circumstances beyond their control (Repetskyi & Hutnyk, 2017).

The International Olympic Committee (IOC) formally adheres to the principles of non-discrimination and equality, yet its decisions are often politicized. For instance, the exclusion of South Africa from the Olympics due to apartheid (1964–1988) was justified from a human rights perspective but deprived innocent athletes of the opportunity to compete.

In the 21st century, modern conflicts, such as Russia's invasion of Ukraine, have led to partial admissions of athlete-aggressors under neutral flags. However, these measures do not eliminate the pressure on athletes: many are forced to publicly support their countries' policies under the threat of repression. Chinese and Iranian athletes have repeatedly faced accusations of censorship and intimidation for their performances on the international stage. Furthermore, boycotts (such as the diplomatic boycott of the Beijing 2022 Games), while not directly affecting athletes, have undermined trust in the principle of the apolitical nature of sports.

### 8.2. Authoritarian Control and Pressure on Athletes

A large number of athletes, especially from countries with authoritarian regimes, face pressure from state or sports officials, who compel them to participate in the Games despite injuries, psychological issues, or personal reasons. For example, in the USSR, there was a practice of extrajudicial decisions regarding athletes' participation, where refusal was viewed as "betrayal of state interests." Similar cases have been recorded in China, where athletes were forced to compete under the threat of disqualification or loss of funding.

In 2020, the international community faced a scandal involving Belarusian track and field athlete Krystyna Tsimanouskaya, who was forcibly attempted to be sent home after her public criticism of the national federation's leadership. This case highlighted that athletes often become hostages of political games, and their careers can be ruined due to refusal to comply with directives.

### 8.3. Limitations on Freedom of Movement and Expression

The Olympic Games are regularly accompanied by restrictions on the movement of athletes, particularly when held in countries with strict administrative control. For example, during the Beijing 2008 Olympics and the 2022 Winter Games, foreign athletes were effectively isolated in "Olympic bubbles," where their interactions with locals and the media were heavily censored. Such measures were justified under the guise of "safety" or "anti-epidemic regulations," but in reality, they violated the right to freedom of movement guaranteed by the Universal Declaration of Human Rights.

The issue of freedom of movement is especially acute for refugee athletes or those representing countries experiencing political crises. They often cannot return to their homeland after the Games due to the threat of persecution but are not always granted the

opportunity to stay in the host country. For instance, following Rio 2016, several athletes from Syria and Eritrea sought political asylum, as their participation in the Olympics was viewed by their governments as "betrayal."

#### 8.4. Gender Identity and the Struggle for Inclusion

The Olympic Games, as a global sporting event, should embody the principles of equality, inclusion, and respect for human rights. However, history shows numerous cases of discrimination against athletes based on their gender identity or sexual orientation. Despite progress in LGBTQ+ rights in many countries, systemic barriers in sports continue to limit participation and freedom of expression for athletes (Popichev, 2014).

Throughout the 20th century, the Olympics repeatedly became a stage for political and social conflicts, including racial, gender, and sexual discrimination. For example, in 1936, Nazi Germany used the Berlin Olympics to promote racial superiority, and in 1968, athletes Tommie Smith and John Carlos raised their fists in support of the civil rights movement, leading to their disqualification. In the 21st century, the focus has shifted to issues of gender identity and sexual orientation.

The International Olympic Committee (IOC) long lacked clear rules regarding the participation of transgender athletes. It was only in 2004 that transgender individuals were allowed to compete after undergoing sex reassignment surgery, and since 2015 – without mandatory surgical intervention but with testosterone level restrictions for women (Marionda, Syvokhop, Tovt et al., 2024). These regulations have drawn criticism from both LGBTQ+ activists and opponents of transgender participation in women's competitions. The case of South African runner Caster Semenya, who was accused of having excessive testosterone levels, demonstrated that modern medical criteria are often based on outdated notions of sex binarism. In 2019, the Court of Arbitration for Sport (CAS) ruled that the IOC's policies were discriminatory but did not fully overturn them, highlighting the lack of consensus on the issue.

Modern sports, especially the Olympic movement, are currently undergoing profound transformations linked to increasing commercialization, politicization, and the interference of external factors in the fairness of competitions. Under these conditions, the issue of protecting athletes' rights has become one of the key aspects of the development of sports law. Consequently, there is a need to reform existing mechanisms for safeguarding their rights and to improve the functioning of international sports institutions.

One of the most pressing problems is the lack of effective tools for appealing decisions regarding disqualifications, doping allegations, or other sanctions. Currently, athletes are forced to turn to the Court of Arbitration for Sport (CAS), but this process is often lengthy, costly, and does not always guarantee fairness. Moreover, CAS remains under the influence of the International Olympic Committee (IOC) and other sports federations, raising concerns about its independence (Dolynnyi, 2020). To address this issue, it is necessary to establish a specialized independent chamber for resolving sports disputes, which would operate on a permanent basis and have clear procedural guarantees.

Another key aspect is protecting athletes from political pressure and discrimination. Recent years have shown that decisions regarding the admission or suspension of athletes are often influenced by political factors rather than objective criteria. The issue of financial transparency in international sports organizations is also acute. A significant number of

federations, including the IOC, handle substantial funds, yet their operations are often opaque. This leads to corruption scandals that impact athletes' careers. To prevent such situations, mandatory audits, public financial reports, and independent oversight bodies monitoring the activities of sports administrations must be introduced (Repetskyi & Hutnyk, 2017).

Social networks and media often violate athletes' right to privacy, and false information can significantly damage their reputation. In this regard, it is proposed to develop an international code of media ethics in sports that would regulate the coverage of athletes' personal lives and protect them from defamation.

Another important area of reform is increasing the participation of athletes themselves in decision-making. Currently, athletes have virtually no representation in the governing bodies of the IOC or other federations. Establishing an Olympic Athletes' Association with real authority could change this situation and ensure their interests are taken into account.

One of the most important conditions for effectively protecting athletes' rights is the existence of a clear legal framework that regulates their status, responsibilities, and guarantees. At the international level, such a framework is shaped by organizations like the International Olympic Committee (IOC), the World Anti-Doping Agency (WADA), the Court of Arbitration for Sport (CAS), and others. National laws, in turn, should incorporate international standards while adapting them to local realities. However, in practice, significant problems arise due to inconsistent regulations, insufficient enforcement of sanctions, and limited access to legal assistance for athletes (Popichev, 2014).

An important direction for improving athlete rights protection mechanisms is the development of alternative dispute resolution methods, such as mediation and arbitration. The Court of Arbitration for Sport (CAS) has already proven its effectiveness in resolving conflicts, but its procedures remain inaccessible to many athletes due to high costs and complexity. Therefore, introducing simplified mechanisms, free consultations, and financial support for athletes with limited resources could significantly enhance the protection of their rights.

It is worth focusing separately on the issue of doping and related offenses. Combating banned substances is necessary, but the modern anti-doping control system often leads to violations of athletes' rights, particularly due to false testing results, insufficient transparency in procedures, or excessively harsh sanctions (Bilotskyi & Bublychenko, 2015). Improving laboratory methods, introducing objective appeal mechanisms, and ensuring the right to a fair hearing are key tasks for anti-doping organizations.

Beyond legal aspects, ethical education for athletes is of great importance. Professional sports create high pressure, which can provoke violations of moral norms, such as match-fixing, manipulation, aggression, or discrimination. The formation of ethical awareness among athletes should begin at the youth sports level. Coaches, educators, and sports organizations must integrate ethical principles into the training process, fostering respect for opponents, referees, and the rules of the game.

Legal literacy among athletes is another key factor in protecting their interests. A significant number of athletes, especially early in their careers, are unaware of their rights, making them vulnerable to exploitation by clubs, sponsors, or federations. Implementing mandatory courses on the basics of sports law, establishing advisory centers, and developing accessible

informational materials could help athletes better understand their rights and obligations (Inshyn & Melnyk, 2021).

A. Aparov notes that one of the key problems in the field of protecting the rights of Olympic athletes is the absence of a unified legal framework regulating their status (Aparov, 2017). Today, there are a number of international instruments, such as the Olympic Charter, the World Anti-Doping Code, UNESCO and ILO conventions, which address certain aspects of sports activities. However, these documents often contradict each other or fail to account for the specifics of individual sports. Moreover, the national legislation of many countries does not always align with international standards, leading to inequalities in the protection of athletes' rights. For instance, in some states, athletes do not have access to independent arbitration in cases of disputes with national federations, while in others, effective appeal mechanisms exist.

An important direction for improving the protection of Olympic athletes' rights is the development of alternative dispute resolution methods, particularly through institutions like the Court of Arbitration for Sport (CAS). The experience of CAS has proven its effectiveness, but the system has several shortcomings: high costs, lengthy proceedings, and limited access for athletes from developing countries (Inshyn & Melnyk, 2021). Introducing free legal consultations, financial support for underprivileged athletes, and simplified procedures for urgent cases could significantly increase trust in this system. Additionally, it would be worthwhile to consider the possibility of establishing specialized bodies to review complaints about violations of athletes' rights, which would operate on a permanent basis rather than only during the Olympics.

## **9. TOWARD A GLOBAL CODE OF ATHLETES' RIGHTS**

It is worth considering the issue of anti-doping regulation separately. The fight against banned substances is an important component of fair sports, but the current control system often leads to violations of athletes' rights. False-positive test results, insufficient transparency in laboratory procedures, and excessively harsh penalties for unintentional violations all create an atmosphere of uncertainty and injustice (Marionda, Syvokhop, Tovt et al., 2024). Improving testing methods, introducing objective criteria for assessing guilt, and ensuring the right to a swift and independent review of cases are key steps to balancing the interests of WADA and athletes.

One of the most promising initiatives in the field of athlete rights protection is the development of a Global Code of Rights for Olympians, which could become the primary source of guarantees for athletes, defining their rights and obligations, mechanisms for protecting their interests, dispute resolution procedures, and standards for social security. The Code should be based on the principles of:

1. equality – equal protection regardless of country, sport, or financial status;
2. transparency – open procedures for disqualifications, sanctions, and venue selection;
3. fair adjudication – independent arbitration in dispute resolution;
4. social guarantees – health protection, insurance, and post-career support;
5. participation – representation of athletes in decision-making bodies.

To implement this initiative, it is necessary to consolidate the efforts of the IOC, WADA, CAS, National Olympic Committees, and organizations representing athletes' interests. An important step could be the establishment of a working group to develop a draft code, conducting international consultations with athletes and experts, as well as the phased implementation of its provisions into sports practice.

## **10. CONCLUSIONS AND RECOMMENDATIONS**

The modern Olympic movement, inspired by Pierre de Coubertin's ideals, merges ethical principles with legal frameworks to protect athletes' rights. Grounded in the Olympic Charter, the IOC Code of Ethics, and national regulations like Ukraine's Ethical Code of the Olympic Movement, it upholds values such as human dignity, non-discrimination, fair play, and impartiality. These standards not only guide moral conduct but also provide legal safeguards against abuse, corruption, and other violations.

Athletes' rights at the Olympics are defended through international and domestic laws. The Olympic Charter outlines participants' status, responsibilities, and protections, while the World Anti-Doping Code and the Olympic Movement Medical Code set clear health and safety regulations. However, legal rules governing Olympic competition do not always align with the ethical dimensions inherent in sports culture. International bodies like the IOC must prioritize ethics when drafting and enforcing regulations – not just in anti-doping efforts but also in safeguarding athletes' rights, safety, and dignity.

Ethical considerations should underpin the legal norms that define interactions between athletes, federations, and sponsors. Enhancing athletes' legal literacy is crucial, as many remain unaware of their rights and obligations. Educational initiatives on sports law could bridge this gap. The global community should work toward harmonized legal standards that respect national differences while guaranteeing universal athletes' rights. This approach would minimize legal disputes and promote equity in sports.

Further research in this field may focus on several key directions:

1. Analysis of international legislation – examining the impact of global norms and comparing them with national frameworks.
2. Empirical research – surveys and interviews with athletes to identify legal challenges and protection gaps.
3. Review of ethical codes – assessing the effectiveness of sports codes of conduct in defending athlete rights.
4. Media influence – evaluating how media portrayals shape public understanding of ethical and legal issues in sport.
5. Institutional responsibility – exploring how sports organizations can implement principles of social responsibility to support athlete rights in Olympic contexts.

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## LAWMAKING, INTERPRETATION AND LEGAL MONITORING: CONCEPTUAL APPROACHES AND DIGITAL CHALLENGES

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### **Abstract**

The functioning of the modern legal system is based on the inextricable interconnection of three key processes: lawmaking, legal interpretation, and legal monitoring. Each of them performs its own unique function, but only their holistic interaction ensures the effectiveness, sustainability, and flexibility of legal regulation. These processes do not function in isolation; rather, they form a logical and cyclical chain within which legal norms are created, understood, and evaluated. The process of lawmaking is integral to the establishment of a legal system, as it sets the regulations that govern conduct. Legal interpretation enables adaptation of these rules to specific circumstances, while legal monitoring provides critical feedback for identifying gaps, conflicts, and inefficiencies in regulatory frameworks. A distinguishing feature of this triad is that legal interpretation cannot be fully formalized, as it is an intellectual and analytical process. Although legal theory and practice have developed distinct approaches to these processes, none of them is flawless. Constant social transformation, political challenges, and technological progress require legal mechanisms to adapt and improve. This article analyzes the interconnected nature of lawmaking, interpretation, and monitoring, with a particular focus on how digital technologies — including artificial intelligence, analytical platforms, and forecasting systems — can enhance the coherence and effectiveness of legal processes.

**Keywords:** lawmaking, legal interpretation, legal monitoring, artificial intelligence, legal system, digitalization, regulatory processes

### **LAWMAKING: THE ORIGIN OF THE LEGAL SYSTEM**

Lawmaking is the starting point of this cycle. At this stage, the foundations for the quality and effectiveness of future law enforcement are established. In consideration of the aforementioned interdependence, it is imperative to prioritize the quality of legal prescriptions during the formulation of regulatory frameworks. One of the key characteristics of quality legislation is its rationality. According to the British researcher Helen Xanthaki, lawmaking should be considered as a separate subdiscipline of law, which has its own rules, standards and methodologies aimed at achieving an understandable, consistent and predictable legislative framework (Xanthaki, 2013). She emphasizes that only such legislation can be an effective tool for managing social processes.

Legislative rationality is based on four main components: teleological (goal attainment), legal and formal (internal logic and compliance with the legal system), ethical (consistency with society's values), and pragmatic (realistic implementation) (Voermans, 2009). These components are the criteria by which each new legal act should be evaluated.

In the context of Ukraine, the establishment of a rational approach to lawmaking is confronted by a multitude of objective and subjective impediments. Following its attainment of independence in 1991, Ukraine confronted the imperative to establish a novel legal infrastructure encompassing all domains of public life. Over the following decades, Ukrainian legislation evolved unevenly, often in response to urgent political or economic requests, without a proper methodological framework and long-term planning (Onishchenko, 2024).

An additional complication was the fact that in conditions of global instability and war, the state is forced to make decisions in an accelerated mode. This enables prompt responsiveness to challenges. However, it can concomitantly result in fragmented legislation, instability, and inconsistency (White Paper on the Legislative Process, as cited in Cabinet Office, 2022). Frequently, acts are adopted without a thorough examination of the potential repercussions and without the facilitation of either effective public discourse or expert discussion. This procedural oversight can lead to a diminution of the acts' legitimacy and render their implementation more complex.

Therefore, the scientific and practical community in Ukraine has repeatedly raised the issue of the need to reform the lawmaking process. One of the important steps in this direction was the publication of the White Paper on the Legislative Process, which outlines the main problems and suggests ways to solve them, including under martial law. This document underscores the imperative to establish a sustainable system of legislative technique, fortify analytical support for lawmaking, and cultivate enhanced collaboration among legislators, scholars, and practitioners. The proposals outlined in this study were partially incorporated during the drafting of new legislation to regulate lawmaking (Law of Ukraine No. 3354-IX, 2023). However, as it will take effect after the termination of martial law, its tangible impact will only become evident and subject to evaluation at a subsequent point in time.

It is imperative to enhance the legislative technique and cultivate a professional culture of lawmaking that respects the scientific approach, systematic thinking, and consideration of the most effective European practices. A culture of such scope should encompass both the parliament and all government agencies involved in the development of legal acts.

In contemporary society, legislative activity is increasingly regarded not solely as a political or technical process but also as a sophisticated intellectual construct that necessitates consideration of the social context, scientific expertise, and strategic vision. That is why the issue of rational lawmaking comes to the fore in the context of improving the legal system.

It is worth emphasizing that the rationalization of the legislative process is impossible without the integration of legal science at all its stages. The researchers' observations indicate that the professional level of the legislator cannot be founded exclusively on political expediency or intuition. Rather, it should be grounded in scientifically sound approaches (Bobrovnyk, Shevchenko, & Didych, 2019). Such cooperation between legal science and lawmaking is especially important during periods of social transformation or crises, when there is a need for prompt, yet high-quality, regulation of new social relations.

In the context of the role of legal science in the formation of high-quality legislative policy, an analysis of the activities of the National Academy of Legal Sciences of Ukraine is required. The Accounting Chamber of Ukraine, the constitutional body responsible for state financial control, has published an analytical report that provides a comprehensive evaluation of the Academy's involvement in lawmaking processes. The report's findings indicate that the Academy's participation in these processes is not systematic, indicating a potential need for more structured and coordinated involvement to ensure the integrity and effectiveness of the lawmaking process (Sydova, 2025). Although this constitutional body continues to function and conducts scientific research, the real level of use of its developments in the practice of normative design remains limited. The primary challenges identified pertain to the inadequate incorporation of research findings into the operations of legislative and executive authorities, as well as the disorganized interaction with lawmakers.

In addition, the audit indicates a low level of financial support for the Academy, which, in turn, hinders its institutional development and the possibility of effective influence on the legal policy of the state (Sydova, 2025). The existing disparities between the potential of an academic institution and the actual involvement of its resources in the development of legislation point to the need to strengthen the role of the academic community in the lawmaking system, in particular through institutional reform and the introduction of effective mechanisms of communication with public authorities (Onishchenko, 2024).

At the same time, the issue of introducing unified methodological standards for normative design remains relevant for Ukraine. As the analysis of the modern lawmaking process shows, draft laws are often submitted without sufficient justification, without proper impact analysis, and without taking into account alternative approaches to resolving the problem. This not only complicates enforcement but also generates legal instability and the need for frequent changes in laws (Law of Ukraine No. 3354-IX, 2023).

It is imperative to acknowledge that the quality of legislation exerts a direct influence on the credibility of the law, the efficacy of its implementation, and the aggregate stability of the legal order. A multitude of studies demonstrate that during periods of political turbulence or crises — including those marked by the imposition of martial law — the state is compelled to make operational decisions. However, this speed is often accompanied by a loss of quality in the legislative product: drafts are not properly discussed, do not take into account professional opinion, and are not examined for consistency with the current legal framework. Consequently, there is a high degree of variability in legislation, the emergence of legal conflicts, and difficulties in their application (Voermans, 2009; OECD, 2021).

In this context, the key task is to introduce a single strategic approach to lawmaking that would combine scientific validity, consistency, and practical feasibility. That is why it is worth paying attention to the experience of countries where there is a specialized structure of lawmaking analysis. One of these countries is the United Kingdom and France, which have well-established approaches to legislative drafting. These approaches are based on specialized drafting expertise, preliminary impact assessment, and inter-institutional coordination (Cabinet Office, 2022; Gouvernement de la République française, 2023).

In the United Kingdom, the Office of the Parliamentary Counsel plays a key role in the drafting process, providing not only legal but also structural, linguistic, and stylistic editing of the texts of laws. The preparation of the majority of draft laws for the government is conducted by specialized project lawyers rather than Members of Parliament (MPs). This

ensures that the technical quality and logical consistency of the draft laws are maintained (Cabinet Office, 2022). Each draft law is accompanied by an Impact Assessment containing social, economic, and regulatory forecasts, as well as an analysis of alternative approaches to solving the problem. The post-legislative scrutiny stage, defined as the evaluation of the law's efficacy after a specified period following its enactment, is also obligatory. These tools are enshrined in the UK government's official Guide to Making Legislation (Cabinet Office, 2022).

In France, the formulation of legislation is subject to the oversight of the Conseil d'État, the nation's preeminent administrative entity that plays a pivotal role in the formulation of government bills. This function is characterized by the provision of counsel and guidance to the legislative body, thereby ensuring the alignment of legislative initiatives with the nation's broader interests and policies. All government initiatives must undergo a preliminary analysis for legal compatibility, quality of terminology, and compliance with applicable law. In addition, there is the General Secretariat of Government (SGG), which coordinates the interagency preparation of acts and provides uniform standards of legal technique based on the Guide de légistique (Gouvernement de la République française, 2023). In accordance with British practice, France has instituted a mandatory impact assessment (évaluation d'impact), which, in addition to being public, must take into account the economic and legal consequences of the bill (OECD, 2021).

Both models are marked by a high degree of institutionalization of lawmaking, a focus on an analytical and predictive approach, as well as the active participation of the expert community in the process of developing legislation. This approach provides not only better quality of legal acts but also strengthens public confidence in the legislative process. A comparative analysis reveals that the formalization of the standard design methodology and the presence of independent legal expertise are necessary conditions for the stability of the legal system in a democratic state (Voermans, 2009; Xanthaki, 2013).

Nevertheless, the viability of an idea is not determined by its theoretical underpinnings. Its practical implementation is the true test of its viability. In this regard, the establishment of feedback mechanisms between lawmaking and law enforcement remains imperative. Such mechanisms should include legal monitoring, the analysis of court practice, and the systematization of the conclusions of law enforcement agencies (Onyshchuk, 2018; Shevchenko & Kudin, 2019). This approach allows not only the creation of high-quality laws but also the identification of their shortcomings in time and the adaptation of regulatory regulation to the needs of society.

Thus, effective lawmaking requires not only a clearly structured technique for creating regulations but also a proper institutional framework, professional involvement of legal scholars, access to analytical information, and the use of digital tools (OECD, 2021; Carrasquilla-Díaz et al., 2024).

## **INTERPRETATION OF LAW: AN INTELLECTUAL BRIDGE BETWEEN NORM AND REALITY**

Legal interpretation as a component of law enforcement practice is not just a technical act of “reading” a legal provision; it is a complex intellectual process that combines legal, philosophical, linguistic, and practical components (Shevchenko & Kudin, 2021; Druzhynina-

Sendetska, 2015). The hermeneutical tradition, which originated in antiquity, has experienced a resurgence in its application within the domain of modern jurisprudence (Baude & Sachs, 2017). In a democratic legal order based on the rule of law, ensuring the unity of judicial practice, legal certainty, and predictability constitutes a critical component. However, the lack of uniform methodological bases of interpretation, formalized by law, makes it difficult to achieve this goal (Feldman, 2014).

Legal interpretation in the national legal system of Ukraine still lacks clearly defined limits and procedures, despite a considerable amount of scientific research (Nikolina, 2021). This is due to both the objective complexity of the phenomenon itself and the fragmentary nature of regulatory regulation. The relevance of the topic is also enhanced by the fact that in the context of the rapid transformation of legislation – especially in conditions of war – the role of judicial and administrative interpretation is growing, which affects the lives of millions of citizens. In view of this, there is an urgent need to analyze the formalized aspects of legal interpretation, assess its regulatory framework, and determine its role in the system of public administration and justice (Onyshchenko, 2024).

Difficulties in the interpretation of legal norms are added by the fact that this is not only a legal but also a deeply interdisciplinary problem, which is simultaneously in the focus of linguistics, philosophy, logic, and law. Already within the framework of legal science alone, interpretation acquires various meanings and forms, which testifies to its multidimensionality. Among the well-known approaches are legal hermeneutics, formal-dogmatic and dynamic methods of interpretation (Helmholz, 2017; Druzhynina-Sendetska, 2015). Each has its advantages and limitations depending on the enforcement context.

Indeed, the process of legal interpretation is often intricate, not due to inherent flaws in the legal system, but rather due to the complexities inherent in the social environment within which these legal frameworks are implemented (Baude & Sachs, 2017; Xanthaki, 2013). In other words, the letter of the law can rarely be applied without considering the need for justice, the specific context of the case, and the general principles of law. It is impossible to describe all legal phenomena with general rules in a way that avoids gaps, conflicts, or the need for a flexible approach. This leads to the fact that the real legal system is not only a set of formally valid norms, but also their interpretation. It is interpretation that acts as a link between lawmaking (i.e., the entire body of existing legal acts) and law enforcement. And although the first two processes have extensive legislative regulation, the interpretation, due to its nature, cannot be fully formalized. At the same time, the complete absence of clear approaches is also undesirable, since it leaves room for arbitrary interpretation and complicates the implementation of legal prescriptions (Voermans, 2009).

This prompts further inquiry: To what extent ought the process of legal interpretation to be formalized, and what parameters should be established at the legislative level for such a formalization? The answer depends on the choice between flexibility and legal certainty – both equally important for an effective legal system.

Ukrainian legislation still lacks a single comprehensive act that would regulate the general principles of legal interpretation (Shevchenko & Kudin, 2021). Despite the evident need for such a framework, as evidenced by the prevailing practices, doctrines, and even specific bylaws within law enforcement, the legislator has yet to propose a comprehensive solution to this issue.

Certain aspects of legal interpretation are contained in the Constitution, tax and procedural legislation, as well as in acts that define the powers of executive authorities (Constitution of Ukraine, 1996; Tax Code of Ukraine, 2010). However, they are fragmented, ununified, and, in many cases, incomplete in terms of methodology.

In 2023, the Verkhovna Rada of Ukraine adopted the Law on Lawmaking (not yet enacted), which for the first time in Ukrainian legislation attempted to partially regulate the interpretation of law. Article 38(3) states that the preamble to a law is an integral part of the law and is taken into account in its official interpretation. However, this legislation does not propose a general approach to legal interpretation as a methodological process (Law on Lawmaking, 2023).

It is noteworthy that the issue of interpretation is almost entirely left to the discretion of legal doctrine, law enforcement practice, and judicial interpretation. The result is a lack of unity in the application of established principles, ambiguity of interpretations in different authorities, and, on occasion, conflictual coexistence of multiple interpretations of the same norm (Nikolina, 2021; Skrypnyk, 2018).

Scholars have repeatedly called for the adoption of a so-called "Law on Laws" that would establish both the principles of lawmaking and the basic principles of interpretive activity (Voermans, 2009). However, even in the adopted law, these issues were effectively ignored (Law on Lawmaking, 2023).

Formalization of legal interpretation undoubtedly has its risks. Over-regulation can lead to a loss of flexibility necessary to deal with cases involving new or atypical legal configurations. However, its complete absence leads to a decrease in the predictability of law and, consequently, to a decrease in trust in the justice system. It is necessary to find a balance between the freedom of judicial (and administrative) interpretation and clearly defined limits of permissible interpretation (Feldman, 2014).

One of the few areas where interpretative activity in Ukraine has a clearly defined status and procedural regulation is the official interpretation of the Constitution, which is carried out by the Constitutional Court of Ukraine (CCU) (Constitution of Ukraine, 1996; Law on the Constitutional Court of Ukraine, 2017). According to Article 147 of the Constitution of Ukraine, the CCU is the only body of constitutional jurisdiction whose powers include the official interpretation of the Constitution of Ukraine. However, the legislation does not contain a legal definition of the term "interpretation" itself – this concept and its procedural features are outlined exclusively in the scientific literature and judicial practice (Bohdanevych, 2019; Khrystova, 2004).

Scientists define the official interpretation of the CCU as an activity within a clearly established procedure aimed at clarifying the content of the provisions of the Constitution of Ukraine, which results in a binding legal act for all subjects of legal relations – the decision of the Constitutional Court (Spinchevska, 2020; Catalog of Legal Positions of the Constitutional Court of Ukraine, 2023). Such an interpretation fulfills an authoritative interpretive function that has direct legal effect, similar to a normative act. The Law of Ukraine "On the Constitutional Court of Ukraine" describes in detail the procedure for making decisions, the structure of the interpretative act, and the obligation to publish it. However, the law does not establish specific methods or techniques that the court must apply in the interpretation process. Instead, such approaches remain at the discretion of the

composition of the Court, and methodological support is provided by the Scientific Advisory Board of the CCU.

The legal positions of the Constitutional Court are not only the result of interpretation but also a means of forming legal guidelines for other subjects of law enforcement. They are systematized and available in open access on the official website of the CCU (Catalog of Legal Positions of the Constitutional Court of Ukraine, 2023). The distinguishing characteristic of this interpretive approach is that the Constitution, as the foundational law of the state, encompasses a multitude of evaluative, high-level concepts (notably "rule of law," "justice," and "dignity") that necessitate a non-literal, expansive interpretation (Shevchenko & Kudin, 2019).

Therefore, the role of the CCU in ensuring a balance between the stability of constitutional norms and their flexible interpretation, which takes into account the realities of public life, is decisive. Thus, the practice of the CCU demonstrates how interpretation can (and should) be institutionalized, doctrinally grounded, and public. This makes it possible to ensure not only the unity of understanding of the provisions of the Basic Law, but also to improve the quality of lawmaking and law enforcement.

In addition to the CCU, the interpretation of legal norms in practice is also carried out by the executive authorities. It is primarily about explanations, consultations, methodological recommendations, and information sheets, which are issued within the powers of the relevant state institutions.

The legal nature of such acts cannot be considered identical to the official interpretation because they do not have a generally binding force, are not adopted within the framework of a special procedure, and can be appealed in court (Savchenko, 2019; Marchenko, 2013). At the same time, such documents are an important element of law enforcement practice, especially in the context of rapid changes in legislation or legal uncertainty. The executive branch engages in a variety of interpretive activities, with the most prevalent being those related to taxation, civil service, anti-corruption policy, and social security. Thus, the Tax Code of Ukraine contains provisions that directly provide for the possibility of providing individual tax advice (Articles 52–53) (Tax Code of Ukraine, 2010).

Although these consultations are not generally mandatory, they are formalized and provided solely at the written request of the taxpayer. The National Agency on Corruption Prevention (NACP) has the authority to provide clarification on the application of anti-corruption legislation, including ethical conduct, whistleblower protection, etc. (Law on Prevention of Corruption, 2014). Nevertheless, the issue lies in the fact that, in practice, the NACP has been known to exceed its prescribed statutory powers. One illustration of this is its interpretation of the provisions enshrined within the Law of Ukraine "On Political Parties," a task that falls outside the scope of its designated authority.

At the same time, it should be emphasized that the legislation does not contain a clear definition of the term "clarification". Instead, in the legal doctrine, it is considered to be a separate stage of interpretation, which occurs after clarifying the content of the norm and provides for the formalization of the result in the interpretative act (Nikolina, 2021). This raises discussions about the legal nature of such documents, in particular, whether they are acts of interpretation in general and what their legal force is. Such an uncertain status of these clarifications means that the judicial authorities can only take them into account when

making decisions. Moreover, the resolution of the Commercial Court of Cassation as part of the Supreme Court dated June 18, 2020 (case No. 927/491/19) clearly states: "The right to interpret the rule of law is the exclusive right of the court. Explanations of state bodies (letters, recommendations) are not a rule of law and have no legal significance" (Supreme Court, 2020). This confirms that any acts of an interpretative nature issued by the executive authorities are only advisory in nature and can only be applied until they are refuted in court.

Ukraine lacks a clear legislative regulation of the form and status of such documents. It would be advisable to determine the list of powers to provide clarifications, to introduce requirements for the content and form of such acts, to establish public access to the database of issued consultations, and to introduce mandatory verification for compliance with applicable law.

Thus, although the interpretation by the executive has no legal force at the level of official interpretation or judicial practice, it plays an important role in the operational regulation of law enforcement. However, this practice should be backed by clear rules to avoid legal uncertainty and abuse.

Legal interpretation carried out by the courts is a key tool in ensuring legal certainty, unity of law enforcement, and implementation of the rule of law principle (Skrypnyk, 2018; Feldman, 2014). Of particular importance is the judicial interpretation in the system of sources of law, especially in the context of modern practice of the Supreme Court and the European Court of Human Rights (ECHR).

Judicial interpretation is an official, intellectual, and analytical activity of the court aimed at clarifying the content of the legal norm in the context of a particular case. Unlike the interpretation made by other bodies, the interpretation of the court has direct legal consequences, is fixed in the court decision, and is binding on a particular case. Nevertheless, this practice should be supported by explicit regulations to circumvent legal ambiguity and exploitation. At the same time, the positions of the higher courts – notably the legal opinions of the Supreme Court – play a more important role, as they provide benchmarks for prosecutorial practice in general. The current legislation of Ukraine does not contain a distinct definition of "legal opinion." However, Article 13 of the Law of Ukraine "On the Judiciary and the Status of Judges" stipulates that courts are obligated to consider the conclusions of the Supreme Court on the application of the law (Law on the Judiciary and the Status of Judges, 2016). In the theory of law, legal conclusions are understood as the legal positions of the court formulated in the process of resolving specific cases, which explain the content of legal norms and determine approaches to their application (Savchyn, 2016; Slotvinska, 2017). Such conclusions are formed in the motivational part of court decisions and, as a rule, contain the interpretation of complex, contradictory, or insufficiently clear rules. Judicial practice, especially of higher courts, gradually acquires the status of a secondary (auxiliary) source of law. This is typical for the countries of the Romano-Germanic legal system, to which Ukraine belongs, where precedent is not formally recognized as a source of law but has a significant impact (Marchenko, 2013).

The focus on legal positions ensures the unity of judicial practice, contributes to the predictability of court decisions, reduces judicial errors, and increases confidence in the legal system. That is why the Supreme Court performs the function of forming a stable interpretative practice for the entire judicial system.

In recent years, the Ukrainian legal doctrine has intensified the discussion on the role of judicial precedent (Marchenko, 2013). Arguments have emerged in favor of recognizing court decisions with legal opinions of the Supreme Court, as well as ECHR decisions, as sources of law. Legal scholars propose to introduce the concept of precedent interpretation, which includes rulings of the Supreme Court with legal opinions, exemplary decisions in administrative proceedings, decisions of the CCU, and decisions of the ECHR (Slotvinska, 2017; Savchenko, 2019).

These acts serve not only to resolve specific cases but also to form legal approaches that are repetitive and orienting. The institute of exemplary cases provided for by the Code of Administrative Proceedings of Ukraine deserves special attention. Such cases are considered by the Supreme Court and serve as a benchmark for resolving typical administrative disputes. The aforementioned factors contribute to the facilitation of law enforcement, the acceleration of the consideration of analogous cases, and the provision of a unified interpretation of the contested norms.

In the modern system of legal protection in Europe, a special place is occupied by the ECHR, which not only monitors compliance with the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms but also carries out in-depth interpretive activities that influence the formation of national law of the participating states (Ismailov, 2011; Manukyan, 2023). For Ukraine, this influence is particularly significant, given its obligations under the membership of the Council of Europe and the ratification of the Convention in 1997 (Law No. 475/97-VR, 1997).

The ECHR is the only authorized body that has the authority to finally interpret the content of the Convention (Art. 32 of the Convention). Therefore, it is imperative that all national courts consider its positions, specifically when interpreting the human rights provisions of Ukrainian legislation. ECHR decisions are not purely declarative: according to the Law of Ukraine "On the Enforcement of Decisions and Application of the Practice of the European Court of Human Rights" (2006), the practice of the Court is recognized as a source of law in Ukraine.

At the same time, in theoretical and legal science, there is a discussion about the nature of ECHR decisions: they are qualified as interpretative acts, precedents, or *sui generis* judicial acts of a mixed nature (Marchenko, 2013; Ismailov, 2011). These instruments serve as guidelines for national law enforcement agencies, delineating standards for interpreting the provisions of the Convention. These standards encompass the assessment of state interference with individual rights, the proportionality of restrictions, and due process guarantees.

The ECHR uses the doctrine of the "living convention", according to which the provisions of the Convention should be interpreted in the context of modern conditions. This makes it possible to adapt enforcement to new challenges (for example, in cases concerning bioethics, digital security, or artificial intelligence), but at the same time creates difficulties for predictability and unity of enforcement at the national level (Manukyan, 2023; Kulchytskyi, 2025).

Ukrainian courts should not only take into account direct decisions against Ukraine but also familiarize themselves with case law regarding other states, as it contains universal

standards (Ismailov, 2011). Despite the formal requirement to apply the court's jurisprudence, the national judicial system of Ukraine faces a number of challenges:

1. Formalism when referring to the decisions of the ECHR. In many cases, courts are limited to citing popular cases without an in-depth analysis of their content and justification of the compliance of the situation with specific standards.
2. Lack of a unified approach to translations. The issue of accurate translation of the ECHR judgments into Ukrainian is critical, especially in view of the abstractness and complexity of the legal concepts used by the Court (Kulchytskyi, 2025).
3. Underdeveloped methodology. Ukrainian judges often do not have sufficient tools for a systematic analysis of the ECHR practice – there is a lack of training programs, analytical bases, and thematic collections of precedents (Manukyan, 2023; Savchyn, 2016).

These problems are confirmed by the results of surveys among Ukrainian judges, who admit that they take into account the practice of the ECHR, but mostly non-systematically or only in cases where this is required by law directly.

The application of the ECHR is of greater importance – it serves as a means for the gradual updating of national legislation, because the decisions of the ECHR reveal the shortcomings of the current legal regulation; new approaches to the interpretation of fundamental rights and freedoms are formed; and the limits of permissible state interference in the private sphere are determined.

This is especially important in the context of martial law and the rule of law crisis, when the balance between security and human rights needs to be carefully reviewed (Manukyan, 2023).

The use of the ECHR practice in Ukraine should become systematic. In order to accomplish this objective, it is imperative to establish a national platform for ECHR decisions in Ukrainian that is equipped with thematic search functionalities, analytical support, indexation of legal positions, and the capacity for integration with national electronic legal systems (Savchyn, 2016; Kulchytskyi, 2025). Furthermore, there is a necessity to enhance judicial training concerning the interpretation of the Convention. Additionally, it is essential to fortify analytical and scientific support for the implementation of international standards. Finally, it is crucial to explicitly delineate in the legislation the mechanisms for direct reference to ECHR precedents (Ismailov, 2011).

The decision of the ECHR is not only a source of law, but also an instrument of transformation of the national legal system. They form standards that should directly affect legislation, judicial practice and legal culture. The task of Ukrainian lawyers is not only a formal consideration of these standards, but also a creative and deep understanding of them, taking into account the context and specifics of Ukrainian realities (Von et al., 2016).

Taking into account the above, it is natural that there is a need to better understand the place of legal interpretation in the system of lawmaking and law enforcement. Interpretation is not an isolated process: it is closely related to all stages of the life cycle of a legal norm – from the moment of its creation to the actual application in a particular case. It is imperative to acknowledge the significance of its function within the feedback system that exists between rule-making and law enforcement activities. It is through the interpretation procedure that

the shortcomings of the legislative technique and gaps and contradictions in legal regulation are revealed, which in turn requires the adjustment of the normative array. The central place in this relationship is occupied by the institute of legal monitoring, which we will consider in the next subsection (Onyshchuk, 2018).

Another important point is the need to develop interpretive techniques as a subspecies of legal techniques. The present discussion pertains to a system of methods, means, and techniques employed in the analysis of the content of legal norms. Insufficient attention to this aspect in the process of training lawyers and norm designers leads to difficulties both at the stage of creating regulations and at the stage of their application. Therefore, it is advisable to initiate the development of methodological recommendations or standards for interpretive techniques, as well as to provide for their mandatory study within the framework of legal education (Nykolina, 2021).

Summarizing the above, we can say that the interpretation in law is not exclusively a technical procedure. It is a complex process that covers the philosophical, logical-methodological, and applied levels. Through interpretation, law acquires flexibility, adapts to new conditions and challenges, while remaining an instrument for ensuring justice, predictability and the rule of law. In this regard, the need to formalize certain aspects of legal interpretation, in particular its methods, procedures and approaches, seems to be a logical and timely step in the development of the legal system of Ukraine (Shevchenko & Kudin, 2021).

## **LEGAL MONITORING: A TOOL FOR FEEDBACK AND LEGISLATIVE EVOLUTION**

In the system of interrelated legal processes, legal monitoring plays the role of "feedback", which allows to assess the effectiveness and suitability of regulations for real functioning. If lawmaking is the beginning, and interpretation is the process of adapting norms to a specific situation, then monitoring completes the cycle, analyzing the consequences of legal decisions and formulating the basis for further improvement of legislation.

Legal monitoring can be defined as systematic, methodically organized observation, analysis and assessment of current legislation regarding its effectiveness, internal consistency, relevance and compliance with public needs. Its purpose is not just to fix problems but to provide reasoned recommendations for updating the regulatory framework. In the scientific literature, in particular in the works of Onyshchuk (2018), it is substantiated that legal monitoring should combine the following components:

1. examination of normative legal acts;
2. analysis of the effectiveness of their application (including assessment of judicial practice);
3. identification of systemic problems (collisions, duplications, gaps);
4. legal forecasting of changes in the legal framework and the need to update legislation.

In this context, it is particularly important that legal monitoring is closely linked to the interpretation process. It is through the analysis of judicial practice, administrative interpretation, clarifications of departments that unobvious problems are revealed: norms

that are applied ambiguously; conflicting prescriptions; situations when courts are forced to "fill" gaps in the law. All these signals are the primary source for legislative changes.

The Law of Ukraine "On Law-Making Activity" of August 24, 2023 systematically regulated the institution of legal monitoring at the legislative level, devoting a separate section V (Articles 41–45) to this issue (Law of Ukraine, 2023). Article 41 gives a legal definition of the concept: "legal monitoring is an activity that consists in the systematic collection, analysis, generalization and evaluation of information on the state of legal regulation in order to identify problematic issues, determine ways to solve them and increase the effectiveness of law-making." Such normative consolidation is an important step towards institutionalizing the feedback between lawmaking and law enforcement.

The law also defines the tasks of legal monitoring (Art. 42), its principles (Art. 43), the circle of subjects (Art. 44), as well as the main forms of implementation (Art. 45). Thus, a basis has been created for the formation of a holistic system for assessing the effectiveness of regulations. Practical monitoring support needs further development: implementation of methodological recommendations, digital tools for analytics, staffing and a clear procedure for responding to the results of monitoring in the form of legislative initiatives. Only under the conditions of the real functioning of these mechanisms, the monitoring will be able to perform its analytical, corrective and preventive functions within a single cycle of legal regulation. The difficulty also lies in distinguishing between the concepts of "monitoring," "impact analysis" and "performance evaluation." In practice, they are often mixed, and the institutional mechanism of implementation remains blurred. The lack of a unified methodology and an accountable structure responsible for conducting monitoring on an ongoing basis turns this process into an episodic initiative of individual actors, rather than a systemic state tool.

It is noteworthy that in the EU countries there are well-structured systems of legislative evaluation. For example, in Germany, monitoring is enshrined as a mandatory part of the law-making cycle, with clearly defined evaluation criteria — from the administrative burden to the economic and social consequences (OECD, 2021). In the UK, the post-legislative scrutiny approach is practiced — parliamentary committees consider the consequences of the adoption of each important law 3–5 years after entry into force, using quantitative and qualitative indicators (UK Cabinet Office, 2022).

In Ukraine, such a mechanism has not yet been fully implemented. There are discrete analytical initiatives in place, including an examination of the ramifications of regulatory acts by Brdo and the formulation of a "White Paper on the Legislative Process" (Sydova, 2025). However, these initiatives are of an advisory nature and do not constitute a mandatory component of the parliamentary procedure. Another potentially powerful monitoring resource is the analytics of court decisions. With proper systematization and digitalization, such practices can be a source of empirical data on the effectiveness of norms. For instance, the mass cancellation of decisions on the basis of a certain norm, contradictory legal conclusions, and different approaches in the same cases should be taken into account in the monitoring process (Sydova, 2025). The advent of digital tools, namely AI, can take monitoring to a new level. For example:

1. automatic detection of conflicts in legal arrays;
2. forecasting the likelihood of going to court under a specific norm;
3. detection of changes in the frequency of interpretation of a particular article;

4. analysis of the effectiveness of the implementation of the norms (including the results of their application) (Wang, 2023).

The utilization of these instruments enables the transition from descriptive analytics to effective legislative policy that is supported by data. However, the implementation of such a system necessitates not only technological sophistication but also the establishment of an appropriate institutional infrastructure. This would entail the creation of independent think tanks within the parliament or ministries, the introduction of mandatory procedures for analyzing the impact of norms, and the development of mechanisms for public control and transparency (OECD, 2021).

Thus, legal monitoring is not an optional element of lawmaking but an integral part of the cyclical model of legal development. Functions:

1. it improves the quality of legislation;
2. minimize the number of changes and amendments;
3. ensure compliance of norms with realities;
4. avoid legal pitfalls in law enforcement (Onyshchuk, 2018).

In the absence of effective legal monitoring, the potential exists for even well-written laws to become declarative or conflictual. Therefore, the development of this area in Ukraine should be one of the key areas of reforming the legal system.

## **DIGITAL TECHNOLOGIES IN ENSURING THE EFFECTIVENESS OF LAWMAKING, INTERPRETATION AND LEGAL MONITORING**

At the present stage of development of the legal system, digitalization appears not only as a means of automating routine processes, but as a strategic direction for the transformation of fundamental legal mechanisms – lawmaking, interpretation and legal monitoring. These processes, which used to be considered mostly in isolation, are now increasingly analyzed as interconnected elements of a single regulatory cycle, the effectiveness of which directly depends on the system's ability to adapt to new technological challenges.

Digital technologies, big data, and analytical platforms are already being actively integrated into the legal sector, opening up new opportunities to optimize each of the basic legal processes. In the area of lawmaking, the key area is the creation of digital platforms that allow for a full-scale inventory of the current regulatory framework, identifying conflicts, duplications, gaps, and cases of regulatory redundancy. Such decisions not only improve the consistency of legislation but also lay the foundation for the formation of a predictable and internally consistent regulatory structure (OECD, 2021).

One of the most promising areas of digital transformation of lawmaking is the use of AI tools for automated modeling of legislative texts. Modern software solutions created on the basis of natural language processing and legal templates are able to generate draft regulations in accordance with the specified parameters, check their compliance with applicable law, identify technical and substantive errors, and predict the possible consequences of their adoption. Indicative in this context is the study of the University of Bologna, commissioned by the European Commission in 2021, which resulted in the concept of a hybrid digital system LEOS (Legislation Editing Open Software) (Priambudi et al., 2021).

In the field of legal interpretation, digital technologies play an important role as tools for systematizing and unifying the practice of law enforcement. The development of intelligent search platforms capable of analyzing court decisions according to meaningful, not just formal, criteria has two significant consequences. First, it significantly increases the availability of legal information. Second, it contributes to the unity of interpretation. An illustration of this initiative in Ukraine is the Supreme Court's efforts to establish a comprehensive database of legal positions augmented by AI components. This initiative enables the automation of the identification of pertinent case law, the systematization of methodologies employed in the interpretation of legal norms, and the streamlining of operations for judges, attorneys, prosecutors, and other law enforcement authorities (Carrasquilla-Díaz et al., 2024).

This approach is analogous to the concept of the "judge of Hercules," as proposed by Ronald Dworkin. According to this theory, the ideal interpreter possesses comprehensive legal knowledge and is capable of evaluating all pertinent arguments to ensure a fair decision. Despite the unattainability of the complete implementation of this model, contemporary systems of analysis of judicial practice have already demonstrated the capacity to select the pertinent norm, formulate the logic of interpretation, and predict the outcome of the dispute with a high degree of accuracy (Wang, 2023).

At the same time, digital tools are purely auxiliary and cannot replace professional legal assessment. In practice, there are cases when generative AI systems created documents with fictional legal positions, which indicates the need for constant monitoring and verification of results, as well as the need to train lawyers to work with such tools (Wang, 2023). The lawyer of the future should combine knowledge of classical legal methods with digital literacy, which necessitates updating the educational programs of law faculties, introducing courses in digital law and interdisciplinary training (OECD, 2021).

In the domain of legal monitoring, digital technologies facilitate a systematic evaluation of the efficacy of legal regulation. AI-based analytical modules are able to track legal changes in real time, analyze law enforcement practice, identify trends in the increase in the number of litigations under certain rules, and identify areas where there is a lack or excess of regulation (Carrasquilla-Díaz et al., 2024). The existence of such opportunities fosters the development of a dynamic and adaptable legal policy mechanism, enabling the prompt response to evolving public demands and the mitigation of legal deformations.

In the long term, digital technologies open the way to the formation of a single integrated system, within which the results of interpretation and law enforcement practice are automatically taken into account during the analysis of legal monitoring, and the results of the latter are transmitted in the form of recommendations to the subjects of lawmaking. Thus, a closed feedback loop is formed, which brings the legal system closer to the model of "self-learning law" (Leal Espinoza et al., 2024).

The key benefits of digitalization of legal processes include:

1. objectivity and depth of analytics based on large data sets;
2. improving the quality of norm-setting activities through project verification and preliminary impact assessment (Priambudi et al., 2021);
3. strengthening the unity of interpretation through access to systematic judicial practice;

4. transparency and openness of legal procedures, which has an anti-corruption effect;
5. the possibility of forming predictive models for law enforcement.

The digitalization of the legal sphere is accompanied by a number of challenges that require a comprehensive understanding. Firstly, it is about the need to develop specialized, secure software that meets the requirements of security and confidentiality of the processed information (Drafting Legislation in the Era of AI, 2024). The use of publicly available solutions (for example, public generative models) in the field of law poses a potential threat of leakage of sensitive data and violation of the rights of individuals, which is unacceptable for the public sector.

Secondly, the issue of personnel training is critically important: the effective functioning of the legal system based on digital tools is possible only under conditions of professional cooperation between lawyers, analysts, information security specialists, and developers. It requires not only technical competence, but also an understanding of the methodological foundations of law, the principles of legality, legal certainty and the protection of human rights (Onyshchuk, 2018).

Thirdly, the ethical implications of digitalization become increasingly evident. Algorithms cannot be independent bearers of legal responsibility. Regardless of the level of automation, the responsibility for any legal decision must be shouldered by a person. This requires transparency of algorithms, explainability of results, as well as the development of clear standards for auditing and certification of digital solutions in the field of law (Xanthaki, 2013).

Thus, digitalization does not replace the right but creates conditions for its updating. With the right approach, it can significantly strengthen the relationship between lawmaking, interpretation and legal monitoring, ensuring internal consistency, adaptability and effectiveness of the legal system. At the same time, its implementation requires careful preparation, clear legal guarantees, interdisciplinary cooperation and a high level of ethical responsibility.

## CONCLUSIONS

Consideration of lawmaking, legal interpretation, and legal monitoring as interrelated elements of a single regulatory system makes it possible to form a comprehensive view of the functioning of law as a dynamic social institution (Xanthaki, 2013; Onyshchuk, 2018). Each of these processes performs its own function, but only their coordinated interaction creates the conditions for ensuring the integrity, predictability, and effectiveness of legal regulation (Voermans, 2009; Elliott & Thomas, 2024).

Lawmaking is the initial link of the legal cycle, within which the basic normative guidelines of public life are formed. Its quality determines the stability of the regulatory system, its internal logic, and the ability to respond to current challenges (United Kingdom Cabinet Office, 2022; Gouvernement de la République française, 2023). Legal interpretation, in turn, serves as a mechanism for adapting general regulations to specific situations, taking into account both the spirit of the law and the real circumstances of its application (Helmholz, 2017; Baude & Sachs, 2017). The cycle is concluded through legal monitoring, which

provides feedback and informs lawmaking actors about shortcomings, contradictions, or gaps in the legal system (OECD, 2021; Onyshchuk, 2018).

Consideration of these processes in isolation limits the possibilities for optimization of legal regulation. Conversely, a systematic understanding of these elements as interdependent links has the potential to enhance the adaptability of the legal system, ensure its internal consistency, and lay the foundation for long-term reforms (Bobrovnyk et al., 2019). This issue is especially salient in the context of the dynamic transformations that Ukraine is undergoing in the context of martial law, legal reforms, and European integration (Onishchenko, 2024).

In this context, digitalization acquires not just an auxiliary, but a system-forming value. Digital tools can not only improve individual elements of legal activity but also ensure the integration of lawmaking, interpretation, and monitoring processes within a single analytical environment (Leal Espinoza et al., 2024; Carrasquilla-Díaz et al., 2024). This shift presents novel opportunities for the development of a “smart” legal system, characterized by its capacity for introspection, the anticipation of the ramifications of legal decisions, and the ability to expeditiously adapt to shifts in the social context (Wang, 2023; Priambudi et al., 2021).

At the same time, the introduction of digital solutions cannot be considered a universal remedy. Its success depends on a number of conditions: the presence of a regulatory framework, ethical and legal responsibility of entities, professional training of personnel, infrastructure readiness, and the development of specialized, secure software (Drafting Legislation in the Era of AI, 2024; OECD, 2021). It is imperative that technological solutions do not supplant the context of law; rather, they should facilitate its evolution, ensuring that the core of gravity remains anchored in the intellectual and ethical dimensions of human activity (Shevchenko & Kudin, 2021).

Thus, the further development of the legal system of Ukraine should be based on an integrated approach that combines:

1. improvement of standard-setting techniques and content of legislation;
2. formalization of principles and tools of legal interpretation;
3. development of a system of legal monitoring as a mechanism of legal policy;
4. integration of digital technologies as a tool for the modernization of all legal processes.

The true effectiveness of the legal system lies not only in the availability of high-quality norms or effective law enforcement but in the balanced interaction of all elements that ensure its ability to develop, self-correct, and be accountable to society. It is evident that a system of this nature is the only one that fulfills the criteria of a legal state based on the rule of law, legal certainty, transparency, and justice.

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## DIGITAL FORMS OF INHERITANCE LAW AND PROBLEMS OF PROTECTING IN INHERITANCE RELATIONSHIPS

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### **Abstract**

The author examines the problem of introducing digital testament. Contracts can be signed with a handwritten signature, electronic signature or advanced electronic signature, and references to anything being signed by a person are to be construed accordingly. The author suggests considering the issue of signing wills in the following ways. This article explores the theoretical construction of civil rights protection in hereditary legal relations. Authors substantiate the use of both general and special ways of protection in the field of inheritance. Taking into account the requirements of judicial practice, the peculiarities of general protection methods in their extrapolation to inheritance law.

**Keywords:** testament; virtual testament; inheritance law; protection of civil rights; ways of protection; hereditary relationship; heirs; theory of hereditary legal relations.

### **INTRODUCTION**

Nowadays, digital technologies complement and even replace classical civil law forms. In a global aspect, we are not talking about individual digital (virtual) transactions, but about a virtual space of a special reality that combines traditional civil legal relations with a digital element, relations regarding objects that are created and function in a digital (virtual) space and relations regarding access to various networks and databases, including big data.

Civil law is forced to analyze the virtual environment, and the virtual environment penetrates into civil law and into the sphere of inheritance law. We are forced to admit that the digital environment is a separate factor in regulating relations in society. Regulation of relations that are formed in the virtual space in Ukraine is clearly insufficient, practice requires the development of legal models in this area. Taking into account the needs of turnover, the influence of the digital environment is felt by classical civil law forms.

Thus, the parties use technical recording of a regular transaction, in notarial practice, by agreement of the parties, video recording of the process of concluding and notarial certification of the transaction is introduced. This is especially in demand for wills, which after the death of the testator often become the subject of action in courts.

The legislation in this part allows for a lag, since it does not regulate in any way the recording of the process of concluding and notarizing a will, as well as any other transaction. This gap, of course, must be filled.

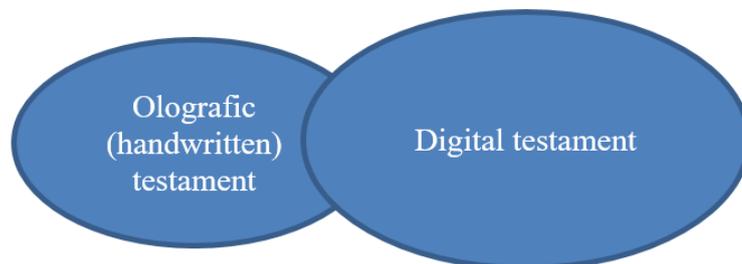
Digital recording of the process of execution and notarization of a transaction should have evidentiary value in court, in particular in cases of recognizing such a transaction as invalid.

The direction of the influence of the digital environment on traditional civil-legal relations is the use of digital technologies to confirm transactions. However, at present this is not enough, the question of a digital will as a special form of inheritance law.

However, at present this is not enough, the question of a digital will as a special form of inheritance law arises. With the introduction of Digital testament, many problems will arise: identification of the testator, confirmation of his will and protection in case of violation, including in the digital environment.

## **THE IMPACT OF THE DIGITAL ENVIRONMENT ON INHERITANCE LAW**

In accordance with Principles, Definitions and Model Rules of European Private Law (DCFR) a reference to a person's signature includes a reference to that person's handwritten signature, electronic signature or advanced electronic signature, and references to anything being signed by a person are to be construed accordingly. In this Article, «electronic» means relating to technology with electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities . Is it possible to extend this rule to testament? The issue requires analysis and development of the necessary legislative model and form. Not all digital forms may apply to testament. And here the question of the points of intersection between a handwritten and a digital testament is very important.



Every participant of civil relations has the opportunity to protect their rights by appealing to the court or other jurisdictional bodies as well as resorting to other means of protection, including self-protection. Thus, we consider the right to judicial protection to be merely an element of the generic category of the right to defense. The basis and guarantee of such right is the Constitution of Ukraine, first of all Art. 55, which contains a general rule about the right of everyone to appeal to the court, if his rights or freedoms are violated or infringed, obstacles to their realization are created or there is any other infringement of rights and freedoms. At the same time, general constitutional norms on the right to protection are in a logical connection with the substantive (Article 1.138 of the Civil Code of the Republic of Lithuania, Article 16 of the Civil Code of Ukraine) and procedural norms, which predetermines the distinction between substantive and procedural aspects of protection. The legislative model of protection of subjective rights, contains the grounds, methods and forms of protection. The constructions of the Ukrainian and Lithuanian legislation are quite similar, have a common orientation and purpose, and the list of methods of protection of civil

rights determined by them is not exhaustive. The specificity of such general methods is primarily in the fact that on its basis detailed methods are formed in certain areas of civil law, including inheritance law. The theoretical construction of the mechanism of protection of civil rights and interests should include in addition to the general methods of protection also special methods, the application of which is conditioned by the specifics of a particular sub-branch of civil law.

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## **GENERAL AND SPECIAL METHODS OF LEGAL PROTECTION**

Analyzed protection methods in the scope of other civil relations (obligation, corporative, property, intellectual property, exclusive rights, etc.) in certain moments bypass the heirs as participants in inherited legal relations, and this area in general. In some cases, the legislator deprives persons to use certain methods of protecting civil rights, which indicates the truncated nature of the right to protection in the area of inheritance. Of course, the mentioned subjects can use the same means of protection as participants of other types of civil-law relations, but for effective protection this is not always enough. In addition, there are frequent situations where the ability of heirs to use certain methods of protection is limited by both the prescriptions of legal norms and the legal constructions of the relevant methods. At the same time, protection in inheritance legal relations is essential. As Friedstein wrote: "In the institute of inheritance the right of private property is manifested in the most vivid way; it is there that it receives its most consistent and complete realization" (Friedstein, 1903, p. 3–5). Therefore, protection of inheritance rights in its value and significance is the protection of the ownership right. But it is not possible to apply methods of protection of the ownership rights to inheritance legal relations to the full extent.

It is possible to speak about protection in inheritance legal relations only from the moment of their occurrence, which is connected with the legal fact of the inheritance opening.

From the moment of the inheritance opening, heirs as subjects of inheritance legal relations and bearers of the relevant subjective right acquire the right to protection, which is realized within the framework of inheritance legal relations. Opening of inheritance gives rise to inheritance legal relations, leads to the emergence of rights to inheritance, in the first place the right to accept or refuse acceptance of inheritance, and as noted by researchers, it means that to the rights and obligations of the testator the rules of inheritance law apply. From this follows the existence of the right to protection of inheritance rights.

As we see, civil science has outlined a wide range of application of the mechanism of protection in inheritance legal relations.

It is impossible to deny the effectiveness of such an approach in modern realities.

It appears that depending on the subjective composition, protection in inheritance relations involves the separation of protection of the rights of heirs and protection of the rights and interests of other persons (creditors, transferees, etc.).

Analysis of the mechanism for protecting the rights of inheritance legal relations may be conducted in at least three directions:

1. – Differentiation the subject of protection the rights of heirs and other persons;
2. – Determination the specifics of general protection methods as applied to the subjects of inheritance legal relations;
3. – Special ways of protecting the rights of heirs.

The subject of protection is a property or non-property right in the event of its violation, non-recognition or contestation or an interest that does not contradict the general principles of civil law. At the same time, heirs as subjects of inheritance legal relations may protect both rights and legally protected interests .

Means of protection should be considered legally enshrined substantive legal measures through which the restoration (recognition) of violated or contested rights, as well as the impact on the property and no property sphere of the person who allowed the violation.

The heir as a subject of the right to protection, determines his behavior in the exercise of this right independently, but cannot ignore the content of legal relations, their dynamics, the state of subjective right or interest as the subject of protection. Based on these criteria, the specified person determines the content of his actions, that is, selects a method of protection.

Assessment of the legal list as exhaustive or no exhaustive is ambiguous. There are several approaches to this issue in judicial practice – from the "liberal" one, which allows the no exhaustive nature of the list and the possibility of choosing (establishing) a method of protection at the discretion of the participants of legal relations, to the "conservative" one, according to which the protection of civil rights by the court is carried out only by the method established by the Civil Code or directly provided by law. There is no reason to talk about an exhaustive list of methods of protection of subjective rights. The specified list is not exhaustive and the Civil Code of Ukraine allows the use of other methods of protection stipulated by law or by contract (part 2 of Article 16 of the Civil Code of Ukraine), with the possibility of adjusting the method of protection by the court in accordance with the stated claims.

It appears that by establishing a list of ways to protect civil rights and interests, the legislator sought to create not a monolithic legal construction, but rather a general model, the contours of the mechanism of protection.

In inheritance legal relations the range of methods of protection is quite broad and due to various factors. First of all we should name the peculiarities of inheritance legal relations themselves – its continuing nature, the stage-by-stage dynamics, the time-limited nature of the status of its participants – heirs, etc.

Depending on the specific stage of the inheritance legal relations dynamics, there are protection methods that are applied before the heirs accept the inheritance and after the fact. So, at the first stage heirs are entitled to apply such methods that are aimed at protecting the inheritance, in particular the adoption of measures to protect the inherited property (Art. 1283 Civil Code of Ukraine), the management of it (Art. 1285 Civil Code of Ukraine), etc.

After the acceptance of the inheritance the heir has the right to submit claims for protection of his rights to inheritance, registration of inheritance rights. For example, the heir who accepted the inheritance, but not having the opportunity to formalize inheritance rights notarially, may, after the expiration of the period for its acceptance, claim for recognition of ownership rights by inheritance. Although the rules of the Civil Code do not mention such a method of acquisition of inheritance, but in practice such a method is widely used. Recently, there is a tendency when the judicial practice expands the use of recognition of right as a method of protection in inheritance legal relations, allowing recognition of the right of lifetime inheritable possession of a land plot (decision of the Grand Chamber of the Supreme Court of 20.11.2019 on case # 368/54/17), recognition of the right to complete the privatization of land plot (share) by inheritance (decision of the Supreme Court of 30.06.2020 on case # 623/633/17). Hence, there is a question about the grounds and limits of application as recognition of the right, as applied to inherited legal relations, which requires additional study.

There should also be identified methods of protection, and the possibility of use is conditioned by the type of inheritance – by will or by law. Thus, the heirs under the will may demand the interpretation of the will by the court in the presence of a dispute between the heirs (Art. 1256 Civil Code of Ukraine), the heirs under the law may apply to the court to change the priority of inheritance rights (Part 2 of Art. 1259 Civil Code).

Widely applicable in the sphere of hereditary legal relations is such a method of protection as the recognition of invalidity (transactions, actions, documents of right, etc.). So, the heirs of both the law and the will can go to court with claims for invalid wills (Art. 1257 Civil Code of Ukraine) and testamentary dispositions of the bank (financial institution), certificates of right to inheritance (Art. 1301 Civil Code of Ukraine), unilateral transactions in respect of the inheritance performed by other heirs – applications for acceptance of the inheritance (Part 5 of Art. 1268, 1269 Civil Code of Ukraine), the withdrawal of the application for acceptance of the inheritance (Part 5 of Art. 1269 Civil Code of Ukraine), the withdrawal of the refusal to accept the inheritance (Part 5 Art. 1274 Civil Code of Ukraine). The Lithuanian Civil Code, in contrast to the Ukrainian Civil Code, outlines a special set of subjects of lawsuits for recognition of the will as invalid – such claims may be filed only by the heirs under law or the heirs under the will, who would have the right to inherit if the will or its separate parts were declared invalid. This provision emphasizes the peculiarities of invalidity as a method of protection in hereditary legal relations.

## **JUDICIAL PRACTICE AND INHERITANCE DISPUTES**

In judicial practice on inheritance cases there are often disputes about the invalidation of wills due to defects or lack of wills, including cases where the will is signed by another person, both with and without legal grounds (functions of the hand-applicant). In practice, this creates problems, there is a need for post-mortem forensic handwriting expertise on the authenticity of the signature of the testator on the will. Under the conditions of digital dominance it is rather difficult to get free samples of testator's handwriting, people stopped writing letters, rarely keep diaries, signatures on payrolls and pensions are in the past. Naturally, under the conditions of hostilities in Ukraine, the situation is complicated many times over. Of course, school notebooks or love letters can be found, but they are not suitable for expert examination because of their age. Therefore, the problem of personal writing and

signing a will (and any other civil law document, including the contract) requires a solution. For example, article 490 of the new Civil Code of China (in effect since January 1, 2021) stipulates that signing a contract can be done by putting a fingerprint on it. The Civil Code of China provides that a contract in the form of a separate written document is concluded from the moment of signing, stamping or fingerprinting by the parties. Three options are allowed – seal, signature, fingerprint, each of which is possible for the conclusion of a contract. This method of identifying the signatory is generally noteworthy, although there may be some reservations. For example, is it acceptable to use an artificial hand to sign? Can the Chinese model be used for testaments?

The subject of invalidity may be agreements concluded by heirs, in particular agreements on changing the order of succession by law (part 1 of Art. 1259 of the Civil Code of Ukraine), changing the size of the share of heirs in the inheritance estate (parts 2, 3 of Art. 1267 of the Civil Code of Ukraine), on division of inheritance, on the allocation of the heir's share in kind, on management of inheritance (Art. 1285 of the Civil Code). The subject of invalidity may be the agreed actions of the heirs, which are not contracts. For example, the consent of the heirs who accepted the inheritance, the heirs who missed the relevant period, to submit an application for acceptance of the inheritance (part 2 of Art. 1272 of the Civil Code of Ukraine).

At the same time in judicial practice on cases of inheritance the recognition of a transaction as invalid competes with other methods of protection of rights, in particular with a vindication claim. If we proceed from the fact that plaintiffs in a vindication claim may be not only owners, but also persons who consider themselves owners, the question arises about the protection of heirs' rights to inheritance from the claims of other persons. Can the heirs who accepted the inheritance be vindicants? So B., being single, left a will for her own apartment in favor of his girlfriend C. The latter, having accepted the inheritance in the prescribed manner, went to the notary for registration of inheritance rights, but was denied. The notary's decision was based on the fact that B. had disposed of the apartment during her lifetime by signing a sales contract with M., who in turn sold the apartment to T. K. went to court, which found that the power of attorney was not issued on behalf of B., and had been forged by unidentified persons. That is, the alienation of the disputed apartment was made by a nonowner. However, the Court rejected the claim of the heiress to seize the apartment from illegal ownership, because under the law (Art. 387 of the Civil Code of Ukraine), the right to bring vindication claims has only the owner, and V. did not become the owner of the apartment. The appellate court also agreed with this decision. We think this approach is wrong, because the claim for seizure of property may be protected not only by the right of ownership but also by another right, including the right to inheritance. All the more so, as we have already indicated, lawsuits by heirs for the return of inheritance were known even in Roman law.

The rights of heirs may also be protected by means changes such as in legal relations. This protection is realized in claims for the elimination of the right to inherit (Art. 1224 Civil Code of Ukraine), a change in the priority of inheritance by law (Art. 1259 Civil Code of Ukraine), reduction by the court the size of the mandatory portion (paragraph 2 part 1 of Art. 1241 Civil Code of Ukraine), etc.

Civil legislation of Ukraine contains a rule, according to which the accepted inheritance is recognized to belong to the heir from the day of opening of the inheritance, regardless of the time of its acceptance (part 5 of Art. 1268 Civil Code of Ukraine). It is obvious that we are

talking about the emergence of the heir's subjective right to inherit, but the content of this right the legislator does not disclose. It seems to us that the right of the heirs who accepted the inheritance has a proprietary nature, close in content to the possession, but not identical to the right of ownership. The right of heirs to inheritance is certainly subject to protection in case of violation, contestation or nonrecognition. However, the legislator does not specify the ways to protect this right, which causes certain difficulties in practice.

Ukrainian legislation gives priority rights to certain categories of heirs to the inherited property, such as the preferential right to the allocation in kind of the usual household items (Art. 1279 Civil Code of Ukraine).

However, the civil legislation does not provide any ways in which the heir's preemptive right can be protected. Obviously, this can only be about compensation for losses caused to the heir, which somewhat restricts the ability of subjects to protect their preferential rights, which have an organizational component.

Heirs and other persons have the right to apply to a notary public with a statement to take measures to protect their inheritance rights by implementing actions to protect the inherited property (Art. 1283 Civil Code of Ukraine). Failure to take appropriate measures by the notary, and in localities where there are no notaries – by the local authorities, may result in violation of the rights of individual heirs, the loss of inherited property. In particular, heirs who have the right to a compulsory share in the inheritance may suffer. It should be noted that legislation unreasonably narrows the scope of application of measures to protect the inherited property. Thus, according to Art. 1283 Civil Code of Ukraine protection of inherited property continues only until the expiration of the period specified for acceptance of the inheritance. We think such restrictions are unreasonable, protection of inherited property may continue until the registration of inheritance rights. In addition, the legislator does not provide a possibility of appealing against the refusal of the notary public to take measures to protect the inherited property, which is also not entirely correct. In general it should be noted that the potential of the notary public in terms of protection of inheritance rights and inheritance is not used to the fullest extent.

## **CONCLUSION**

The mass of inheritance, as an object of universal succession, includes both rights and obligations of the testator. Rights form an asset, and obligations form a liability. Accordingly, inheritance means simultaneous succession in all rights and all obligations or (if there are several heirs) succession in a certain part of rights and in the corresponding share of obligations.

The focus of inheritance on expanding the material base of heirs predetermines the civil law provision that an heir cannot acquire obligations greater than those that can be fulfilled at the expense of the value of inherited property. The legislative embodiment of this provision was the rule of Part 1 of Art. 1282 of the Civil Code of Ukraine under which the heirs are obliged to satisfy the claims of creditors in full, but within the value of the property received by inheritance. This responsibility of the heirs of the Civil Code of Ukraine is not joint and several. When imposing liability on the heirs of the obligations of the testator, the legislator allowed the use of both the general method of protection – collection of debt from the heirs of the creditor, and a special way – foreclosure on the property which was transferred to the

heirs in kind (Clause 2 para. 2 of Art. 1282 Civil Code of Ukraine). At the same time, in judicial practice the approach has been established that the choice of method of protection is at the discretion of the creditor.

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## ORGANIZATIONAL AND LEGAL FOUNDATIONS OF EXTRACURRICULAR FORMS OF PHYSICAL CULTURE

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**Abstract.** The article explores the organizational and legal foundations of extracurricular forms of physical culture in Ukraine, their socio-pedagogical significance, and development prospects. It analyzes the modern system of extracurricular physical education, including the classification of organizational forms, management models, infrastructure provision, and legal regulation. Special attention is paid to licensing, certification, and financial mechanisms of sports and fitness institutions. Innovative trends such as the digitalization of physical culture activities, the implementation of virtual training, and inclusive programs for various social groups are examined. The article highlights international experiences in organizing extracurricular physical culture (Scandinavian, German, Singaporean, and Australian models) and provides recommendations for their adaptation in the Ukrainian context. Key challenges in the field are identified, including insufficient funding, uneven infrastructure development, and the need to harmonize legislation with European standards. Pathways for system improvement are proposed, such as fostering public private partnerships, implementing digital tools, and enhancing the social orientation of fitness and wellness services.

**Keywords:** extracurricular physical education, organizational and legal principles, inclusive programs, digital technologies, public-private partnership (PPP), international experience.

### THEORETICAL FOUNDATIONS AND SOCIAL AND PEDAGOGICAL SIGNIFICANCE OF EXTRACURRICULAR PHYSICAL EDUCATION

Physical culture is an integral part of a healthy lifestyle and the harmonious development of an individual. In modern society, it fulfills not only recreational and health-improving functions but also socializes the individual, shapes their value orientations, and promotes the development of communication skills and the will to achieve goals. Extracurricular forms of physical education are of particular importance, as they complement the school system by providing a wide range of opportunities for sports, physical activity, and physical improvement regardless of age, skill level, or social status. The relevance of studying the organizational and legal foundations of extracurricular forms of physical culture is driven by the need to systematize the regulatory framework governing this sphere, as well as the search for optimal mechanisms for its implementation. Today, Ukraine has an extensive network of extracurricular sports institutions, sections, clubs, and public organizations, the activities of which require clear legal regulation, financial support, and effective management. An important task is also the integration of extracurricular physical education into national programs aimed at strengthening the nation's health, promoting sports among various segments of the population, and enhancing the competitiveness of Ukrainian athletes on the international stage (Law of Ukraine "On Extracurricular Education", 2025; On the National Strategy..., 2025).

The study of the organizational and legal foundations of extracurricular forms of physical culture has not only theoretical significance but also practical relevance. The results of the analysis can serve as a basis for developing recommendations to optimize the management of sports infrastructure, attract additional funding, and improve the quality of services in this field. Furthermore, they will help raise public awareness about the legal opportunities for exercising the right to engage in physical culture, which is an important step toward building a healthy society. In modern conditions, where the level of physical activity among the population remains insufficient and the incidence of diseases related to hypokinesia is increasing, the development of extracurricular forms of physical culture becomes one of the priorities of state policy. Ensuring their effective functioning requires a comprehensive approach that combines legal regulation, organizational mechanisms, and the social responsibility of all participants in the process. This is why the study of this issue is extremely important for the further development of physical culture and sports in Ukraine.

Physical culture as a social institution is not limited to the school system alone. Extracurricular forms of physical education play a key role in ensuring the accessibility of sports and physical activity for various age and social groups, promoting the physical, mental, and social health of society. Defining the concept and classification of these forms is an important step in understanding their place in the system of physical education and health improvement, as well as for further improving the organizational and legal mechanisms of their functioning. Extracurricular physical education can be defined as a holistic system of organized activities and practices aimed at physical development, health improvement, and socialization of individuals, implemented outside the framework of formal school education (Current Problems..., 2022).

This system includes a wide range of organizational forms – from traditional sports clubs to innovative fitness programs and virtual training sessions. The main characteristics of extracurricular forms of physical education are defined by several key features. First, they are based on voluntary participation, distinguishing them from mandatory school programs. Second, they offer organizational flexibility, reflected in the variety of formats, schedules, and difficulty levels. Third, they are tailored to the specific needs of different social and age groups in the population. Another important characteristic is the collaboration between the state, commercial, and public sectors in supporting this activity (Prospects for the Development..., 2022).

Yu. Ushenko notes that the classification of extracurricular forms of physical education can be carried out according to various criteria. By type of organization, they distinguish between: state institutions (children and youth sports schools, Olympic training centers), commercial structures (fitness clubs, private sports schools), and community initiatives (neighborhood sports clubs, amateur leagues) (Kozhokar et al., 2019). By focus of activity, they are divided into: sports training (training process, competitions), health and fitness activities (health groups, rehabilitation programs), and recreational and leisure activities (tourism, active recreation). A special significance lies in the classification by participant demographics: children and youth forms include sports sections, early development schools, and summer sports camps; adult forms are represented by fitness programs, running clubs, and corporate sports; a separate category consists of specialized programs for people with special needs, elderly citizens, and other social groups. By degree of organization, they distinguish between: formalized forms (club systems, organized competitions) and informal initiatives (outdoor workout areas, self-organized groups, etc.) (Kozhokar et al., 2019).

It is worth noting that the current stage of development of extracurricular forms of physical education is characterized by a number of innovative trends. Digitalization has led to the emergence of virtual workouts, online marathons, and mobile apps for physical activity. There is also growing popularity of crossfit, functional training, and other intensive programs. At the same time, interest in traditional activities – such as tourism, swimming, and team sports – is increasing (Prospects for the Development..., 2022).

It should be noted that extracurricular physical education and sports activities, as a social institution, have deep historical roots shaped by cultural, political, and pedagogical factors. Their evolution spans periods from folk games and military-physical training to modern organized systems of sports training, recreation, and mass physical culture movements. For instance, the earliest forms of extracurricular physical activity in Ukraine were closely tied to traditional games, which served as a means of physical education. Fistfighting, national wrestling styles, Cossack competitions, and winter pastimes (sledding, ice skating) were not just entertainment but also a way to prepare for military service (Current Problems..., 2022). In the second half of the 19th century, a systematic approach to physical education began to take shape, particularly due to the efforts of Pyotr Lesgaft, who established training courses for gymnastics instructors and developed the scientific foundations of physical education. During this period, the first sports clubs (cycling and skating societies) emerged, and championships were introduced, such as the first speed skating competitions in 1889 (Bondarchuk et al., 2023).

After the October Revolution of 1917, extracurricular physical education activities became an instrument of state policy. In the 1920s, the Vsevobuch system was created, combining military training with physical education. During this time, the first youth sports schools (DYUSS) and specialized sports sections emerged, laying the foundation for training sports reserves. A significant milestone was the first All-Union Spartakiad in 1928, which demonstrated the mass scale of the sports movement (Zakharina, 2011). In the 1930s, the GTO ("Ready for Labor and Defense") program was introduced, becoming the basis of physical education for both youth and adults. During World War II, sports organizations shifted their focus to military-physical training. After the war, the Soviet system prioritized elite sports, leading to international success starting with the 1952 Olympics. Following the dissolution of the USSR in 1991, extracurricular sports and physical education underwent significant changes. The state monopoly was replaced by diverse forms of ownership, including private sports clubs, fitness centers, and public organizations. DYUSS continued to operate, but their role diminished due to competition with commercial entities. The modern stage is characterized by: expanding service offerings – from traditional sports sections to yoga, crossfit, and extreme sports; digitalization – online training, fitness apps, virtual competitions; inclusivity – growth of adaptive sports for people with disabilities; community initiatives – street workout movements, charity marathons, urban sports projects (Bondarchuk et al., 2023).

V. Kovalchuk emphasizes that the modern education system focuses not only on the intellectual development of an individual but also on fostering their physical, social, and psychological well-being. In this context, extracurricular physical education plays a key role, as it complements the school curriculum by providing children and youth with additional opportunities for physical activity, socialization, and the development of life skills (Prospects for the Development..., 2022). Its socio-pedagogical significance lies in promoting the harmonious development of the individual, cultivating a healthy lifestyle, and preventing

social deviations among the younger generation. One of the main functions of extracurricular physical education is socialization. During activities in sports clubs, tourist groups, or mass fitness and recreational events, children learn to interact with peers, resolve conflicts, and work as a team. This is particularly important in today's environment, where an increasing number of young people suffer from social isolation due to excessive engagement in virtual communication. Extracurricular sports and fitness activities create conditions for live communication, the development of leadership qualities, and a sense of responsibility (Kozhokar et al., 2019).

Moreover, extracurricular physical education has a preventive role. Regular physical activity reduces the risk of obesity, cardiovascular diseases, and other health problems associated with a sedentary lifestyle. Equally important is that involving children in sports deters them from harmful habits such as smoking, alcohol, or drug use. The pedagogical influence of extracurricular sports institutions lies in shaping children's conscious attitude toward their own health, fostering willpower, and encouraging a desire for self-improvement.

M. Shevtsov notes that extracurricular forms of physical education contribute to the development of an inclusive environment. In such settings, children with special educational needs have the opportunity to engage in sports alongside their peers, which enhances their social adaptation and self-esteem (Marionda et al., 2024). Inclusive sports programs foster tolerance in children without disabilities, teaching them respect for those who are different. The role of extracurricular physical education in cultivating civic consciousness should also be emphasized. Participants in sports competitions, hiking trips, or patriotic games often develop a sense of belonging to their country and pride in their team or city. This contributes to the formation of patriotism and social engagement.

## **ORGANIZATIONAL MODELS AND MANAGEMENT IN THE FIELD OF EXTRACURRICULAR PHYSICAL EDUCATION**

The system of extracurricular physical education in Ukraine represents a complex organizational framework that includes various institutions and organizations, each fulfilling specific functions in promoting physical and recreational activities (Onishchuk & Ostapov, 2020). The main entities organizing extracurricular physical education are sports clubs, sections, and specialized centers, which form the infrastructural foundation for sports and fitness activities outside the formal education system. Sports clubs, as a key element of extracurricular physical education, can be classified according to several criteria. By ownership, they are categorized as state-owned, municipal, private, or community-based. By skill level – amateur, semi-professional, or professional. By age group – children's, youth, adult, or mixed. The organizational structure of a sports club typically includes a governing body (board of directors), coaching staff, medical personnel, and administrative staff. Club activities are funded through budget allocations (for state-run institutions), membership fees, sponsorships, and revenue from services provided (Current Problems..., 2022).

Specialized sections as a form of organizing extracurricular physical activity are distinguished by a narrower sports focus and often operate on the basis of general education schools, extracurricular institutions, or sports complexes. They may be oriented toward various sports (gymnastics, swimming, martial arts) or physical fitness and wellness methodologies (yoga, aerobics, therapeutic exercise). The organization of these sections

involves the development of training programs, scheduling classes, selecting qualified coaching staff, and providing the necessary material and technical resources (Riepkina, 2010). A feature of modern sections is their ability to adapt to the needs of different social groups, including people with disabilities, reflecting the trend toward inclusivity in the sports and fitness sphere.

Fitness and wellness centers as entities organizing extracurricular activities are comprehensive institutions that combine the functions of sports training, rehabilitation, recreation, and disease prevention. Depending on their specialization, there are sports training centers, wellness centers, rehabilitation clinics with elements of physical therapy, and multifunctional fitness clubs. The organizational structure of such centers usually includes several departments: training, methodological, medical, and administrative. Modern trends in the development of fitness and wellness centers are associated with the integration of innovative technologies (computerized physical fitness testing, virtual training systems, etc.) (Prospects for the Development..., 2022).

Note that public organizations in the field of physical culture and sports play an important role in ensuring the accessibility of fitness and recreational services for broad segments of the population. These include sports federations, associations, charitable foundations, and grassroots initiatives. A distinctive feature of public organizations is their focus on socially significant goals: promoting a healthy lifestyle, developing mass sports, and supporting socially vulnerable groups. The organizational forms of work of such associations include conducting mass sports and fitness events, creating public sports grounds, and implementing social projects and programs. An important aspect of the functioning of public organizations is the involvement of volunteers and the development of corporate volunteering in the sports sector.

The modern management system of extracurricular physical culture and sports institutions in Ukraine represents a dynamic, multi-level structure shaped by socio-economic transformations, European integration processes, and innovative management approaches (Current Problems..., 2022). An analysis of existing management models allows us to distinguish three main typological groups: the state-administrative model, the market-oriented model, and the community-oriented model, each of which has specific characteristics, advantages, and limitations. For instance, the state-administrative management model traditionally dominates in the system of youth sports schools, specialized sports education institutions, and Olympic training centers. This model involves a clear vertical hierarchy: the Ministry of Youth and Sports of Ukraine → regional departments of physical culture and sports → local administrations → the institutions themselves. Key features include budget financing, centralized planning of the training process, and unified state standards of preparation. The advantages of this model are operational stability, systematic training of sports reserves, and accessibility of services for broad segments of the population. However, there are also significant drawbacks: bureaucratic processes, limited flexibility in decision-making, and insufficient involvement of extra-budgetary funding sources. The current transformation of this model aims to delegate greater authority to the local level, introduce mechanisms of institutional autonomy, and develop public-private partnerships (Bondarchuk et al., 2023).

Market-Oriented Management Model is typical for private sports clubs, fitness centers, and commercial sports schools. It is based on the principles of self-sufficiency and profitability,

which shape specific management mechanisms. The organizational structure of such institutions usually includes: owner/investor → general director → functional managers (sports, marketing, administrative departments) → coaching staff. Key management elements include marketing strategy, customer service system, quality management of services, and HR management. Advantages of the model: consumer-oriented approach, flexibility in decision-making, innovative offerings. Limitations: social inequality in access to services, risk of commercialization of the training process. Modern development trends include service diversification, creation of customer loyalty programs, and integration of digital technologies into management processes (Kozhokar et al., 2019).

Community-Oriented Management Model is implemented through the activities of sports federations, non-governmental organizations, and charitable foundations.

The organizational structure is based on collegial principles: general assembly of members → board → executive director → thematic committees.

Management features include volunteer participation, transparent decision-making, and a social focus. Advantages: proximity to local needs, ability to mobilize community initiatives. Disadvantages: resource constraints, professional deficits. Development prospects are associated with the institutionalization of community initiatives and the advancement of corporate social responsibility in sports.

An innovative direction is hybrid management models, which combine elements of different approaches. For example, public-community management of municipal sports facilities or public-private partnerships in the creation of multifunctional sports complexes. Such models allow for resource optimization and increased management efficiency through synergy between different sectors. An important aspect of modern management models is the implementation of quality management systems in accordance with international standards (ISO, EFQM), ensuring transparency of procedures and enhancing the competitiveness of services (Marionda et al., 2024).

It is worth noting that strategic management of extracurricular physical education and sports institutions today requires the integration of the following key components: analysis of the external environment (PEST analysis); formulation of the institution's vision and mission; development of strategic goals and key performance indicators (KPIs); implementation of a monitoring and evaluation system. Particular attention is paid to human resource management through a system of continuous professional training for coaches, motivational programs, and the development of corporate culture (Bondarchuk et al., 2023). Financial management in the face of modern challenges involves seeking innovative funding sources: crowdfunding platforms, endowment funds, and sponsorship partnerships. Risk management includes developing crisis response plans, liability insurance, and creating reserve funds. Information management focuses on implementing CRM systems, sports applications, and digital platforms for communication with clients.

## **LEGAL REGULATION, FINANCING AND DIGITALIZATION OF EXTRACURRICULAR PHYSICAL EDUCATION**

The system of extracurricular physical education in Ukraine is based on a comprehensive infrastructure that includes material-technical, human, financial, and informational

resources. The effectiveness of this system directly depends on the optimal combination of these components, their compliance with modern requirements, and their ability to meet the needs of various social groups (Current Problems..., 2022). The material-technical base of extracurricular physical activity is represented by various types of sports facilities and venues. These include specialized sports complexes, fitness and wellness centers, swimming pools, stadiums, gyms, outdoor courts, and workout zones. The condition of this infrastructure in Ukraine is characterized by significant regional disparities. While large cities have a relatively developed network of sports facilities, access to quality infrastructure remains limited in rural areas and small towns. An important direction for development is the modernization of existing sports facilities, their adaptation to the needs of people with disabilities, and the creation of multifunctional sports grounds capable of meeting the demands of various types of physical and sports activities (Prospects..., 2022).

Human resources for extracurricular physical education include coaching and teaching staff, methodologists, medical personnel, sports event organizers, and administrative personnel. Modern requirements for specialists in this field involve not only a high level of professional training in a specific sport or fitness methodology but also pedagogical skills, knowledge of psychology, and fundamentals of management and marketing. The system of training and professional development for extracurricular physical education personnel in Ukraine requires significant updates, particularly through the implementation of modern training technologies, interactive teaching methods, and international best practices (Savchenko & Serhieiev, 2016). Special attention should be paid to training specialists in adaptive physical education who can work with people with disabilities.

Financial support for extracurricular physical education comes from several sources: state and local budgets, commercial organizations, sponsorships, membership fees, and paid services. In conditions of limited budgetary resources, the development of public-private partnership mechanisms in the sports sector, attracting international grants, and promoting social entrepreneurship become particularly important. Effective financial management requires transparent fund allocation mechanisms, a system for monitoring financial usage, and evaluating the effectiveness of investments in physical education and sports (Bondarchuk et al., 2023). Information and methodological support is a crucial component of the modern extracurricular physical education system. It includes educational and methodological materials, training programs, databases, and digital platforms for distance learning and knowledge exchange. The advancement of digital technologies opens new opportunities for improving this area, particularly through specialized online platforms, mobile fitness applications, and virtual training programs. Another important aspect is promoting physical activity and healthy lifestyles through mass media and social networks, which helps cultivate a culture of wellness.

The organizational and managerial component of the infrastructure includes a system of planning, coordination, and control of extracurricular physical activity at various levels—from state to local. An important direction for development is the implementation of modern quality management systems, the development of service standards in the field of physical culture, and the creation of effective mechanisms for interaction between different entities in sports and physical activity. Particular importance is given to the development of public oversight over the use of sports infrastructure and the quality of physical fitness and wellness services (Prospects..., 2022).

The modern system of legal regulation of extracurricular physical education in Ukraine is a rather complex mechanism shaped by international standards, European integration processes, and national legislative initiatives (Current Problems..., 2022). This system covers a wide range of issues – from the organizational and legal forms of sports institutions to ensuring the quality of the training process and protecting the rights of its participants. The international level of regulation is represented by a number of fundamental documents, among which the UNESCO World Declaration "Education for All" (1990) holds a special place, recognizing physical education as an integral part of education. The International Charter of Physical Education and Sport (1978) enshrines every individual's right to access physical and sports activities, regardless of social status or physical abilities. The European Charter "Sport for All" (1987) emphasizes inclusivity and the development of mass sports, which is reflected in Ukraine's national legislation. An important aspect of international regulation is anti-doping legislation, represented by the World Anti-Doping Code (WADA), which establishes unified standards for combating doping, including in youth sports (Marionda et al., 2024).

The national legal framework of Ukraine in the field of extracurricular physical education is based on the Constitution of Ukraine, which in Article 53 guarantees citizens the right to engage in physical culture and sports (Constitution of Ukraine, 1996). The Law of Ukraine "On Education" defines extracurricular education as a component of lifelong learning, including sports and physical education programs (Law of Ukraine "On Education", 2025). The Law of Ukraine "On Extracurricular Education" (Law of Ukraine "On Extracurricular Education", 2025) directly regulates the activities of sports sections, clubs, and centers, defining their legal status, funding, and the content of educational programs. The Law of Ukraine "On Physical Culture and Sports" (Law of Ukraine "On Physical Culture and Sports", 2025) establishes the principles of state policy in this area, particularly regarding the development of youth sports and mass physical education events. Article 15 of this law specifically regulates the creation and operation of sports schools and sections outside the general education system. The national strategy "Physical Activity – A Healthy Lifestyle – A Healthy Nation" (until 2025) outlines specific measures to expand the network of extracurricular sports institutions, including through the development of regional programs to support physical activity among children (On the National Strategy..., 2025).

The secondary regulatory framework includes numerous resolutions of the Cabinet of Ministers of Ukraine, as well as orders from the Ministry of Education and Science and the Ministry of Youth and Sports. Among these, the CMU Resolution No. 993 (2008) "On Approval of the Regulations on Children and Youth Sports Schools" is particularly noteworthy, as it details the organization of the training process in extracurricular sports institutions (Khristova, 2015). Orders from the Ministry of Education and Sports are also significant, establishing temporary guidelines for organizing physical education activities under various conditions, including during quarantine restrictions. Local regulation is carried out through decisions of regional and municipal councils, which develop physical education development programs for their respective territories. This includes funding for municipal sports schools, cooperation with public organizations in creating sports facilities, and organizing mass physical education events. Special attention at the local level is given to anti-doping education, with specific programs developed for extracurricular coaches to prevent doping among adolescents.

It is also worth noting that at this stage, the system of legal regulation of extracurricular physical education in Ukraine faces a number of systemic challenges. One of the most pressing issues is insufficient funding, which leads to limited infrastructure development, particularly in rural areas (Riepkina, 2010). Another significant problem is the lack of uniform quality standards for extracurricular physical education programs, resulting in considerable disparities across different regions of the country. The commercialization of sports and fitness services reduces their accessibility for socially vulnerable groups.

At the same time, the prospects for the development of this field are linked to further harmonization of national legislation with European standards, particularly in terms of inclusive sports. An important direction is the digitalization of extracurricular physical education management, including the creation of a unified register of extracurricular sports institutions. The development of public-private partnerships opens new opportunities for attracting investments in the construction and modernization of sports centers.

The system of licensing, certification, and oversight of extracurricular physical education organizations in Ukraine is being formed based on current legislation and international standards, ensuring the quality of physical education services. This regulatory mechanism consists of several interconnected elements, each fulfilling a specific function in ensuring the safety, professionalism, and effectiveness of sports and fitness institutions (Current Problems..., 2022).

Licensing of extracurricular physical education activities in Ukraine is carried out in accordance with the Law of Ukraine "On Licensing of Types of Economic Activities" (Law of Ukraine "On Licensing of Types of Economic Activities", 2025) and specific regulatory acts in the field of physical culture and sports. The main requirements for obtaining a license include: availability of appropriate facilities that comply with sanitary and fire safety standards; qualified coaching and teaching staff; adequate material and technical resources; developed training and exercise programs. The licensing procedure involves the submission of a set of documents by the applicant to the authorized body, including: a completed application form; copies of statutory documents; a statement on material and technical resources; documents confirming staff qualifications; permits for the premises. The processing time for an application is up to 10 working days from the submission of a complete set of documents (Prospects..., 2022). It is important to note that licensing does not apply to fitness and wellness groups operating on a community basis that do not provide commercial services.

Certification of extracurricular physical education organizations is a voluntary procedure aimed at confirming the compliance of their activities with established quality standards. In Ukraine, this process is regulated by the Law "On Standardization" and industry standards in the field of physical culture and sports. The certification system includes an assessment of: the qualifications of the coaching staff; the quality of training programs; the conditions under which classes are conducted; the safety level of sports events; the effectiveness of health-improving activities. Certification can be carried out by both national certification bodies and international organizations operating in Ukraine. Of particular importance is the certification of coaching staff, which involves confirming their professional competence through an attestation system. To obtain certification, a coach must have relevant education, work experience, and pass specialized testing. In recent years, certification according to

international standards has gained popularity, particularly in areas such as fitness instruction, children's fitness, and rehabilitation physical education (Kozhokar et al., 2019).

It should be noted that the supervision of extracurricular physical education organizations is carried out at several levels: state, industry, and public. State oversight is implemented through the bodies of the Ministry of Youth and Sports of Ukraine, which conduct scheduled and unscheduled inspections of compliance with licensing requirements. Industry oversight includes monitoring the quality of the training process, carried out by sports federations and associations. Public oversight is exercised through local self-government bodies and parent committees (Marionda et al., 2024). The main areas of supervisory activity include: compliance with sanitary and hygienic standards; adequacy of staff qualifications; quality of training programs; adherence to safety rules during training; financial reporting (for commercial organizations). In case of violations, the following sanctions may be imposed on business entities: warnings; fines; temporary suspension of the license; revocation of the license in cases of gross or systematic violations.

Special attention in the control system is paid to safety measures during physical education and sports activities. According to current legislation, every extracurricular physical education organization is required to have: safety instructions; a briefing log; a first aid kit; an emergency response plan. The staff of the institution must undergo first aid training and know the algorithm of actions in case of injuries to visitors. For children's sports sections, additional requirements include the presence of a medical professional during classes and mandatory medical examinations of children before the start of the academic year (Prospects..., 2022).

Modern challenges in the system of licensing, certification, and control are related to the need to adapt to European standards as part of Ukraine's European integration. This involves: developing new national quality standards for physical education and wellness services; implementing an independent certification system; enhancing public oversight; digitalizing licensing and monitoring processes. An important area of improvement in this system is the creation of a unified register of extracurricular physical education organizations, which would integrate information on licenses, certificates, and inspection results. Another promising direction is the introduction of a rating system for sports institutions based on objective quality criteria.

The financing system for extracurricular physical education in Ukraine is a complex mechanism combining budget allocations, commercial sources, and innovative public-private partnership models. The legal framework of this system is based on the Budget Code of Ukraine, the Law of Ukraine "On Physical Culture and Sports" (Law of Ukraine "On Physical Culture and Sports", 2025), as well as special program documents that define the priorities for the development of the sports sector. Budget financing is carried out through a system of subventions from the state budget to local governments, allowing for consideration of regional specifics in extracurricular physical education. Local budgets also serve as an important source, funding municipal sports schools and sections. However, the share of budget financing in the total funds allocated for extracurricular physical education is steadily decreasing, necessitating the search for alternative sources (Prospects..., 2022).

Public-private partnerships (PPP) in the field of extracurricular physical education are regulated by the special Law of Ukraine "On Public-Private Partnership" (Prospects..., 2022), which defines the basic principles, forms, and conditions of such cooperation. The most

common PPP models include: concession agreements for the operation of sports facilities; joint investment projects for the construction of fitness and wellness complexes; corporate funding of sports clubs; sponsorship support for mass physical education events. The legal nature of such agreements requires the mandatory inclusion of terms regarding: the duration of the partnership; distribution of ownership rights to the created facilities; procedures for profit distribution; quality control mechanisms for services. A key feature of PPP regulation in physical education is the mandatory adherence to social guarantees, particularly ensuring free or discounted access to training for children from low-income families.

Tax incentives for PPP participants are implemented through a system of benefits provided by the Tax Code of Ukraine. These include: reduced corporate income tax rates for businesses investing in sports infrastructure development; the ability to classify sponsorship expenses as gross expenses; preferential taxation on the import of specialized sports equipment (Marionda et al., 2024). However, the current tax incentive system requires further improvement, particularly in expanding the list of eligible activities and simplifying the procedure for obtaining benefits.

Public initiatives to finance extracurricular physical activity are implemented through the mechanisms provided by the Law "On Charitable Activities and Charitable Organizations" (Prospects..., 2022). This allows attracting funds from individuals and organizations for the development of mass sports through the creation of targeted funds, charity auctions, and fundraising campaigns. A key aspect of legal regulation in this area is the requirement for transparency in the use of funds and accountability to donors.

It is worth noting that the legal framework for financing and public-private partnerships in extracurricular physical education requires further improvement, particularly regarding: developing clear criteria for the effective use of budget funds; introducing mechanisms to insure investment risks in PPPs (public-private partnerships); expanding tax incentives for private investors; ensuring a balance between the commercial interests of private partners and the social orientation of physical education and health activities. Addressing these challenges will help establish a stable financing system for extracurricular physical education, capable of meeting society's needs for fitness and health services.

As previously mentioned, the current stage of extracurricular physical culture development is characterized by the intensive implementation of digital technologies, which is transforming traditional organizational and legal approaches to physical education and wellness activities. Digitalization in this context involves the comprehensive use of information and communication technologies for organizing, managing, and ensuring the quality of extracurricular physical education services. Virtual forms of physical education and wellness activities, such as online training, mobile fitness applications, virtual sports communities, and remote physical condition monitoring systems, are becoming a new stage in the evolution of physical education (Prospects..., 2022).

The legal regulation of these innovative forms requires adapting the existing regulatory framework to new realities, particularly regarding the licensing of digital physical education services, protecting participants' personal data, determining liability for the quality of virtual training, and preventing cyber risks in physical education activities.

Organizational changes related to the digitalization of extracurricular physical education involve the creation of new structural units in sports institutions, such as digital development departments, virtual training centers, and technical support services for online classes (Current Problems..., 2022). This requires revising staffing schedules, qualification requirements for personnel, and the internal quality control system for services. Of particular importance is the development of standards for providing virtual physical education services, which should consider the specifics of remote interaction between coaches and students, technical requirements for equipment, and criteria for the effectiveness of online training. Managing digital physical education projects requires the implementation of new tools, such as cybersecurity systems, platforms for analyzing big data on participants' physical activity, and automated service quality monitoring systems.

The prospects for the development of digital forms of extracurricular physical education are associated with the integration of artificial intelligence into the training process, the use of virtual and augmented reality to create immersive physical education experiences, and the development of gamification systems for physical activity. The legal framework for these innovations will require the development of special regulations governing the use of AI in physical education, the protection of intellectual property for digital training programs, and the establishment of cyber-physical safety standards during virtual classes. An important direction is the creation of a unified digital space for extracurricular physical education, integrating various online platforms, mobile applications, and virtual communities based on unified quality and safety standards (Marionda et al., 2024). Implementing these prospective directions will require close collaboration between legislators, IT specialists, sports educators, and medical professionals to establish a balanced system of organizational and legal support for innovative forms of physical education and health activities.

## **INCLUSIVE PROGRAMS AND INTERNATIONAL EXPERIENCE IN THE FIELD OF EXTRACURRICULAR PHYSICAL EDUCATION**

The current development of extracurricular physical culture in Ukraine requires the creation of a comprehensive system of inclusive programs aimed at ensuring equal access to physical education and wellness services for all population groups. The organizational foundations of inclusive programs involve adapting sports infrastructure, training qualified personnel, developing specialized training methodologies, and establishing a multi-level system of socio-pedagogical support. For persons with disabilities, this includes ensuring barrier-free access to sports facilities, the availability of specialized equipment, and individualized physical rehabilitation programs. Special attention should be paid to the development of Paralympic sports and the creation of specialized sections in extracurricular institutions.

For children from low-income families, inclusivity is implemented through a system of social scholarships, free memberships, and the organization of summer sports camps under preferential conditions. Legal regulation of this direction involves the development of local social support programs and cooperation with public organizations (Prospects..., 2022). An innovative direction is the development of inclusive programs for internally displaced persons, combining physical rehabilitation with psychological adaptation. Such programs involve the use of adaptive sports, art therapy, and group psychological work. Legal support for this direction requires the integration of social protection, healthcare, and physical education regulations.

The prospects for the development of inclusive programs in extracurricular physical education are associated with the implementation of individual digital support systems, the expansion of a network of social sports clubs, and the creation of a unified register of inclusive physical education services. The implementation of these tasks will require further improvement of the legislative framework, particularly regarding the funding of inclusive programs, the training of adaptive physical education specialists, and the establishment of mechanisms for public quality control of services provided to various social groups.

An analysis of global practices in organizing extracurricular physical education highlights key models that can be adapted to Ukrainian realities, taking into account national specifics. In Scandinavian countries (Sweden, Denmark, Norway), a unique "sport for all" system has been developed, based on the principles of voluntariness, accessibility, and community initiative (Bondarchuk et al., 2023). The organizational and legal framework of this system includes: state funding of local sports clubs through tax revenues; decentralized management; close cooperation between schools and extracurricular sports organizations. A distinctive feature is the "sports voucher" system, where the state allocates funds to each child for attending sports sections, stimulating competition among clubs for service quality (Kononovych, 2017).

In Germany, a robust system of sports clubs (over 90,000) operates, united in sport-specific federations. The legal framework provides a special status for "non-profit sports organizations" with tax benefits, fostering volunteerism. The German model is characterized by a clear management hierarchy – from national federations to local clubs – ensuring uniformity in training standards.

France operates a unique "sports license" system, which combines medical monitoring, insurance, and the right to participate in competitions. The organizational structure is built around municipal sports centers that coordinate the work of numerous sections. Legal regulation requires mandatory certification of coaches and standardization of training programs (Riepkina, 2010).

The American model is characterized by a well-developed system of school and university sports programs, complemented by commercial sports clubs. A distinctive feature is the system of athletic scholarships for gifted children, funded by the private sector. In Canada, the "Sport for Life" program is noteworthy, integrating physical education, mass sports, and professional training through the creation of regional sports centers.

Asian experience, particularly the Japanese model, is based on the principle of "sport as part of culture." Here, special attention is paid to traditional sports and physical practices, as well as the integration of physical education into local communities. The Singaporean model of organizing extracurricular physical education is recognized as one of the most effective in the world due to its comprehensive approach, combining government regulation, public participation, and innovative technologies. The main legal document regulating this area is the "National Physical Activity Program," which establishes clear quality standards for services, funding mechanisms, and requirements for professional training (Current Problems..., 2022). The organizational structure includes three levels: national (Ministry of Culture, Community, and Youth), regional (district sports councils), local (school clubs and community centers). A distinctive feature of the Singaporean system is the mandatory annual National Physical Fitness Award (NAPFA) test for all schoolchildren, the results of which determine an individualized program of extracurricular physical activities.

An innovative element of the Singaporean model is the "SportSG" program, which integrates data on citizens' physical activity into a unified digital platform. This system allows for: monitoring the population's physical fitness levels; generating personalized recommendations; assessing the effectiveness of sports clubs. The legal framework of the program includes strict personal data protection laws and mechanisms ensuring that data is used only for medical and professional purposes. To support talented individuals, a "sports stream" system is in place, where gifted children receive additional funding for individual training in specialized centers. An important aspect is the mandatory certification of all coaches according to national standards, which includes not only professional skills but also knowledge of child psychology and safety principles (Marionda et al., 2024).

The Australian model of extracurricular physical education is recognized as one of the most progressive in the world due to its unique combination of government regulation, community initiatives, and innovative approaches. The foundation of legal regulation is the "National Physical Activity Framework," which establishes unified service quality standards, funding mechanisms, and requirements for professional training. The organizational structure consists of three interconnected levels: Federal (Department of Health), State (sports ministries), Local (community sports clubs and school centers). A distinctive feature of the Australian system is the "Active Schools" program, which integrates extracurricular physical activities with the educational process through a network of specialized coordinators (Prospects..., 2022).

The key innovative tool is the "Australian Sports Map" – a digital platform that combines data on citizens' physical activity, access to sports facilities, and personalized recommendations. The legal framework of the program includes strict data protection regulations and mechanisms for using this data to improve service quality. To support gifted children, the "Sports Pathways" system is in place, providing individualized development trajectories with access to elite training centers.

As previously mentioned, the European model of extracurricular physical activity is based on the principles of decentralization and community initiative, which promotes broad accessibility and active citizen participation in sporting events. The foundation of this system lies in its legal framework, particularly the European Sports Charter, adopted in 1992, which enshrines citizens' right to access sports infrastructure, as well as EU directives that facilitate funding for international sports projects (Riepkina, 2010). National legislation in European countries also plays a key role. For instance, Germany has the "Sports Promotion Act" (Sportförderungsgesetz), which regulates the financing of sports clubs, while France has the Sports Code, which defines the obligations of municipalities regarding the development of mass sports. Organizationally, the structure of the system includes community clubs, such as German Turnvereine, which are funded through membership fees and government subsidies, as well as school sports associations integrated into the education systems of countries like Sweden and Denmark. Additionally, there are commercial networks, such as Basic-Fit in Belgium, which operate on market principles. The advantages of this model include high accessibility and a social focus, but the drawbacks include dependence on local budgets and uneven regional development (Marionda et al., 2024).

The American model is characterized by a high level of commercialization and close ties with educational institutions and the private sector. Legal regulation here includes important documents such as Title IX of 1972, which prohibits sex-based discrimination in sports

programs, and the Amateur Sports Act of 1978, which establishes the legal framework for amateur leagues (Onishchuk & Ostapov, 2020). The key institutions are school and university leagues, particularly the NCAA, which facilitate athletes' career growth through sports scholarships, as well as private academies like IMG Academy, offering elite training programs. Nonprofit organizations, such as the YMCA, ensure sports accessibility for various social groups. The advantages of this system include a high level of motivation and innovative training methods, but its drawbacks include commercialization, which limits participation from low-income populations.

The Ukrainian model integrates elements of an obsolete Soviet system with contemporary European trends. The Law "On Physical Culture and Sports" promotes the development of mass sports, yet its provisions lack specificity, hindering effective implementation (Law of Ukraine "On Physical Culture and Sports", 2025). State-funded initiatives, such as the "Sports for All" program, remain underfinanced. Structurally, the system comprises state-dependent youth sports schools (DIOCIH) and school sports sections, alongside privately run fitness clubs, which are predominantly concentrated in urban areas.

A comparative analysis indicates that in EU countries, funding is based on state and municipal budgets, with a system focused on social accessibility and supported by modern, well-developed infrastructure. In the US, the primary emphasis is on educational institutions and the private sector, resulting in a high-tech and incentivizing system, though with limitations for low-income groups. In Ukraine, however, funding is largely limited to state resources and private investments, public access remains low (especially in rural areas), and infrastructure is outdated. Recommendations for Ukraine include: decentralizing management to transfer authority to local communities, improving efficiency; encouraging public-private partnerships through tax incentives for investors; integrating with European programs, such as Erasmus+ Sport, to foster collaboration; developing digital technologies, including online training and mobile apps, to enhance accessibility and modernize the system.

To adapt these practices in Ukraine, it is necessary to:

1. develop mechanisms to stimulate community sports initiatives (tax incentives, simplified club registration);
2. introduce a public-private partnership system for financing extracurricular sports programs;
3. establish a unified certification system for coaching staff;
4. develop micro-sports infrastructure in local communities;
5. implement social sports programs for underprivileged population groups.

An important aspect is the adaptation of European experience in the digitalization of physical education and wellness activities, particularly the development of online platforms for remote training and health monitoring (Savchenko & Serhieiev, 2016).

## CONCLUSIONS

The study of the organizational and legal foundations of extracurricular forms of physical education has revealed significant determinants of their functioning and development in the context of modern sociocultural transformations. A systematic analysis of the regulatory

framework highlights substantial gaps in the regulatory field, particularly regarding inconsistencies in certain legislative acts, insufficient specification of funding mechanisms, and the lack of clear criteria for evaluating the effectiveness of extracurricular physical education and sports institutions. It has been established that the existing model of extracurricular physical education management requires structural reorganization, with an emphasis on decentralizing authority, introducing transparent public-private partnership mechanisms, and expanding the autonomy of local communities in decision-making regarding the development of sports infrastructure.

An important aspect of the research was identifying key issues in staffing extracurricular physical education activities, particularly the shortage of qualified specialists, low motivation levels, and the absence of a system for continuous professional development. Conceptual approaches to solving these problems have been proposed, including the implementation of standardized training programs, the development of mentorship systems, and the creation of incentives to attract young professionals to the field of extracurricular physical education. Special attention has been paid to analyzing innovative technologies in extracurricular physical education, such as the digitalization of management processes and the use of virtual and augmented reality in training. It has been proven that integrating modern technological solutions will improve service quality, attract new population segments to regular physical activity, and optimize resource utilization.

The prospects for further research in the field of extracurricular sports education can be focused on several key directions. First, analyzing the effectiveness of various models of extracurricular sports programs will help identify optimal approaches to training organization, taking into account the age, gender, and individual characteristics of children and youth. An important aspect is comparing the outcomes of commercial, community-based, and state-run programs, as well as assessing their impact on participants' physical, psychological, and social development. Second, research on the influence of digitalization on training organization is becoming increasingly relevant due to the development of online platforms, virtual reality, and wearable technologies. Studying how digital tools can enhance engagement, motivation, and training quality opens new opportunities for innovation in sports pedagogy. The third direction is examining the motivation of children and youth to engage in physical activity, including factors that contribute to long-term participation in sports programs, as well as reasons for dropout. The fourth promising avenue is the development of innovative approaches to integrating extracurricular sports into the general system of physical education and wellness. This involves exploring mechanisms for collaboration between schools, sports clubs, local communities, and government institutions to create a unified educational and sports environment.

Here are the recommendations for improving the organizational and legal framework of extracurricular physical education: enhancing the legislative base to support non-formal education in physical culture, particularly by introducing clear accreditation standards for coaches, programs, and sports facilities; developing public-private partnerships to attract investments in sports infrastructure, including through tax incentives, grant programs, and joint projects with businesses; implementing transparent quality control mechanisms for extracurricular sports institutions, including monitoring training conditions, staff qualifications, and participant safety; expanding social adaptation programs through sports, particularly for children with special needs, at-risk youth, and underprivileged groups.

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## **SECTION 2.**

# **EDUCATION AND HUMAN RIGHTS DURING MARTIAL LAW**

## **IMPLEMENTATION OF THE RIGHT TO EDUCATION DURING THE WAR IN KHARKIV (UKRAINE)**

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### **Abstract**

The research scrutinizes the realization of the right to higher education in Kharkiv, Ukraine, during the ongoing Russian military aggression. The armed conflict has caused a complex crisis in social and legal spheres, severely affecting the foundational structures of Ukrainian society, including the right to education. This study considers the critical question of how student and pedagogic staff safety, psychological well-being, and the provision of quality educational services can be maintained during protracted warfare. A mixed-methods approach is applied, covering methods of theoretical level (legal and policy analysis, comparison, and synthesis); a case study of Yaroslav Mudryi National Law University; and methods of empirical level (survey that included quantitative analysis, descriptive statistics, and comparative analysis). The findings detail the legislative and policy responses, the university's adaptive strategies – including the transformation of protective shelters into learning spaces and the implementation of hybrid teaching and learning models – and student preferences regarding instructional formats. This investigation provides a nuanced understanding of the practical measures taken to preserve educational continuity in a high-risk setting, offering insights into the operational structures, teaching approaches, and impact on the educational community in a warfare zone.

**Keywords:** case study, higher education, legal acts, right to education, war in Ukraine

## INTRODUCTION

The ongoing, extensive Russian military campaign against Ukraine has generated a complex array of societal and legal crises, demanding a thorough analysis of the country's capacity to withstand such pressures. With civilian areas consistently targeted, the foundational structures of Ukrainian society have been severely destabilized. Notably, the right to education, a protected constitutional and human right, has been critically impacted, especially in areas close to the fighting. The resulting breakdown of educational provision poses a significant risk to the future of Ukraine's young population, making immediate action imperative. Kharkiv, a city near the Russian border, has endured intense and prolonged attacks, becoming a focal point for the severe damage to educational facilities (Figure 1). This unrelenting assault has forced Kharkiv to become a testbed for novel educational strategies, aimed at ensuring continued learning amidst extreme adversity.



Figure 1. O. M. Beketov National University of Urban Economy in Kharkiv ruined by Russian rocket (Photo is taken from Internet)

The fundamental right to education, a constitutional mandate for all Ukrainian citizens and a deeply ingrained societal value, is facing unprecedented challenges. While the Constitution of Ukraine guarantees this right, underscoring the importance of an educated society for national development, the imposition of martial law due to Russian aggression has severely hindered its implementation. Education centres in war-torn regions, traditionally hubs of learning, are now frequent targets of hostility, leading to widespread infrastructural destruction and the collapse of traditional educational practices. The destruction of educational facilities and the displacement of learning communities have triggered a severe educational emergency. Moreover, the unescapable atmosphere of fear and psychological distress, stemming from relentless attacks, negatively impacts all members of the educational community. The resulting psychological trauma significantly hinders effective education, necessitating an integrated pedagogical strategy that caters to both academic and emotional well-being.

Accordingly, the exigencies of war have compelled a fundamental reorientation of educational service provision, necessitating the rapid integration of ground-breaking pedagogical techniques that are commensurate with the severe operational restrictions imposed by wartime conditions, while simultaneously preserving the constitutional imperative of universal right to education. The standard model of face-to-face instruction has become largely infeasible in regions affected by conflict, requiring the investigation and deployment of varied alternative teaching strategies. In this context, the primary focus among these considerations has shifted to ensuring the safety of educational participants, placing their physical and mental health at the forefront of all other factors. The pressing need to protect students and educators has catalysed the creation of novel solutions, including the establishment of subterranean instructional spaces and the integration of hybrid learning frameworks. Consequently, the adaptive reconfiguration of the educational system to these unprecedented and demanding circumstances is indispensable for its continued functionality, thus emphasizing the relevance and immediacy of this study. The tenacity demonstrated by the educational system in Kharkiv stands as a poignant illustration of the unwavering dedication of the Ukrainian populace to the pursuit of knowledge despite facing immense adversity.

In light of the extraordinary and unprecedented impediments to educational rights during armed conflict, our investigation poses a pivotal and urgent inquiry: how can the essential principles of student and educator safety, psychological welfare, and the provision of quality educational services be effectively synthesized and maintained during protracted warfare? This inquiry is not just a theoretical solution, but a crucial undertaking aimed at safeguarding the nation's intellectual resources. To illuminate this intricate and multifaceted question, this study conducts an in-depth and nuanced examination of the pedagogical adaptation strategies employed by Yaroslav Mudryi National Law University, in particular they transformed bomb shelters into viable and effective teaching and learning environments. Our manuscript represents an indispensable tool for analysing the practical implementation of the right to education in a high-risk setting, offering actionable knowledge regarding the strategies implemented to preserve educational continuity. Our research examines the operational structures, teaching approaches, and, notably, the evident effects on the educational experiences and academic results of students and faculty under direct conflict. The investigation will undertake a rigorous examination of the logistical frameworks, pedagogical methodologies, and psycho-emotional dimensions inherent within these adaptive initiatives, thereby furnishing a holistic and nuanced comprehension of their operational efficacy and substantive impact.

In summation, through the meticulous scrutiny of these multifaceted and pioneering adaptive strategies, this scholarly endeavour seeks to advance a more profound and nuanced comprehension of the mechanisms by which the fundamental right to education can be sustained and actualized within the exigencies imposed by armed conflict, and to elucidate the diverse modalities through which educational institutions are responding to these unparalleled and formidable operational contexts. This scientific investigation aims to accurately chronicle and critically analyse the adaptive capacity and inherent resilience of the Ukrainian educational paradigm, thereby yielding a compendium of instructive insights that may serve as a valuable resource for other nations contending with analogous exigencies

## LITERATURE REVIEW

The onset of the Russian Federation's comprehensive military campaign against Ukraine has catalysed a significant surge in academic investigations dedicated to the intricate array of predicaments that have placed immense strain upon the Ukrainian educational infrastructure during this period of unprecedented hardship. An extensive corpus of scholarly research has materialized, dissecting the varied facets of this pivotal problem. Particularly, legal investigations have centered upon the constitutional entitlement to education and its practical instantiation within the parameters of ongoing warfare.

For instance, Bezkrivnyy (2024), Derkachova (2022), and Ryndiuk (2024) have executed exhaustive studies of the legislative architecture governing education in Ukraine, with a particular emphasis on its maintenance and enforcement throughout the duration of the hostilities. The scholars' results illuminate the regulatory framework and its pragmatic implementation during the period of armed conflict. By the same token, Romanova (2023) analysed the theoretical and jurisprudential components of the right to education during wartime, paying close attention to the circumstances that significantly affect its attainment in a war setting. Subsequent to this established foundation, Tereshchenko (2024) investigated the actualization of the right to education under martial law within Ukraine, stressing the importance of protecting educational rights for all populations and elaborating on the impediments encountered by the Ukrainian scholastic sector in maintaining uninterrupted access to instruction.

Additionally, academic discussion has extended past local legal frameworks, including the essential contribution of global institutions in lessening the impact of educational emergencies. Iliichuk et al. (2024) presented a full evaluation of policy recommendations disseminated by international entities devoted to the protection, quality assurance, and accessibility of education in the context of active warfare. Beyond this, Zayachuk (2024) evaluated the crucial nature of global backing when navigating the dilemmas surrounding Ukraine's learning sector, specifically within the encompassing structure of the Sustainable Development Goals (SDGs). Moreover, Nestulya et al. (2023) illustrated the fundamental function of transnational collaboration when mitigating monetary uncertainties within educational frameworks, augmenting scholarly development, securing the soundness of post-secondary learning domains, and encouraging the sharing of optimal methodologies in academic instruction. The scholars' research further illustrated the significance of integrating younger individuals into employment-focused endeavours and pupil-managed ventures as a methodology for developing robustness and pliability throughout the pedagogical sphere.

Concerning a similar theme, the extensive consequences of conflict-driven difficulties for Ukraine's pedagogical framework have been comprehensively investigated by Sibruk et al. (2023). The authors' study highlighted the indispensable contribution of pedagogical professionals in cultivating intellectual proficiencies within students. Particularly, during persistent interruptions, instructors function as both information disseminators and emotional assistance providers, securing the continuous growth of fundamental capabilities within learners, regardless of the hardships inflicted by the war.

In conclusion, these scholarly works, when considered as a whole, yield a multifaceted comprehension of the legislative, administrative, and global aspects of instructional practices during wartime in Ukraine. These analyses emphasize the indispensable nature of

rigorous legislative safeguards, enduring transnational partnerships, and pioneering pedagogical methodologies to secure educational entitlements within extreme circumstances. Nevertheless, it is noteworthy that current studies have yet to comprehensively address the emergent phenomenon of subterranean educational institutions in Ukraine (Kharkiv), which constitute a different modality for realization of the right to education in wartime. Consequently, our investigation will concentrate on rectifying this lacuna within the existing scholarly discourse.

The purpose of this manuscript is to delineate the modalities through which the right to higher education has been implemented in Kharkiv, particularly, Yaroslav Mudryi National Law University during the Russian-Ukrainian war.

## **MATERIALS AND METHODS**

To achieve the stated purpose of the investigation, we have used a comprehensive methodological approach, covering three primary components, namely theoretical, case study and empirical levels. Particularly, the utilized methods were:

1. theoretical level included, firstly, a complete analysis of legal regulations and Ukrainian policy concerning education and the right to education. It was undertaken to establish the legal basis of the issue under research. The studied sources involved a thorough scrutiny of national and international legal documents, including the Constitution of Ukraine, the UN Declaration on Safe Schools (2015), and relevant Ukrainian legislative acts. Conducted analysis aimed to clarify the legal and policy mechanisms applied to safeguard the right to education during the war in Ukraine. Secondly, theoretical level also included comparison that was used for content analysis to evaluate government reports and official statements as well as to contextualize Ukrainian responses within broader international frameworks. Thirdly, a synthesis for formulating interpretation phase integrated the findings. In our study these theoretical methods developed a holistic understanding of the problem under research;
2. a case study of Yaroslav Mudryi National Law University was conducted. This study involved a descriptive analysis of the adaptation strategy of the university, particularly the conversion of basement premises into functional classrooms and protective shelters. Functioning analysis examined the logistical processes underlying the hybrid teaching and learning format, while visual documentation analysis interpreted provided figures illustrating the university's infrastructure. In our investigation, case study served to illustrate the practical application of educational continuity measures within a higher education institution directly impacted by the war;
3. empirical level included, a survey analysis, which was performed to understand student preferences and experiences. Firstly, quantitative analysis of the survey data determined student preferences regarding learning models, with, secondly, descriptive statistics utilized to demonstrate the distribution of student inclinations. And thirdly, comparative analysis was employed to track changes in student preferences across different academic years. In our research empirical components were used to evaluate the efficiency of the university's hybrid learning model from a student perspective.

Throughout this methodology, ethical considerations, such as participant anonymity and confidentiality, were paramount, particularly given the sensitive context of ongoing armed aggression. Contextualization, providing thorough background information about the conflict and its impact on the education system, was maintained throughout the investigation.

## RESULTS

The right to education occupies a position of paramount significance within the corpus of fundamental human rights. This is a principle that has been rigorously affirmed and codified across both domestic and international legal frameworks. This right, having been approved by the Ukrainian legislative authorities, is fundamentally articulated within influential documents such as the Universal Declaration of Human Rights (1948) and the Convention on the Rights of the Child (1989). Within the domestic legal architecture of Ukraine, the Constitution of Ukraine (1996) unambiguously establishes that every citizen is vested with the right to education. The aforementioned constitutional directive encompasses the obligatory provision of comprehensive secondary education, thereby guaranteeing the unimpeded accessibility and gratuitous dispensation of pre-school, general secondary, vocational, and post-secondary educational services within the confines of state-operated and municipally administered educational institutions. Fundamentally, the purview of right to education extends to the assurance of access to high-calibre educational provisions, unencumbered by any manifestation of discriminatory practices, consequently highlighting the government's dedication to the establishment of impartial educational prospects.

Notwithstanding, the commencement of the Russian Federation's comprehensive military incursion on February 24, 2022, instigated an unparalleled exigency within Ukraine's pedagogical domain. This armed conflict mandated an expedited and thorough reconfiguration of the legal and regulatory structures managing educational provision, especially within proximate urban centres such as Kharkiv. The extensive dislocation of a significant portion of the academic community, compounded by the methodical devastation of essential educational facilities, necessitated to take legislative and policy interventions immediately and resolutely. As a result, a number of regulatory instruments were expeditiously enacted, designed to ameliorate the deep destabilizing effects of martial law upon the teaching and learning continuum and to secure the uninterrupted delivery of instructional services.

Concretely, the Presidential Decree of Ukraine, entitled "On the introduction of martial law in Ukraine" (2022), catalysed the swift formulation and ratification of an ensemble of legislative and subordinate regulatory instruments, thoroughly crafted to govern pedagogical activities during the period of hostility. Particularly, Law of Ukraine No. 2126-IX (2022), which enacted amendments to the Law of Ukraine "On Education," incorporated Article 57-1, designated "State guarantees in the conditions of martial law, emergency situation or state of emergency." This pivotal legislative provision outlines an extensive and resilient framework of rights and social protections for all members within the educational process. The safeguards mentioned in the Law covers the provision of distance or alternative secure teaching and learning modalities, the maintenance of employment for pedagogical and academic staff with the continued disbursement of remuneration, and the furnishing of crucial provisions, namely residential accommodation and sustenance, when necessitated.

Such legislative means emphasises the state's unwavering commitment to preserving the educational welfare of its citizenry during the exigencies of hostilities.

Moreover, the efficacious realization of these state-mandated safeguards is achieved through an accurately organized, multi-layered administrative framework. Such system entails a synergistic network comprising executive branches, military governance structures, municipal authorities, educational establishments, as well as charity and volunteer entities. This collaboration of different state structures demonstrates value of preserving access to educational resources and necessity of safeguarding the nation's indispensable intellectual capital under the extraordinarily demanding circumstances caused by the war. Presented hierarchical management paradigm is very important as it facilitates the requisite agility and adaptability essential during a period of critical exigency.

In this context, adherence to these dynamically developing regulatory bases, the Ukrainian government has engaged in a sustained and proactive endeavour to mitigate the adverse consequences of the military conflict upon the teaching and learning domain and to secure the actualization of the right to education for all members of its citizenry, regardless of their geographical location or situational context. According to the academic investigations of Romanova (2023) and the official declarations of governmental figures such as O. Sharov, Director General of the Directorate of Pre-Higher and Higher Vocational Education of the Ministry of Education and Science of Ukraine (Influence of the War, 2022), Ukraine has achieved considerable progress in adjustment of its educational apparatus to the emergent demands of wartime conditions. For this purpose, the State Service for the Quality of Education has formulated and distributed exhaustive procedural directives and advisory recommendations, intended to aid educational administrators in the establishment and maintenance of secure teaching and learning settings through all spectrum of instructional paradigm, encompassing in-person, online, and hybrid educational delivery.

Furthermore, Ukrainian legislative frameworks have conferred upon educational establishments the discretionary authority to delineate their instructional modalities. In such a way, universities received the opportunity to adapt malleably and contextually responsively to the perpetually fluctuating security landscape. Concurrently, the Ukrainian governmental apparatus has promulgated a number of regulatory instruments designed to ensure the uninterrupted delivery of general secondary education under the conditions of martial law (On some issues, 2022). These legislative enactments furnish an operational paradigm specially structured for educational administrative bodies, securing the seamless functioning of the pedagogical process within institutions of general secondary education.

Indispensably, municipal governance bodies and military administrative entities within Kharkiv have functioned as focal and fundamental agents in the pragmatic execution of the mentioned nationally mandated policies. For example, the idea of the refurbishment and modification of extant protective shelters and the establishment of novel secure educational environments was put forward as a top priority, thereby solving the severe and urgent problem for face-to-face instruction during the prevailing hostilities. Another challenge was connected with assimilation of displaced students in order to provide them with the opportunity for the continuation of their educational pursuits.

Nevertheless, it remains imperative to recognize the profound and complex adversities engendered by the calculated and regular attacks on educational establishments by Russian Federation. Notwithstanding the global community's adherence to the United Nations'

Declaration on Safe Schools (2015), a substantial part of the pedagogical infrastructure within Kharkiv has sustained extensive structural impairment or complete obliteration (Figure 2).



Figure 2. H. S. Skovoroda Kharkiv National Pedagogical University before Russian attack and after it (Photo is taken from Internet)

In the endeavour to secure the sustained provision and qualitative integrity of educational services in the duress imposed by hostilities, focused consideration has been accorded to the critical necessity of realization of the right to acquire quality tertiary-level education. In this context, the maintenance of scholarly distinction and the cultivation of intellectual advancement continue to be cardinal objectives, despite the most difficult conditions. By way of exemplification, within the 2023/24 academic year, a conspicuous pattern manifested whereby some institutions of higher education in Kharkiv sought to re-establish auditorium-based instructional and learning paradigms. Such reintroduction of face-to-face pedagogical interaction emphasises the continuing significance attributed to traditional educational

format as well as the acknowledgement of their effectiveness in promoting academic attainment.

Concretely, the administrative body of Yaroslav Mudryi National Law University has exhibited a forward-thinking dedication to the establishment of optimal psycho-pedagogical environments for its student population. To achieve this, the university executed a thorough survey among its student cohort, aimed at eliciting their predilections and requirements regarding instructional modalities. The findings of this survey exposed a compelling divergence of opinions: a substantial segment of the student body articulated a preference for classroom-based learning, mentioning its psychological amenability and its facilitation of superior academic achievements, while another part of students preferred online educational delivery, explaining their decision by apprehensions concerning personal safety or geographical limitations, including those students who had undergone international relocation. This dichotomy in student preferences highlights the intricate interaction between academic ambitions and personal security considerations within a conflict-impacted situation.

As a direct reaction to the aforementioned survey data, Yaroslav Mudryi National Law University, capitalizing on its possession of expansive and structurally resilient multi-tiered underground spaces, initiated a strategic conversion project during the summer months of 2023. These subterranean levels were meticulously repurposed into fully functional instructional spaces and protective shelters, equipped with all requisite facilities, including autonomous electrical generation systems to guarantee continuous power provision (Figure 3a and 3b). This adaptive transformation serves as a paradigmatic illustration of the university's unwavering dedication to the provision of a secure and conducive pedagogical environment, even amidst persistent security vulnerabilities.



Figure 3a. Bomb shelter for students (the authors' own resource)



Figure 3b. Classroom in the bomb shelter (the authors' own resource)

Accordingly, first-year students of the 2023/24 and 2024/25 academic years were presented with the option to get their academic endeavours in a traditional classroom setting within these newly constructed subterranean instructional spaces. Nevertheless, it is salient to note that despite the provision of face-to-face educational modalities, 51% of first-year students in the 2023/24 academic year (Holubnycha et al., 2024) and 53% of first-year students in the 2024/25 academic year chose to engage in online learning.

Subsequently, Yaroslav Mudryi National Law University has implemented an adaptable and flexible pedagogical strategy, deploying a mixed-method approach that integrates in-person instruction within the university's fortified subterranean spaces with real-time distance instruction through Zoom teleconferences. This bi-modal learning framework is structured to address the varied psycho-emotional and logistical requirements of the student population, thereby guaranteeing that all learners will receive access to high-quality educational content through a delivery method suited to their unique situations.

Based on the confines of the instructional environment, academic personnel deploy a heterogeneous spectrum of pedagogical strategies, covering both long-established and innovative teaching forms and methods. Conventional approaches, such as the utilization of printed textual materials, chalkboard instruction, and audio-visual resources, are harmoniously integrated with contemporary modalities, including gamified educational platforms (Kostikova et al., 2019), interactive digital display technologies (Holubnycha & Shatrava, 2017), and mobile learning applications (Holubnycha et al., 2022). Such instructional diversity guarantees that learners get a comprehensive and immersive educational experience, cultivating both cognitive advancement and practical skill development. Furthermore, this synthesis of traditional and innovative techniques exemplifies the institution's dedication to upholding rigorous academic benchmarks while accommodating the exigencies of education in wartime. Consequently, the methodological framework of Yaroslav Mudryi National Law University demonstrates a judicious and strategic adaptation to the intricate educational terrain of Kharkiv during a period of armed conflict.

## **CONCLUSIONS**

Thus, the research has delineated the multidimensional modalities through which the right to higher education has been implemented in Kharkiv, with a specific focus on the adaptive strategies employed by Yaroslav Mudryi National Law University during the Russian-Ukrainian war. The study underlines the fundamental significance of the right to education, a principle enshrined in both international and Ukrainian legal frameworks, and the critical need to uphold this right even during the armed conflict.

The beginning of the full-scale military invasion required an immediate and comprehensive reconfiguration of the legal and regulatory structures governing providing educational services. The Ukrainian government responded with some legislative acts and policy means, including the Presidential Decree on martial law and amendments to the Law of Ukraine "On Education," which established state guarantees for educational participants during wartime. These measures, implemented through a multi-layered administrative framework, aimed to mitigate the destabilizing effects of military aggression and ensure the continuity of learning.

In Kharkiv, municipal and military administrations played a pivotal role in the practical execution of the government policies, giving priority to the creation of safe teaching and learning environments and the integration of displaced students. Despite the severe damage inflicted upon educational infrastructure by targeted attacks, as evidenced by the devastation of institutions like H. S. Skovoroda Kharkiv National Pedagogical University, O. M. Beketov National University of Urban Economy, and some others, the imperative to maintain quality higher education remained paramount.

Yaroslav Mudryi National Law University demonstrates the proactive and adaptive response required in such circumstances. The university's strategic transformation of deep underground spaces into functional classrooms, coupled with the implementation of a hybrid teaching and learning format, exemplifies a commitment to satisfy the varied psychological and logistical needs of its student body. The survey carried out among students revealed a contrast in preferences, emphasising the complex interaction between academic aspirations and personal security considerations. The university's subsequent adoption of a bi-modal approach, integrating face-to-face and distance learning, reflects a reasonable and strategic adaptation to the intricate educational environment of Kharkiv.

The combination of traditional and innovative instructional techniques within the classroom setting further underlines the university's commitment to maintaining high academic standards while adapting to the challenges of wartime education. The employment of gamified learning platforms, interactive digital displays, and mobile learning applications alongside conventional methods provides a comprehensive and immersive educational experience.

Nevertheless, the determined preference for online learning format, even when safe classroom options are available, as evidenced by the survey data, underlines the continuing impact of the armed conflict on student choices. The stated emphasises the necessity for ongoing support and adaptation to ensure reasonable access to quality education.

In conclusion, this investigation proves the resilience and adaptability of the Ukrainian higher education system in the face of unprecedented challenges. The strategies employed by Yaroslav Mudryi National Law University serve as a model for maintaining educational continuity during armed conflict, emphasizing the importance of legal frameworks, institutional flexibility, and a student-centered approach. Future research should focus on the long-term impact of these adaptations and explore further strategies for safeguarding higher education in conflict zones.

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# STATE POLICY IN THE FIELD OF CYBERSECURITY: WAYS TO OPTIMIZE MANAGEMENT IN EDUCATIONAL INSTITUTIONS OF UKRAINE

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## Abstract

The study identified which cyber threats are most typical for educational institutions in Ukraine in the context of digital transformation. Based on empirical cases and statistical sources, the dominant types of threats were characterized: phishing, DDoS attacks, unauthorized access to educational platforms, distribution of destructive content and leaks of personal data. The SWOT analysis method was applied to assess internal and external factors that affect the effectiveness of cyber protection in the educational sector, and stakeholder mapping was also conducted, which made it possible to identify key participants in state, institutional, and public interaction in this area. Based on the results obtained, a set of practical solutions aimed at increasing the level of cyber resilience of educational institutions is proposed, in particular: unification of digital security standards, introduction of cyber management positions, development of digital competence of personnel, modernization of technical infrastructure and institutionalization of incident management procedures. The author also proposed a version of the cybersecurity protocol for educational institutions (secondary schools, gymnasiums, lyceums, higher educational institutions).

**Keywords:** cyber incident, danger, digital transformation, attacks, educational institutions, phishing, identity theft, cyberbullying, online harassment.

## INTRODUCTION

The rapid digitalization of the educational process, which was initially perceived as a chance for modernization, now requires a completely different type of solution – systematic, flexible, and well-coordinated. The problem is that Ukraine’s state policy on cybersecurity in education is still fragmented because it does not take into account the realities of interaction between the Ministry of Education and Science (hereinafter – MES), regional departments, technical administrators, and the institutions themselves. There is no single channel of accountability. The situation has become more acute during the war. Educational institutions are not only infrastructure facilities, but also points of hybrid pressure. They are used to spread disinformation, disrupt distance learning, and penetrate internal networks. Hacktivism, phishing, and sabotage have become part of not only the technical but also the political landscape of education.

There is no unified digital security standard for schools or universities, and most leaders are still unaware of cyber resilience indicators. This fragmentation opens the door to serious threats. The data of students and employees of institutions may be in the public domain. In 2024, almost 40% of Ukrainian schools do not have a full-time IT security specialist (CERT-UA, 2025), making it impossible to implement even basic security protocols. The time has clearly come to move from fragmented initiatives to a full-fledged model where risk management, digital education, and interagency coordination are brought together in a single framework capable of responding to real-time threats.

Many researchers have paid attention to cybercrime and cyber incidents in education. For example, S. AlDaajeh et al. (2022) analyzed the national cybersecurity strategies of leading countries, emphasizing the importance of integrating educational programs to train qualified professionals. The authors S. Yusif and A. Hafeez-Baig (2023) developed a theoretical model of cybersecurity policy compliance in higher education institutions, focusing on the impact of organizational culture and staff motivation. W. J. Triplett (2023) explored the challenges of cybersecurity in education, focusing on strategies to raise students' awareness and engage them in careers in this area. Other authors J. Crabb et al. (2024) critically assessed the state of cybersecurity education in the United States, identifying gaps between academic programs and labor market needs.

At the same time, researchers R. Shillair et al. (2022) assessed the impact of national cybersecurity awareness and training initiatives, identifying the dominant challenges and prospects. The authors of N. A. A. Rahman et al. (2020) emphasized the importance of introducing cybersecurity education in schools to shape students' safe behavior on the Internet. E. K. Hawthorne (2013) described various initiatives in the field of cybersecurity education, emphasizing the need for coherence between them. The other authors F. E. Catota et al. (2019) studied the state of cybersecurity education in Ecuador, highlighting the difficulties associated with limited resources and infrastructure.

Ukrainian researchers have also made a significant contribution to the coverage of cybersecurity in educational institutions. Thus, I. P. Honcharova (2022) considered cybersecurity as a component of the safety of educational institutions, emphasizing the need to integrate relevant measures. Other authors V. Savchenko and O. Makliuk (2024) analyzed the impact of cybersecurity on the efficiency of higher education institutions, emphasizing its importance for management processes. V. Kovalenko and T. Osypchuk (2024) studied the problem of developing the digital competence of secondary school teachers in the field of cybersecurity, pointing to the need for specialized training programs. The study by A. Yu. Nashynets-Naumova et al. (2020) presented technologies for ensuring information and cybersecurity in higher education institutions of Ukraine, noting the importance of an integrated approach.

There is a rising number of studies on digital security in education, but most of them focus on either technology or psychological aspects. The political component is the least studied. It determines whether educational institutions receive resources for protection. The existing scientific base therefore creates the basis for further research aimed at developing a holistic model of cybersecurity management in the Ukrainian education system based on public policy.

## MATERIALS AND METHODS

The study combined several conceptual approaches, from analyzing the regulatory framework to assessing the information and technical state of the educational cyber infrastructure. This mix ensured not only consistency, but also revealed hidden organizational units that are usually overlooked in standard state planning. Table 1 systematizes the groups of methods used in the study.

Table 1. Methods applied in the study

| Method group                      | Specific techniques and approaches   | Purpose of use   |
|-----------------------------------|--|--|
| General scientific                | analysis, synthesis, induction, deduction, systematization   | identification of structural and functional features of cybersecurity policy in education                        |
| Empirical                         | content analysis of the regulatory framework (Cybersecurity Strategy, CERT-UA reports, monitoring of higher education institutions)          | forming an analytical basis for identifying weaknesses in public policy  |
| Analytical                        | SWOT analysis, stakeholder mapping   | assessment of internal and external factors, definition of the roles of participants in the cyber defense system |
| Comparative                       | international case studies (USA, Estonia, Korea), comparison with Ukrainian practices  | studying effective formats for integrating cyber education into public policy                                    |
| Classification and generalization | typologization of cyber threats (phishing, social engineering, DDoS, data leakage, online harassment, infiltration through EdTech platforms) | formalization of threat factors specific to the school and university environment                                |

*Source: created by the authors*

Thus, the methodology was developed in stages. The first step was to analyze regulations and technical security protocols in educational institutions. Then, potential risks and escalation scenarios were modeled. The approach allowed not only to structure the problem, but also to see the weaknesses in the interaction between institutions.

The purpose of the study is to identify and substantiate ways to improve the effectiveness of state policy in the field of cybersecurity in education, based on an analysis of existing vulnerabilities, management practices, and institutional interaction between government agencies, educational institutions, and technology partners. The objectives of the study are as follows:

1. To identify which cyber threats are most typical for Ukrainian educational institutions.
2. To apply SWOT analysis and stakeholder mapping to identify the strengths and weaknesses of the policy, to identify stakeholders in the cybersecurity system, their role, resources and level of interaction.
3. To formulate proposals for increasing the level of cyber resilience of educational institutions.

## RESULTS

According to the Cyber Police Department of the National Police of Ukraine, 49.873 appeals from individuals and legal entities were registered in 2024, which indicates growing public attention to cybersecurity issues. The most common are swindling, phishing, financial fraud

with bank cards, and malware distribution (Cyberpolice, 2025). The report states that 46% of all complaints were related to cyber fraud, of which the most common were schemes for the sale of goods through fake websites and social networks.

There are more than 10.000 cases of unauthorized interference with information systems, including 713 cases classified under Article 361 of the Criminal Code of Ukraine (Cyberpolice, 2025). The Cyberpolice has intensified its outreach activities by expanding its work on the STOPSEXTING platform, which is especially important in the context of protecting minors. The report underlines the need to strengthen the state interagency cybersecurity policy, including the education sector, where digital threats are becoming systemic.

The government's computer emergency response team, CERT-UA, reported about 900 cyberattacks in 2023 (Figure 1). In 2024, the number of cyberattacks on Ukraine increased by 69.8%, reaching 4.315 incidents, compared to 2.543 a year earlier.

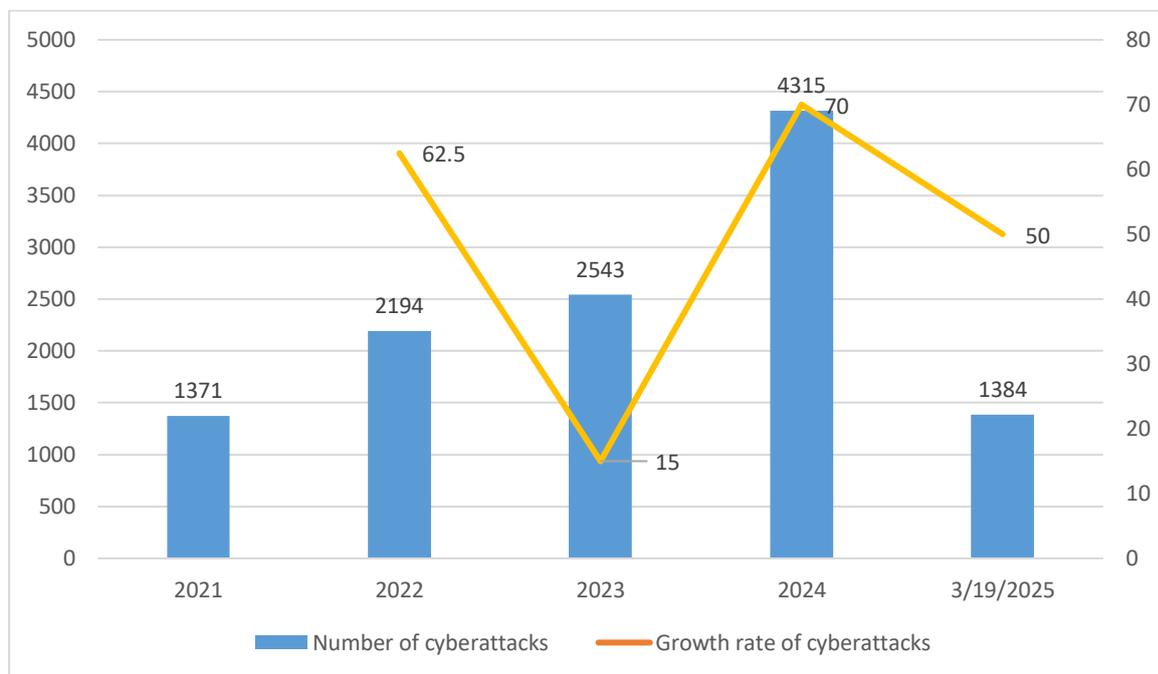


Figure 1. The number of cyberattacks in Ukraine in 2021-2025

Source: created by the authors on the basis of *Derzhavna sluzhba* (2025); *CERT-UA* (2025)

Consequently, as can be seen from the graph in Figure 1, there is a visible trend of increasing cyber threats. The graph shows a steady upward trend in the number of cyber incidents in Ukraine since 2021. The most rapid growth was observed in 2024, where the number of recorded attacks reached 4.315 incidents, which is a historical high and twice as many as in the previous year.

The marked decline in growth in 2023 (only +15%) after a jump in 2022 (+62.5%) may be an indication of a temporary “reformatting” of attackers’ approaches from quantitative to qualitative, with an emphasis on targeted attacks (APTs), intrusion, and data theft. The rate can also be seen to slow down in 2025. Although only 1.384 incidents were recorded in 2025 (as of March), which is significantly less than in 2024, this should not be taken as evidence of a stabilization of the

situation. The number of attacks could again exceed 5.000+ incidents by the end of the year if the pace continues, especially given the cyclical and variable nature of cyberattacks.

The fact that in the context of war and hybrid pressure, educational institutions are increasingly becoming targets of phishing attacks, DDoS attacks and interference with internal information systems, which makes it difficult to ensure the continuity of the educational process and the safety of students' personal data, requires special attention. The lack of a unified regulatory framework for protecting information resources in schools and universities, as well as the insufficient level of digital awareness among staff, increases the vulnerability of this sector. The results of cyberpolice activities should become an analytical basis for the development of a targeted state strategy for cybersecurity in education, focused on prevention, technological modernization, and risk management at all levels of government.

Under these conditions, there is a need not only for a regulatory and organizational response, but also for an analytical systematization of the most common cyber threats specific to the education sector. Considering the specifics of the functioning of educational institutions as objects with a high degree of openness and low security of digital systems, it is advisable to typologize the main forms of cybercrime recorded in domestic and international practice. This ordering makes it possible to identify both priority areas for improving the mechanisms of public administration of cybersecurity and targeted vectors of preventive activities by educational administrations. The corresponding structural visualization is presented in Table 2. (Appendix 1)

The situation in Ukraine proves that educational institutions are no longer just consumers of digital technologies. They have become targets for cyberattacks. This is especially true after the transition to distance education, when the vulnerability of IT infrastructure has become apparent even to non-professionals. As a result, the state policy in the field of cybersecurity in the education sector is showing signs of an evolutionary transition from isolated initiatives to the creation of fragmented but functional resilience mechanisms. There are more than 66 higher education institutions in Ukraine that have introduced specialties in cybersecurity and information protection, which formally reflects the implementation of the goals of the educational part of the Cybersecurity Strategy (Education.ua, 2024). The quality of training in this area is still uneven, due to both methodological inertia and the lack of a unified system of accreditation of curricula.

The integration of cybersecurity competencies into the interdisciplinary education environment is a key vector of modern state policy. This means not only expanding the curriculum, but also the transversal introduction of elements of digital awareness, cyber hygiene, and ethical hacking into programs in economics, sociology, law, and public administration. An example of effective adaptation to modern challenges is the initiative of the Kyiv National University of Construction and architecture, which, in partnership with business, has begun training specialists capable of responding to modern cyber incidents in real time (Knuba.edu.ua, 2024). This indicates an understanding of the dominant role of practice-oriented cyber education in the structure of national cyber defense.

International partnerships have become an equally important component, with a number of technical and academic support projects for Ukrainian universities being implemented. As part of the USAID project "Cybersecurity of Ukraine's Critical Infrastructure," about 25 higher education institutions received modern equipment for cybersecurity laboratories, which contributes not only to the material strengthening of educational capabilities but also to increasing the level of simulation of real cyberattacks in the learning environment (MOH,

2023). It is important to emphasize that the introduction of university-state-business cooperation models is the basis for building a cyber-resilient society. However, even these projects still do not cover the entire territory of the country, especially rural and frontline regions, where the risks of cyber breaches are often combined with a lack of qualified personnel.

The awareness-raising component of the state policy is implemented through programs on digital hygiene and critical thinking on the Internet, such as Cyber Hygiene for Youth, created in partnership with the Diia. Education platform. The effectiveness of the program depends on institutional sustainability and the availability of motivational mechanisms for educators and students. A decline in interest in systematic cyber defense education in schools can create a long-term gap between technical threats and the human factor, which, according to CERT-UA reports, remains the main cause of successful attacks in 46% of cases (CERT-UA, 2025).

The distribution of functional responsibilities between stakeholders in the context of polycentric digital security management forms the basis for synergies and prevention of duplication of initiatives. Involvement of business as a source of technological innovation, international partners as carriers of best practices, and universities as centers of knowledge and human capital generation allows for the creation of a flexible and adaptive cyber resilience system focused on the challenges of information warfare, social engineering, and man-made risks. The generalized map of stakeholders, which represents their functional roles, resources and areas of cooperation, is proposed to illustrate the systemic model of interaction between key actors in the field of cybersecurity in education (Table 3).

Table 3. Map of stakeholders in cybersecurity in the education sector

| Stakeholder                                    | Role/function                                       | Interaction   |
|--|---|---|
| 1  | 2   | 3   |
| Ministry of Education and Science              | policy development, program accreditation           | cooperation with universities and international foundations |
| State Special Communications Service / CERT-UA | incident monitoring and response                    | analytics and prevention                                    |
| Higher Education Institutions                  | implementation of programs, training of specialists | pilot projects, technical base                              |
| International partners                         | trainings, grants, equipment                        | USAID, EU4Digital projects                                  |
| Public initiatives                             | raising awareness, educating                        | "STOPSEXTING", "Cyberhygiene", "Educational Ombudsman"      |

*Note: pilot projects, technical base are test initiatives of higher education institutions to deploy cybersecurity training laboratories and practical IT infrastructure; USAID, EU4Digital projects. International technical assistance programs aimed at increasing the digital capacity and cyber resilience of educational institutions. STOPSEXTING, Cyber Hygiene, and Education Ombudsman are national educational initiatives to create a culture of safe online behavior among students*

*Source: created by the authors.*

The situation in Ukraine is peculiar in that the education sector is at the intersection of technological, social, regulatory and security challenges, which requires a comprehensive approach to risk and asset assessment. In the context of the ongoing war and the growing number of targeted cyberattacks on public infrastructure, educational institutions are acquiring a new status as relatively vulnerable but strategically important elements of the state's digital ecosystem. That is the reason that the SWOT matrix below is a tool for

diagnosing systemic reserves and barriers to the implementation of the state cyber education policy (Table 4).

Table 4. SWOT analysis of cybersecurity in the Ukrainian education sector

| <i>Advantages</i>   | <i>Disadvantages</i>  |
|---|---|
| + Institutional support from international donors: implementation of USAID, CRDF Global, EU4Digital projects that provide universities with modern technical equipment and educational materials.                                   | - Lack of a sectoral cyber strategy for education: the general Cybersecurity Strategy 2021-2025 does not contain clear provisions for educational institutions as critical infrastructure facilities (RNBO. gov. ua, 2020). |
| + Initiative of individual universities: KNUBA, KPI, and Ivan Franko National University of Lviv are introducing practical training in responding to cyber incidents.   | - Insufficient preparedness for response in schools: there are no basic protocols for dealing with DDoS attacks, phishing or data leaks in secondary schools.   |
| + Formation of educational clusters in cybersecurity: emergence of inter-university competence centers (e.g., projects in cooperation with IT business).  | - Extremely low level of digital hygiene among educators: lack of regular training, certification, and digital policy in educational institutions.  |
| + Integration of educational courses into Diia. Education: launch of cyber hygiene series for young people as part of public education policy (Diia. Education, 2024).  | - Lack of staffing of IT departments in educational institutions: especially in regions where technical support is entrusted to incompetent persons (e.g., computer teachers).  |
| <i>Features</i>   | <i>Threats</i>  |
| + Unification of standards through the Ministry of Education and Science and the State Service for Special Communications: development of industry protocols, including instructions for IT management of educational institutions. | - The rapid growth of phishing campaigns targeting the educational environment: collecting data through teachers' and students' emails using the MES or "Diia" website.   |
| + Introducing cybersecurity elements to the New Ukrainian School (NUS): incorporating digital ethics, safety and hygiene into the curriculum from grade 5.  | - Increased number of attacks on educational infrastructure during the war: use of school servers for botnets, attempts to disable electronic diary systems, etc.   |
| + Expansion of dual education formats in the field of cybersecurity: training in cooperation with companies (SoftServe, Cisco, IT Security Group).  | - Leaks of confidential information through unauthorized access to systems: logs, personal data of students, medical data through poorly secured accounts.  |
| + Development of regional centers for digital transformation of education: creation of separate IT offices in regional departments of education.  | - Insufficient funding for cybersecurity in state-funded schools and lyceums. IT security is not on the priority list of expenditures of educational institutions' administrations.   |

*Source: created by the authors.*

The SWOT analysis showed that the cybersecurity potential of Ukraine's education sector is being formed at the intersection of international support, point institutional initiatives, and technological progress, while remaining vulnerable to systemic management, human resources, and regulatory constraints. The presence of an extensive network of higher education institutions that are actively introducing cybersecurity specialties coexists with a low level of digital hygiene in secondary education and a lack of a unified incident response policy. The system will remain vulnerable without a dialog between schools, education departments, digital solutions companies, and government. Each of these stakeholders has its own influence, but only concerted action will have a real impact.

Teachers in schools do not have equipment and instructions. The policy should not only come from the top, but should be reinforced by daily decisions. Without a strategic vision focused on the formation of institutional cyber culture, Ukraine risks having a generation of users unable to act effectively in cyber hybrid conflicts. Ukraine needs not so much an

information campaign as a comprehensive digital security policy for education, where education is not an object of protection but a full-fledged element of national cyber defense.

## DISCUSSION

In the context of the rapid digital transformation of Ukraine's education sector, the state cybersecurity policy should move from a declarative model to an operationally integrated one, in which prevention, coordination, and educational institutional maturity will play a dominant role. The policy currently remains unbalanced. General goals are set at the level of regulations, but there is no clear mechanism for implementing cybersecurity standards for schools and higher education institutions. For example, the "Single School" system (an information and communication automated system designed for educational institutions, students and their parents, as well as for educational authorities) in many communities operates without minimum security protocols, which is not a technological failure but a systemic management flaw.

The proposed Cybersecurity Protocol (Appendix 2) is an attempt to unify key actions, providing educational institutions with a structured, step-by-step toolkit for responding to and preventing cyber threats. The use of this tool should serve as a basis for building local digital resilience, integrating educational, managerial, and technical security components, and as an indicator of the readiness of the educational environment for hybrid risks that are increasingly going beyond the technical dimension. The following ways of modernization, based on the analysis of vulnerabilities identified in the study, should be implemented to move to an effective state policy (Table 5).

Table 5. Areas of cybersecurity optimization in the education sector

| Nº | Optimization direction                    | Content of specific actions   |
|----|---|---|
| 1  | Regulatory unification                    | To develop adapted IT security standards for educational institutions, separately for general education institutions, higher education institutions, and out-of-school education. |
| 2  | Interagency coordination                  | To create a platform for cooperation between the Ministry of Education and Science – the State Special Communications Service – CERT-UA – educational ombudsmen – IT experts.     |
| 3  | Educational cyber management              | Introduce the position of "digital security officer" in the structure of each educational institution.  |
| 4  | Cyber hygiene and digital education       | Massive implementation of Cyber Hygiene and STOPSEXTING courses, and integration into curricula.  |
| 5  | Technical modernization of infrastructure | Subventions to upgrade servers, install proxy systems, and audit the security of Wi-Fi networks in higher education institutions.   |

*Source: created by the authors.*

The problem of vulnerability of education systems is not only technical. The human factor remains dominant in more than 45% of incidents, according to CERT-UA (2025). That is why all reforms should have an educational vector, including regular trainings on digital ethics, simulated attacks (as in universities that already have USAID laboratories), and adaptation of platforms to secure student communication. The management decomposition of risks is equally important. It is necessary to determine which risks are "centralized" (i.e., should be regulated at the state level, such as protection of critical infrastructure of higher education institutions) and which are local (e.g., control of student, parent, and teacher accounts). The depth of the regulations loses its meaning without the distribution of responsibilities, and

instead of real protection, there will be an institutional facade. Finally, the policy will not be complete without a mechanism for feedback and performance monitoring.

There is a need to create an open database of incidents in education, where schools and universities can report cyber threats anonymously or openly. This will allow to create a real risk map of the education sector and for the first time see how digital security is changing in dynamics, not on paper.

## CONCLUSIONS

According to CERT-UA monitoring, the growing number of incidents (4.315 in 2024) indicates the vulnerability of the educational environment, where management decisions often fail to keep up with digital risks. State policy, despite the existence of a national Cybersecurity Strategy (2021-2025), remains fragmented, declarative, and insufficiently adapted to educational realities, especially at the level of regional schools and low-powered higher education institutions. This increases the risks: from personal data leaks to massive failures in the functioning of digital platforms that support the learning process.

Analysis of typical cyber threats, such as phishing, DDoS, ransomware, data leaks, online harassment, and the spread of inappropriate content, shows that the vulnerability of the educational environment is multilevel. It combines weaknesses in the security architecture, lack of standardized protocols, low level of digital hygiene of staff, and insufficient interagency coordination between the Ministry of Education and Science, CERT-UA, regional structures, and IT providers.

The key area of the study was the understanding that the human factor remains the least controlled but most exploited element (in the threat structure). The reorientation of public policy towards education and awareness, in particular through digital hygiene, trainings, and updated educational programs, is no less important than technical infrastructure strengthening.

Proposed measures include unification of standards, creation of institutions responsible for cybersecurity at the level of educational institutions, introduction of cross-sectoral partnerships and public incident databases. These measures should become the basis for a comprehensive system of educational cyber resilience. Since 46% of cyberattacks, according to CERT-UA, are caused by the human factor, the lack of operational coordination between the Ministry of Education, the administrations of educational institutions and national CSIRT structures creates conditions for repeated attacks with the same penetration strategy.

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Table 2. Typology of key cybercrimes in the context of digital security of educational institutions

| Type of cybercrime               | Description   | Potential consequences   | Specific examples, expert opinion   | Ways to reduce   |
|----------------------------------|---|--|---|--|
| 1                                | 2   | 3  | 4   | 5  |
| Phishing and social engineering  | Deception techniques to steal confidential information (logins, passwords). Attackers often imitate messages from the administration of an educational institution or the Ministry of Health. AI creates "smart emails" that are difficult to distinguish from real ones. | Unauthorized access to internal systems, theft of personal data, disruption of the educational process.                | The University of Oxford reported in May 2023 that their email gateway blocked more than 62 million emails as potential phishing attacks, accounting for 82% of all email traffic for that month (University of Oxford, 2023). According to a study published in the journal <i>Computers &amp; Security</i> , information processing plays an important role in phishing vulnerability, especially in detecting phishing emails (Ribeiro et al., 2024).  | <ol style="list-style-type: none"> <li>1. Regular training of employees and students.</li> <li>2. Imitation phishing campaigns.</li> <li>3. Implementation of two-factor authentication.</li> </ol>  |
| Ransomware                       | Malware encrypts data and demands a ransom. It is complicated by the fact that even after paying the ransom, the data may be lost. It is often accompanied by information theft.  | Blocking of access to systems, complete or partial loss of data, financial costs for recovery, suspension of training. | Baltimore County Public Schools (USA) lost access to educational platforms in 2020, with more than 115,000 students not having access to learning for more than a week (Sentinel Forge Tech, 2020).   | <ol style="list-style-type: none"> <li>1. Create data backups.</li> <li>2. Use of enterprise-class antivirus software.</li> <li>3. Developing an incident response plan.</li> </ol>  |
| Denial of service (DDoS) attacks | Traffic overload of school websites, electronic diaries, and online learning platforms. Botnets are usually used. The growing dependence on online learning platforms makes schools particularly vulnerable to such breaches.   | Blocking electronic diaries, disrupting online classes, restricting access to important information.                   | The hacker group Anonymous Sudan attacked the University of Cambridge and the University of Manchester in February 2023. The motive for the attacks was the UK government's stated support for military operations in Israel and Yemen (Kon Briefing, 2023). Experts note that educational institutions are often targeted for political reasons or attempts to disrupt the educational process. Some attacks are even initiated by students to influence exams. The availability of tools for conducting DDoS attacks makes them possible even for people without deep | <ol style="list-style-type: none"> <li>1. Infrastructure protection through CDN and WAF.</li> <li>2. Contract with a DDoS mitigation provider.</li> <li>3. Identification of critical infrastructure points and their redundancy.</li> </ol> |

|                                       |  |  |  |   |
|---------------------------------------|--|--|--|---|
|                                       |  |  | technical knowledge (Hosting Ukraine, 2023)  |   |
| Theft of personal and academic data   | Theft of a large amount of personal data: full name, grades, contact details, health status, financial information. It can be used for further fraud or blackmail. | Risks of financial fraud, identity theft, damage to the reputation of the institution and individuals. | In 2023, Ernst & Young, the University of Toronto's external auditor, was attacked by ransomware, which compromised the data of students and staff. The CLOP group exploited a vulnerability in the MOVEit software, gaining access to three terabytes of EY data, including personal information such as names, dates of birth, and student IDs. David Lee, a cybersecurity expert and professor at the University of Toronto's Department of Electrical and Computer Engineering, noted that the main motivation for such attacks is financial gain, and such organizations are becoming attractive targets (The Varsity, 2024). | <ol style="list-style-type: none"> <li>1. Data encryption in databases.</li> <li>2. Access rights audits.</li> <li>3. Minimum access policies ("need-to-know").</li> </ol>  |
| Cyberbullying and online harassment   | Humiliation, insults, threats, harassment in the digital environment. It can be open (via social media) or hidden (in chats, messengers).                          | Psycho-emotional disorders, social isolation, poor academic performance, suicide attempts.             | The UNICEF survey shows that: 29% of Ukrainian adolescents have been victims of cyberbullying, and 16% have been forced to miss school because of it (Support me, 2024). Psychologist A. Glushenko emphasizes: "Digital violence is no less dangerous than physical violence - it is invisible but destructive" (Support me, 2024).  | <ol style="list-style-type: none"> <li>1. Zero tolerance policy.</li> <li>2. Anonymous complaint channels.</li> <li>3. Integrating digital ethics topics into the school curriculum.</li> </ol>                             |
| Unlawful content and its distribution | Access to shocking, pornographic, or otherwise age-inappropriate content. This is often done through random search queries or exchanges in chat rooms.             | Psychological trauma, violation of legal norms, criminal liability in cases of sexting.                | Young people in South Korea were found to be using artificial intelligence to create pornographic images of their classmates and teachers in 2024. This led to protests and calls for stricter legislation against such actions (Lemonde, 2025).   | <ol style="list-style-type: none"> <li>1. Content filtering via school Wi-Fi.</li> <li>2. Organization of educational hours on online safety.</li> <li>3. Informing parents about the risks of digital behavior.</li> </ol> |

Source: created by the authors.

Recommendation protocol on cybersecurity for educational institutions (secondary schools, gymnasiums, lyceums, and higher education institutions)

| <i>Organizational principles</i>  |   |  |
|---|---|--|
| 1.1   | Responsible persons   | Appointment of a cybersecurity officer (within the IT department or combined with the administrator) |
| 1.2   | Availability of policies  | Approval of the internal "Information Security Policy"   |
| 1.3   | Communication with CERT (Computer Emergency Response Team of Ukraine) | Identify a contact person for prompt notification of cyber incidents                                 |
| <i>2. Technical security</i>  |   |  |
| 2.1   | Change passwords for administrative accounts                          | at least once every 3 months   |
| 2.2   | Using two-factor authentication (2FA)                                 | required for Google Workspace, Moodle, Zoom  |
| 2.3   | Security audit of Wi-Fi network                                       | at least once a year, with the involvement of third-party specialists                                |
| 2.4   | Data backup   | weekly storage in a separate encrypted storage   |
| 2.5   | Anti-virus software   | licensed, with regular updates   |
| <i>3. Preventive measures</i>   |   |  |
| <p>Practical trainings on cyber hygiene (in particular, using the course "Cyber Hygiene for Youth", "StopSexting", "Diia. Education").</p> <p>Simulating phishing attacks to increase the attention of the teaching staff.</p> <p>Internal training on recognizing disruptive content and cyberbullying.</p> <p>Updating knowledge of incident management, including how to act in the event of an attack (DDoS, file encryption, leaks).</p>                   |   |  |
| <p>Interaction with participants of the educational process.</p> <p>Informing parents and students about the risks of using messengers, social networks, and open Wi-Fi.</p> <p>Separate access: teaching staff should not have access to student accounts.</p> <p>Assessment of students' digital literacy - by including the topic of "digital security" in integrated lessons (computer science, civic education).</p>                                       |   |  |
| <p>Algorithm of actions in case of a cyberattack.</p> <p>Recording of the incident: date, time, type of threat (DDoS, encryption, phishing, etc.).</p> <p>Isolation of affected systems: disconnection from the network, blocking accounts.</p> <p>Notification of CERT-UA or cyber police: through the responsible administrator.</p> <p>Damage assessment and vulnerability audit.</p> <p>Informing the participants of the process about possible risks.</p> |   |  |

## **SECTION 3.**

# **SECURITY AND INFORMATION GOVERNANCE**

## **FEATURES OF PUBLIC ADMINISTRATION OF INFORMATION SECURITY OF UKRAINE UNDER MARTIAL LAW**

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### **Abstract**

Geopolitical changes in recent decades are often associated with the intensification of interstate conflicts, the emergence of real threats caused by technological development and social change. Under such conditions, the study of national security issues has become crucial in Ukraine and around the world. With the development of technology and the increase in the number of information threats, information security is gaining importance and becoming a key element of national security. The article emphasizes the need to study information security in the context of information warfare. The scientific literature on the variety of definitions of the concept of “information warfare” is analysed. The features, characteristics and methods of information warfare are considered, and the means of information warfare are described. The main content of the process of ensuring and managing the information security of the state is reflected. The main directions of public administration of information security are determined. The connection between information security and cybersecurity in the world is revealed. The factors of influence on cybersecurity are highlighted. The algorithm of realization of information support of national security is described. The importance and essence of industry, national and international standards related to the management of information technologies and systems and their security are indicated and disclosed.

**Keywords:** national security, information security, information warfare, information support, public administration, information security standards.

## **CONCEPTUAL FOUNDATIONS OF NATIONAL AND INFORMATION SECURITY**

In recent decades geopolitical changes have transformed international relations. The key factors in this process are the change in strategic importance, the growing influence of new global actors, the intensification of interstate conflicts and the emergence of real threats caused by technological development and social change. Ukraine is a participant in these

changes and feels their impact. For example, Russia's military aggression and annexation of part of Ukraine's territory have become a serious challenge and have posed threats to Ukraine's national security, regional and international stability. In response to these threats, Ukraine intensified its efforts to integrate into the EU and NATO, which could significantly change the balance of power in the region and affect international relations. Such steps are forcing countries to rethink the realities in Eastern Europe and revise their international security strategies. At the same time, the rapid development of information technologies and their widespread use in various spheres of public life have brought not only new opportunities but also dangers.

The current global politics and the socio-economic situation in Ukraine make it particularly important to protect the interests and ensure national security of Ukraine. The military confrontation with Russia, the complex process of forming a new socio-economic and political system, and the post-war recovery of the national economy are the main tracks of Ukraine's immediate future. Alongside the warfare, a number of hybrid external and internal threats have emerged. Overcoming these threats requires in-depth knowledge and understanding of the nature of national security and the related problems. In this regard, national security is the most important component of the security system. It is closely linked to the economic, political, social, spiritual, and moral development of the country.

This global issue has always been in the focus of attention of the authorities, the public and scholars in different countries. There have been important methodological and philosophical works focused on this phenomenon. Despite their common features, studies of national security can be divided into several categories based on different approaches to solving the problem (Lipkan, Lipkan, & Yakovenko, 2011). One of them is the ability of national security to withstand any negative and harmful influence, regardless of its source. Another aspect that defines national security is to protect the country from the negative impact of economic, political, military, humanitarian, and environmental factors. Elements of national security reflect the social interests of the individual, society, and the country. The traditional criteria for classifying national security into components is presented in Figure 1.

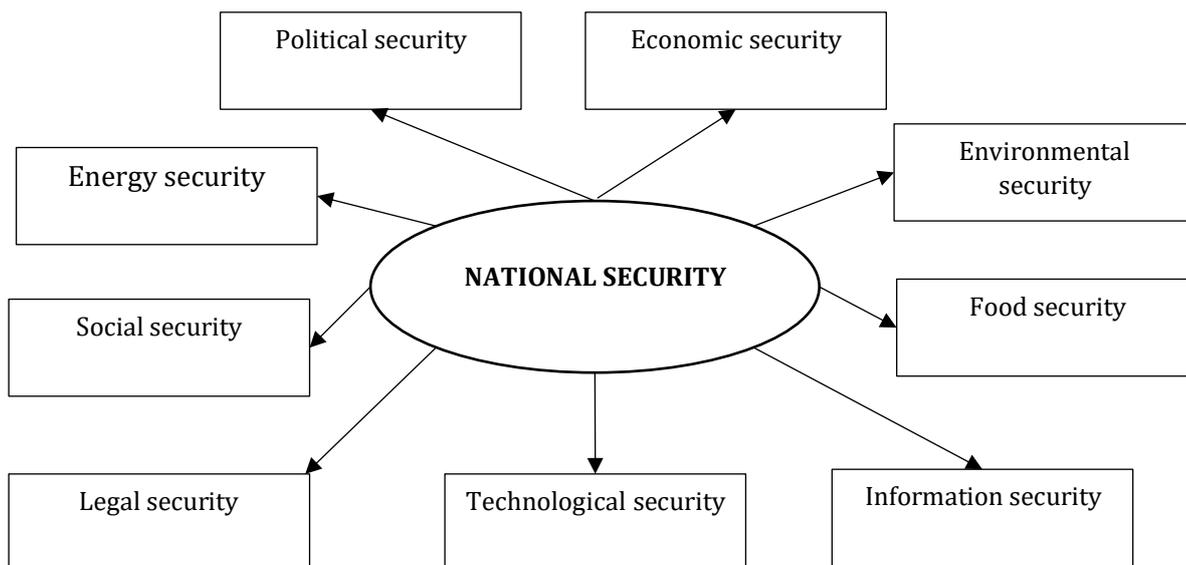


Figure 1. National security components, Source: compiled by the authors

These elements cover all aspects of public life and ensure stability and security in all spheres of society and the country. With the rapid development of technology and the increasing

number of information threats, information security is gaining importance in the context of national security. It involves the protection of information from unauthorised access as well as data management, network security, protection against cyberattacks, and other aspects of information security. Therefore, information security is a key factor in ensuring social and national stability and security in the digital era.

## **INFORMATION WARFARE: DEFINITIONS, METHODS, AND THREATS**

An increase in the amount of information has brought unlimited development opportunities; however, it is accompanied by increased security risks. In today's digital world, where information is exchanged instantly, protecting the confidentiality, integrity, and availability of this information is an important task for every country. Information security is the basis of overall national security (Ostroukhov et al., 2010). In addition to protecting national and personal information resources from unauthorised interference, it regulates and controls the flow of information circulating in society. Therefore, information security is a key element of national security, as ensuring the confidentiality, integrity and availability of information is of strategic importance to the country.

In the last decade of the 21st century, Ukraine faced quite serious challenges to national security, namely the annexation of Crimea and the ATO, the Covid-19 pandemic, and Russia's full-scale war against Ukraine. The military-political conflict in the Middle East should also be mentioned in this context. In this regard, such a form of conflict as information wars requires special attention and careful study since they lead to the aggravation of information contradictions (Herasina et al., 2015, pp. 140–143). Globalisation, accompanied by competition between global and regional countries, has led to new challenges and threats to the security of national interests of different countries. One of these threats is the information warfare.

Current research explains information warfare as a social phenomenon generated by society, an instrument of military conflicts between countries, a component of the system of political conflict resolution, and an instrument of national policy. The concept of modern warfare is undergoing major transformations (Viedienieiev & Semeniuk, 2022). Understanding these transformations allows to create an effective defence system. At the same time, understanding the destructive power of information warfare requires an in-depth study of the phenomenon. Information interaction, contact, conflict and its various forms of resolution are the basis of social development (Korokhod, 2013, p. 300).

The problem of information warfare has several aspects that define it within the category of war. The concept of information warfare proposed by Western scholars emphasises the dissemination of false information or information about trends through enemy's information channels or the global information space to influence the opinions and intentions of people and governments in decision making. Information warfare is a complex phenomenon as it involves the simultaneous or sequential use of military and non-military technologies. Military methods include the use of special forces, private military companies, terrorist and extremist groups, etc. Non-military methods include intelligence and subversive activities of special services, information wars, cyber wars, sanctions wars, media resources, Internet space, social networks, etc.

Conventional warfare, terrorist attacks, violent crimes and acts of coercion can also take place during an information war. These measures can be carried out by different methods, several or even one structure, with the same goal to obtain the maximum synergistic and psychological effect (Korokhod, 2013, pp. 299–302). To date, the term information warfare has not been universally recognised by the scientific community worldwide. Disputes about the correctness and fundamental applicability of this term in the field of social relations are often called information conflicts or conflicts of interest in the information field of social systems (Voropaieva, 1998, pp. 156–158). The overview of the academic literature on the variety of definitions of the concept of information warfare is provided in Table 1.

Table 1. Key definitions of information warfare

| Author                              | Definition  |
|-------------------------------------|---|
| Pocheptsov (2016)                   | Information warfare is a communication technology (propaganda, advertising, electoral technologies, public relations) for influencing the mass consciousness with short-term and long-term goals.   |
| Toffler (1981)                      | Information warfare is an open and covert targeted information influence of information systems on each other in order to obtain a certain gain in the material sphere.   |
| Denysov (2015)                      | Information warfare has four main aspects: – determining measures to obtain information about the enemy and battle conditions (electronic warfare assets, weather, engineering equipment, etc.) to collect information about enemy's forces; – determining measures to block the enemy's gathering information about our troops; – planning disinformation activities at all stages of hostilities; – taking measures to organise interaction with other military contingents involved in the conflict. |
| Bielov, Kudinov, & Hrebeniuk (2017) | Information warfare in peacetime is mostly covert, involving intelligence, political and psychological actions against the enemy, as well as measures to ensure one's information security. Therefore, in times of real threats, additional tasks may arise that are solved in the interests of ensuring the required effectiveness of planned military operations.   |

Source: systematised by the authors based on Denysov (2015); Bielov et al. (2017); Pocheptsov (2016); Toffler (1981).

However, none of the proposed definitions has obvious advantages and disadvantages that would permit to give absolute preference to one or another concept. At the same time, these definitions distinguish those relationships, phenomena and processes that can be united under the concept of information warfare. The means and methods of information warfare evolve, becoming complex and advanced. This is driven technological advances and hybrid approaches that allows for the rapid dissemination of information.

Researchers identify several important means of information warfare (Mladonova, 2021, pp. 51–52). Thus, the use of software and computer technology involves the use of specially developed methods and algorithms to attack military and state administrative computer systems. Such actions include the introduction of computer viruses, software, and hardware bookmarks, destructive software, as well as the destruction of information collection, processing, transmission, and storage facilities.

Another important means is electronic warfare, which is designed to detect, identify, and neutralise enemy systems. It involves the creation of radio interference, camouflage of objects, and suppression of enemy electronic equipment. Moreover, linguistic means and techniques also involve the targeted use of language skills. This includes special terminology,

specific language expressions, and the creation of implicit information in order to achieve a certain effect in the information space.

Rumours and gossip are also among the means of influence, which involves spreading dubious or unconfirmed information that can destabilise the situation or cause distrust. Furthermore, propaganda is aimed at shaping moral and ethical norms and worldviews. It influences the public consciousness by imposing certain norms, demonstrating examples, spreading myths through educational and information sources such as dictionaries, encyclopaedias, textbooks, and audiovisual products. Censorship, in turn, involves controlling the media. This is a form of information space management that includes supervision of media and publishing houses by state authorities. Finally, mass media play an important role in modern information warfare. All of them can be used to achieve certain goals by influencing people's consciousness and behaviour.

It is worth highlighting the main features and characteristics of information warfare that distinguish it from other forms of warfare. Information weapons is relatively cheap to develop and available to a wide range of actors. Unlike existing technologies that create effective weapons, individual experts or groups of experts within the Global Information Infrastructure can create innovative potential information warfare tools, regardless of geographic location.

Another feature of information warfare is the blurring of traditional boundaries (geographical boundaries, between private and public entities, between illegal and military actions). Traditional boundaries between states, between structural elements of society and government, and even conceptual definitions of entities such as 'nation states' have become rather arbitrary. The gap between public and private interests is gradually narrowing as interconnectivity within the information infrastructure grows. The rapid development of the Internet and the expansion of the number of its users around the world are due to free, open and unregulated access to the functions of this information system. This type of information network is characterised by diversity and growing conflicts of interest between user groups, providing ample opportunities for criminal or military activities.

Moreover, the role of perception management continues to grow. Managing people's perceptions can be done on a much larger scale. Although disinformation campaigns are observed throughout history, novel information warfare techniques can be powerful tools for manipulating perceptions. Apart from that, strategic intelligence faces fundamentally different tasks. Awareness of new threats and vulnerabilities of national security systems as a result of information warfare points to the need for a thorough review of classical methods of intelligence gathering and analysis.

In addition, the tasks of tactical early warning and damage assessment are more complex. Given the diversity and complexity of methods and means of influencing and protecting information infrastructure, it is necessary to create a new tactical early warning and damage assessment system capable of detecting and identifying accidental failures, software errors, and the introduction of information network operations. The growing dependence of the economy and society on high-performance computer systems is turning the country's information infrastructure into a new set of strategic goals. Threats to critical elements of the national information infrastructure can seriously complicate management decision-making processes, and the impact of direct information can completely dismantle the entire public administration system.

The methods of information warfare can be very diverse and include different strategies and techniques. This diversity creates space for the adoption of integrated approaches and ensures adaptability to different scenarios (Mladonova, 2021; Konotopenko, 2017; Zhadko et al., 2018). Thus, the information space is heavily influenced by various means of manipulation, among which disinformation and fake news play an important role. This phenomenon involves the creation and dissemination of fabricated or distorted messages aimed at manipulating public opinion, undermining trust, and creating confusion in society. Dangerous tools of information warfare include cyberattacks, which are the use of computer technology to gain unauthorised access to information systems, steal data or destroy important information.

Social engineering is a separate aspect, which is based on manipulating social interactions and psychological factors to obtain false information or influence people's behaviour. Social media also shape public opinion to promote certain ideologies, exaggerate certain issues or create the illusion of mass support or hostility. Thus, methods of blocking information are used to restrict access to it or prevent its normal dissemination, which can be implemented through censorship or attacks on media infrastructure. In addition, an information adventure involves the mass dissemination of a large number of messages to conceal or distort real events and facts. Finally, targeted advertising and public speaking serve as a means of influencing a specific audience or shaping the desired image of individuals, organisations or ideas.

These methods can be used individually or in combination to create complex and unpredictable information attacks. It is important to note that information warfare can be waged not only by states, but also by various actors, such as terrorist groups or corporations. Consequently, it is important to analyse and forecast the negative impact of global events on Ukraine's national interests. In the context of information security, it is critical to consider the actions of Russia, which uses energy and information weapons to strengthen its positions in Europe, influence the internal political situation in European countries, and support long-term conflicts.

As a result, it is important to understand the doctrinal definitions of the concept of information security. Thus, Lipkan, Kharchenko, and Loginov (2004) understand information security as the state of the information space security; the process of countering threats and dangers that ensures the information sovereignty of Ukraine; the protection of the country's national interests in the information environment or sphere; security of the legally established rules under which information processes take place in the state; an important function of the state; social relations related to the protection of the most important interests of a person and a citizen, society and the state in the information space; and an inseparable part of economic, political, defence and other components of national security.

The definition proposed by Gurkovskyi (2010, p. 74) is generalised, as he sees information security as social relations linked to the protection of vital interests of a person and a citizen, society and the state from real and potential threats in the information space, which is a prerequisite for preserving and increasing the spiritual and material values of the nation-state, its existence, self-preservation, and progressive development of Ukraine as a sovereign state, which depends on a targeted information policy to guarantee, protect, defend, and uphold its national interests. From the point of the importance of national interests, Shatun

(2016, p. 175) defines information security as the protection of national interests of Ukraine in the information sphere from threats to a person, society, and the state caused by incompleteness, untimely information, unauthorised dissemination, and use of information, negative information influence and negative consequences of information technology.

The Information Security Strategy defines information security of Ukraine as an integral part of the national security of Ukraine, protection of state sovereignty, territorial integrity, democratic constitutional order, other vital interests of a person, society and the state, in which the constitutional rights and freedoms of a person to collect, store, use and disseminate information, access to reliable and objective information are properly ensured; there is an effective system of protection and counteraction to damage caused by the spread of negative information influences, including the coordinated dissemination of false information, destructive propaganda, other information operations, unauthorised dissemination, use and violation of the integrity of restricted information (Decree of the President of Ukraine No. 685/2021).

Thus, information security is a complex phenomenon in the development of modern civilisation. Its goal is to promote the harmonious development of the information society. In order to ensure information security, it is important to study the negative consequences of information technologies, examine their causes, and find ways to overcome these negative consequences, thus creating a secure information environment. The analysis of the content of ensuring and managing the information security of the state highlights important aspects of this process as the most important component of national security in the context of globalisation (Table 2).

Table 2. The main content of the process of ensuring and managing the information security of the state

| Source                            | Features   |
|-----------------------------------|--|
| President of Ukraine (2021)       | The main elements of information security in relation to national security assets include technologies, various technical, software, linguistic, legal and organisational means. Such means are used in the national security system to collect, process, transmit or receive information about the state of national security and measures to strengthen it.                                    |
| Marushchak (2010)                 | The growing global information confrontation poses serious threats to the stability of industrialised and developing countries. These threats undermine their socio-economic development and democratic institutions. Nationalism, xenophobia, separatism, and extremism are on the rise, complicating social harmony and interethnic interaction.   |
| Horbulin, Dodonov, & Lande (2009) | Key aspects of information security include:<br>1) Disinformation and cyber propaganda used to manipulate public opinion through fake news and cyberattacks.<br>2) Cyber threats that disrupt infrastructures and leak confidential data.<br>3) Polarisation of society and erosion of democratic institutions.<br>4) Economic instability due to loss of investor trust and reduced investment. |
| Kaliuzhnyi (2011)                 | The task of information security is to detect, stop, and counter-propagandise these phenomena to ensure the stability of Ukraine. Its effectiveness depends on an integrated approach using all mechanisms of public administration.   |

Source: Systematised by the authors based on Horbulin et al. (2009), Kaliuzhnyi (2011), Marushchak (2010), and President of Ukraine (2021).

Therefore, the main areas of public administration of information security can be distinguished. First of all, it is the implementation of the national information security strategy, which involves the definition of strategic goals and priorities, the creation of national standards and regulations, and the coordination of efforts between various state bodies to form a coherent information security policy. The second area is the technical protection of information infrastructure. This includes the introduction of modern technologies to protect critical facilities, including government networks and communication systems, the use of tools to detect and counter cyberattacks, and the application of encryption and data backup technologies. It is also important to update technical security measures in line with current threats (President of Ukraine, 2021; World Economic Forum, 2025).

The third area is ensuring cyber security and countering cyber-attacks. This includes the creation of state cyber units capable of responding to incidents, regular cyber exercises, and encroachment testing to assess security. Moreover, it involves the introduction of cyber threat monitoring and analysis programmes. The regulatory framework is another important component, which includes the development and improvement of information security legislation, the establishment of mechanisms for legal liability for violations, and the creation of a legal framework for international cooperation in the field of cybersecurity (Law of Ukraine, 2017; ISO/IEC 27032:2016).

Another important area is training and professional development of specialists. This involves organising educational programmes and trainings for employees, implementing public awareness programmes on information security issues, and supporting research initiatives in this area. Furthermore, information risk and incident management includes risk assessment and identification, development of mitigation measures, implementation of incident management systems that ensure prompt response and elimination of consequences, as well as creation of business continuity and disaster recovery plans (ISO/IEC 27001:2022; ISO/IEC 27002:2022).

In addition, international cooperation in information security includes participation in international initiatives and agreements, exchange of experience and threat data with other countries and organisations, and support for projects aimed at developing and implementing the latest information security technologies. Thus, effective public administration of information security covers a wide range of activities that require an integrated approach, interagency cooperation and active international partnership.

These areas are aimed at protecting information systems from cyber threats to ensure national security and the effective functioning of state structures. They include any process within the framework of information security activities by establishing a unified classification system of measures to ensure public administration of the state's information security. Thus, the list of areas of public administration of information security is comprehensive, including cybersecurity and protection against cyberattacks. In this context, it is essential to define the concept of cybersecurity and establish the relationship between the concepts of information security and cybersecurity.

The Law of Ukraine No. 2163-VIII "On the basic principles of ensuring cybersecurity of Ukraine" of 05.10.2017 defines that cybersecurity is the protection of vital interests of a person and a citizen, society, and the state when using cyberspace, which ensures the sustainable development of the information society and the digital communication

environment, timely detection, prevention, and neutralisation of real and potential threats to the national security of Ukraine in cyberspace (Law of Ukraine, 2017). In 2021, according to the Cybersecurity Strategy of Ukraine, cybersecurity is a priority in the national security system of Ukraine. Its implementation will be carried out by strengthening the capabilities of the national cybersecurity system to counter cyber threats in today's security environment (President of Ukraine, 2021).

Thus, the concepts of information security and cybersecurity have a common basis. However, the distinction of cybersecurity is caused by the specifics of the environment in which information systems operate, information is circulated, and the legitimate interests of information process subjects are realised. The proportion of cyber threats is growing, and this trend will intensify over the next decade as information technology develops and converges with artificial intelligence. The growth of such influence on the functioning of national and transnational governance structures shapes a new security situation. The global centres of power strive to divide their spheres of influence in cyberspace in order to secure their own geopolitical interests. This complexity is caused by a number of additional factors (Figure 2).

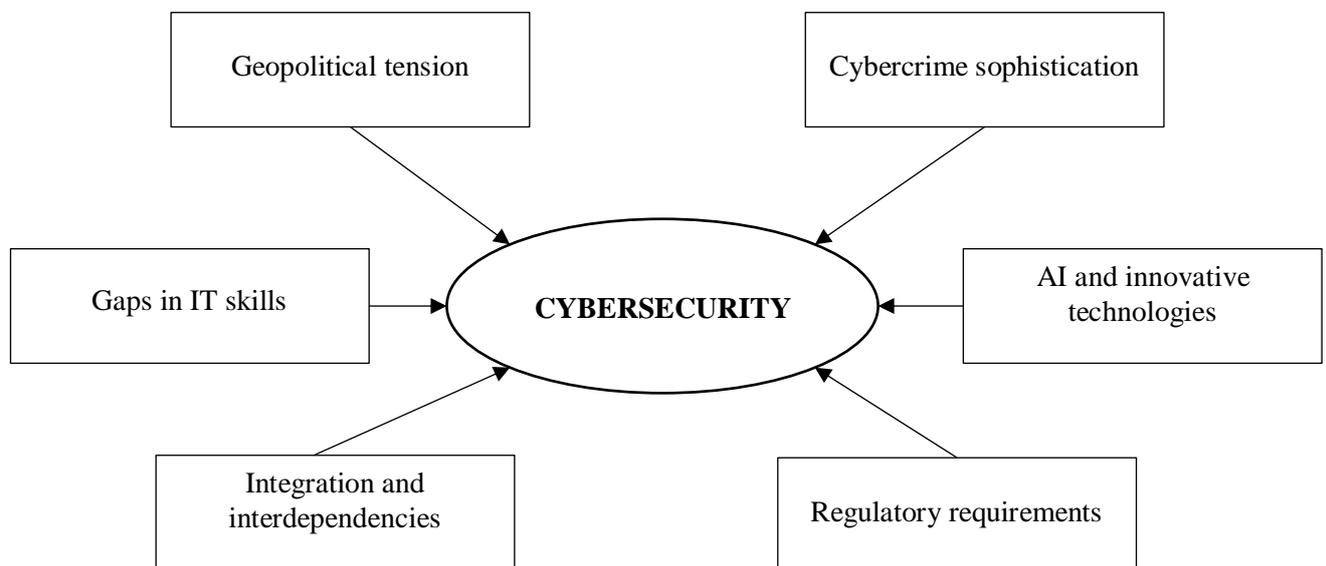


Figure 2. Cybersecurity impact factors;

*Source: compiled by the authors*

The cause-and-effect relationship of the factors affecting cybersecurity can be traced back to a number of interrelated processes. In particular, the escalation of geopolitical tensions is creating a more uncertain information environment, which makes risk assessment and management more difficult. At the same time, increasing integration and dependence on complex and globalised supply chains is leading to more opaque and unpredictable information risks. The rapid pace of adoption of the latest technologies creates additional vulnerabilities that cybercriminals are rapidly exploiting to launch larger and more sophisticated attacks. In addition, the global proliferation of regulatory requirements significantly increases the burden on public and private organisations, forcing them to spend more and more resources on ensuring compliance with cybersecurity norms and standards (World Economic Forum, 2025).

All of these challenges are exacerbated by a growing skills gap, making effective cyber risk management extremely difficult. The growing complexity of cyberspace underlines cyber inequality, widening the gap between large and small organisations, deepening the gap between developed and emerging economies, and widening sectoral disparities. These cyber resilience disparities are further accentuated by regional differences (Figure 3).

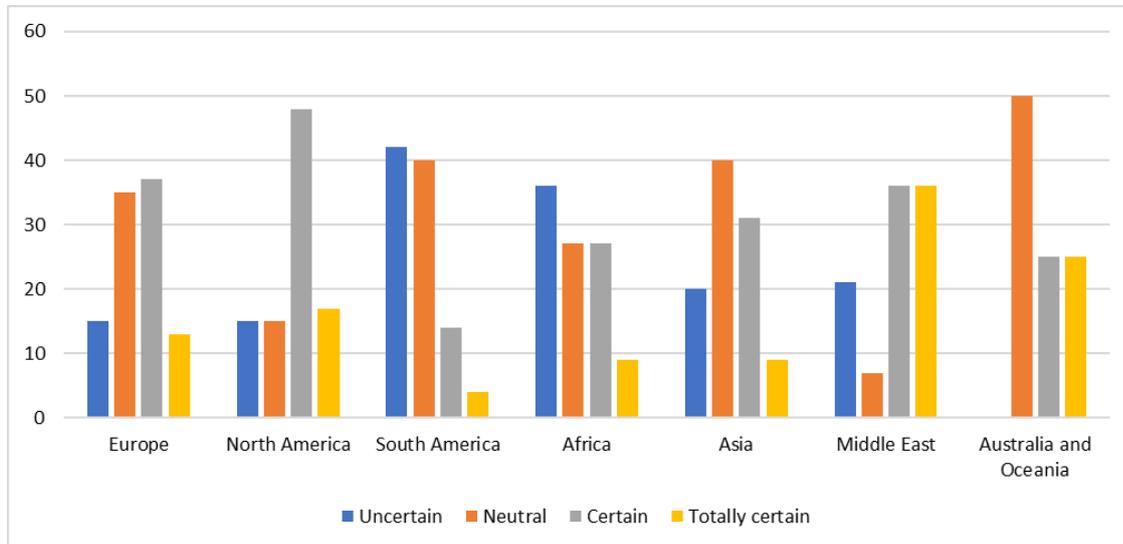


Figure 3. How confident are you that your country is prepared to respond to a major cyber incident targeting critical infrastructure?

Source: compiled by the authors on the basis of World Economic Forum (2025).

For example, only 15% of respondents in Europe and North America are not confident in their country's ability to respond to a major cyber incident targeting critical infrastructure, rising to 36% in Africa and 42% in South America. The highest confidence in responding to a major cyber incident targeting critical infrastructure is demonstrated by respondents in the Middle East (38%) and Oceania (25%). Therefore, it can be concluded that cybercrime is a growing threat to global peace and security and the peaceful development of international relations. The sophisticated cyber threats and the issue of data privacy are prompting governments worldwide to develop and improve the legal frameworks for regulating data protection and cybersecurity (ISO/IEC 27001:2022; ISO/IEC 27002:2022).

Addressing international cybersecurity and data protection issues requires a multilateral approach, including cooperation between countries, strengthening technical and legal capabilities, and creating a global culture of cybersecurity (ISO/IEC 27032:2016). While this progress is encouraging, there is still much work to be done to ensure a safe online space for all. Continued cooperation between governments, businesses, and civil society is necessary to address this common challenge and protect the rights of citizens in the digital world. However, against the backdrop of escalating cyber threats, there is an urgent need to create a coordinated international legal framework for effective cybersecurity and data protection especially in the context of armed conflict. Systematic large-scale cyberattacks by Russia against Ukrainian services require an immediate rethinking of the application of normative practices in international relations in cybersecurity as a component of the state's information security (President of Ukraine, 2021; Law of Ukraine, 2017).

## **MECHANISMS AND STANDARDS OF INFORMATION SECURITY MANAGEMENT**

Information security is an important part of public administration in the digital world, where almost every aspect of life intersects with the use of information technology. The rapid development of technology has caused an explosive growth in the storage, transmission, and processing of digital information. This has brought new challenges and threats to the security of data and information systems. The increase in digital information also means an increase in potential access points for attackers, who can use various methods to access or damage data illegally. This can lead to a loss of confidentiality, compromised data integrity, or even the shutdown of an information system. In this regard, reasonable and effective public administration of information security is an urgent task. Therefore, it is necessary to analyse the world experience of implementing public administration of information security, as part of the assessment of advanced technologies and tools for effective detection, prevention, and response to potential threats.

Public administration of information security is one of complex problems of the world community. This area includes the development and implementation of strategies, policies, and procedures to ensure the confidentiality, integrity, and availability of information in the face of increasing information threats and challenges. This is a significant factor in maintaining public confidence in the digital environment and the efficient operation of all sectors of the economy. However, this issue is illustrated by an increase in the number of cyber-attacks, cyber espionage threats, and other cybercrimes. International organizations, governments, businesses, and civil organisations work to improve government information security strategies to protect sensitive data and critical infrastructure from potential threats.

The development and implementation of information support for national security abroad is a complex and thorough process that requires cooperation between all actors. As a rule, these tasks are performed by specialised institutions and organisations with the support of state bodies (Lipkan, Lipkan, & Yakovenko, 2011). This process includes analysis of all aspects of national security, identification of potential threats and vulnerabilities, development of strategies and action plans, implementation of technical solutions to protect information, training of personnel, continuous monitoring and analysis of the situation. The main elements of this process are the geopolitical context, the risk analysis, the flexibility to respond to rapidly changing situations, and the cooperation with international partners to exchange experience and information.

This approach provides effective protection of information security of foreign national interests in a globalized world. Its implementation includes several key stages. Firstly, an in-depth analysis of potential threats and challenges is carried out, including political, military, economic, cyber, terrorism, disinformation and other factors. Secondly, based on this analysis, an information support strategy is formed, its goals, objectives, priorities and methods of implementation are determined. Thirdly, technologies and software tools are developed to collect, process, analyse and disseminate information about potential threats.

An important component of the process is international cooperation, since ensuring national security abroad often requires interaction with other states, international organizations and structures. The training of qualified personnel who are able to effectively use information tools and security systems is also important. After that, the development of information support is carried out, its testing in real conditions, making the necessary changes and

introducing it into practical use. The final stage is the constant monitoring of the functioning of the information support system for external national security and its updating in accordance with changes in the threat environment and technological conditions. The interest of scholars and practitioners in effective public administration of information systems and technologies has caused the rapid development of various industries, national and international standards related to the security management.

The International Standards Organization (ISO) and the International Electrotechnical Commission (IEC) jointly or separately develop a series of international standards of information security (ISO/IEC 27002:2022; ISO/IEC 27032:2016). These standards are the basis for building an effective information security system in modern organisations working in a digital environment. They help companies of all sizes and industries manage risk and ensure an adequate level of information protection, regardless of its shape and location. Thus, the ISO/IEC 27001:2022 standard defines the requirements for information security management systems, in particular, it covers the processes of risk management and information protection in organizations. As an addition to it, the ISO/IEC 27002:2022 standard contains guidelines and general principles for the creation, implementation, management, and improvement of such systems.

Regarding risk management, ISO/IEC 27005 provides practical recommendations for risk assessment and develop the information system protection guidance. Due to the spread of cloud technologies, specialized standards were developed. So, ISO/IEC 27017, which is based on the ISO/IEC 27002 standard, offers specific guidelines for managing information security in cloud environments. The ISO/IEC 27018 standard focuses on personal data protection in cloud services and defines the requirements for the control and processing of such data. In addition, the ISO/IEC 27001 standard describes the basic principles of organising information security management for various companies (ISO/IEC 27001:2022). ISO/IEC 27002 examines the immediate mechanisms for managing information security, distributing them into successive stages of the implementation of each of the proposed mechanisms (ISO/IEC 27002:2022).

According to the ISO/IEC 27001 requirements, the public administration of information security should have a procedural character, corresponding to the Deming-Shewhart cycle. This ensures continuous improvement of the information security management system through a cyclical process of analysis, change implementation, performance evaluation, and adjustment. This approach is the key to ensuring the effectiveness and continuity of information security management in the organisation. The management should determine the boundaries of the public administration of information security and formulate an information security policy. Policies should reflect the conceptual characteristics of business, assets, and information technology.

The next step is to assess risks and choose methods for their processing in order to create a unified information security management system (Morgan & Moshiri, 2011). After identifying risks that may affect the assets of the organization, it is necessary to assess them and develop a risk management strategy. This may include changing security parameters, taking risks, relieving risks or transferring them to third parties. The main purpose of these measures is to reduce the risk level to an acceptable degree, i.e., the residual risk. The information security management system should be documented and implemented.

When implementing and operating an information security management system in accordance with ISO/IEC 27001, a number of important actions must be taken. First, a risk management plan should be created and implemented to manage potential threats effectively. In parallel with this, it is important to establish and apply appropriate controls and evaluate their effectiveness regularly. The next step is to develop and execute a staff training plan so that all employees have the necessary knowledge and skills to ensure information security. In addition, it is important to organise effective management of the information security and its resources. The last stage is the introduction of an information security incident detection system that permits to respond to any threats quickly.

The ISO/IEC 27002 standard is a logical continuation of the ISO/IEC 27001 standard, providing a more detailed description of the activities, expanding its scope to asset management, recruitment and selection of new personnel, environmental safety organizations, protection from malicious code, information backup, communication and operation management, etc. These standards are designed to establish rules for managing information security and consistently perform appropriate actions that help effectively protect information and reduce risks to the organization (ISO/IEC 27001:2022; ISO/IEC 27002:2022).

As a result of the research, the foreign experience in introducing public administration in information security is systematised. The selection criteria for the analysis are Ukraine's integration aspirations, implementation of foreign socially oriented reforms, timely and systematic response of these countries to information challenges. The experience of the UK, USA, South Korea, and Sweden is analysed. The experience of these countries shows that implementing a structured and standardized approach to IT management increases efficiency and security and ensures compliance with legal requirements and information security standards. Therefore, many countries have national IT and security management standards that complement international standards. For example, the USA control information and related technologies to regulate information technology.

Control Objectives for Information and Related Technologies (COBIT) is an information technology management framework developed by ISACA and the IT Governance Institute. It provides a structured approach to the management and control of IT processes in the organisation to ensure the efficiency, effectiveness, and security of information technology. The COBIT structure increases responsibility for managing IT resources and achieves organisational strategic goals through the optimal use of information technology. It includes examples of best practices for managing all aspects of IT, such as managing policy, resources, operations, and monitoring. COBIT also defines specific goals that an organization must achieve to effectively manage IT while ensuring compliance with laws and standards. In addition, the system provides mechanisms for measuring the effectiveness of IT processes within the organisation and monitoring their implementation. One of the important aspects is to create conditions for IT processes to meet the business needs and organisation policies.

COBIT can be applied to a variety of industries such as finance, healthcare, government agencies and business sectors. In the UK, the Netherlands, and Australia, the IT Infrastructure Library (ITIL) has a significant impact on IT service management and is recognized as a global standard for IT service management. ITIL provides a structured approach to managing IT services, such as planning, implementation, control, and improvement of IT services.

Various procedural standards play a particularly important role in the audit of information systems as they help check the level of security, efficiency, reliability, and compliance of system processes with generally recognised requirements and standards. Thus, ISO/IEC 27001 and ISO/IEC 27002 are the most common standards used for auditing, which establish international requirements, provide recommendations for information security management systems, and offer practical advice on the implementation of appropriate control measures. It is also important to mention NIST SP 800-53, which is the US federal security standard that defines a set of controls for protecting information systems in federal organisations. In addition, the PCI DSS (Payment Card Industry Data Security Standard) establishes security requirements for payment information for organisation processing card transactions.

These standards create a comprehensive approach to the audit of information systems, providing an appropriate level of protection and compliance. The use of these standards can be an important basis for information systems auditors as they provide a recognised framework and standards for ensuring the security and efficiency of information systems. Modern international standards of public administration in information security cover various key aspects of this issue. For example, ISO 17799 emphasises the importance of conducting an information security audit although it does not provide specific instructions on how to conduct it. In such cases, the audit recommendations proposed by COBIT may be useful.

Recommendations contained in BS 7799 can be used for strategic management of public information security, while standards developed by the ITIL security management can be used for operational management of information technology security components. In general, security professionals should be able to choose best practices from all these standards and integrate them into an effective information security management system. Therefore, personal data protection and information security are key aspects of innovation management in the context of digital transformation. This requires the implementation of best management practices and legal standards that build the sustainability of information systems in the world. Based on the analysis of the global experience in the implementation of public administration in information security, methodological principles for the use of these mechanisms are suggested. Thus, the components of information security management are provided in Figure 4.

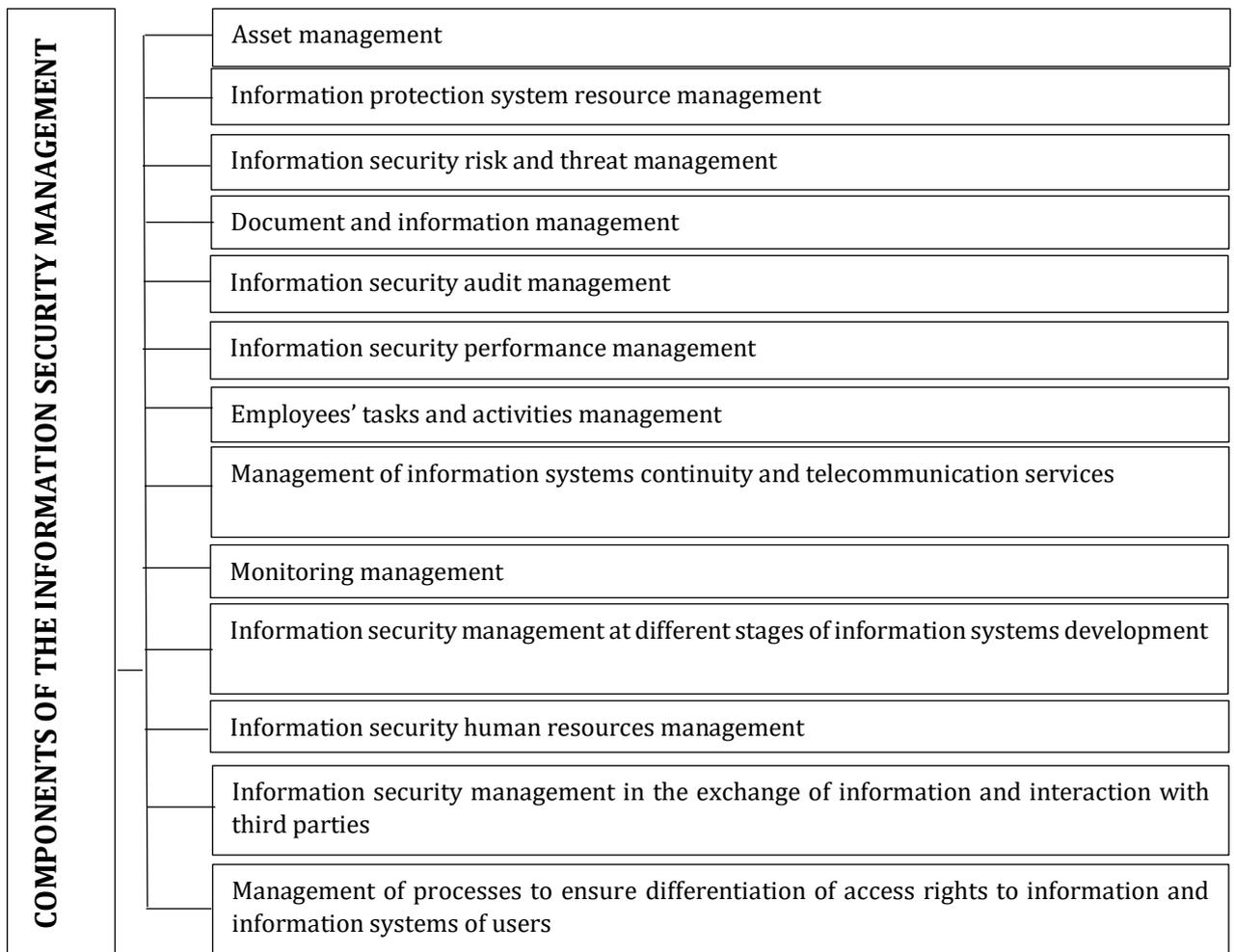


Figure 4. Components of the information security management

*Source: compiled by the authors*

As Figure 4 proves, asset management involves a systematic approach to identifying, protecting, and optimising the use of information resources. This process covers all aspects related to the management of both digital and physical resources that contain confidential information or may be involved in performing important organizational functions. Asset management includes the inventory, classification, protection, monitoring, updating of resources, and the identification of their owners and the establishment of appropriate security policies.

The second component is information protection system resource management. This process embraces activities and strategies aimed at the effective use and safe functioning of information resources. Within this area, several key components are distinguished. In particular, the planning and allocation of resources involves a thorough analysis of needs and the development of strategies that provide effective support for the information security system, including budgeting and resource planning for individual projects. Resource security is the creation and implementation of appropriate measures to ensure the confidentiality, integrity, and availability of information. It means developing security policies, identifying potential threats, controlling access, monitoring, and responding to incidents.

Resources optimisation is aimed at maximising the efficiency of information resources. It includes continuous improvement of processes, the use of monitoring and analysis tools, and

the introduction of innovative technologies that allow achieving higher productivity and a reliable security level (ISO/IEC 27002:2022). Information security risk and threat management ensures the stability and reliability of information systems. This process begins with risk identification, with the regular assessment of potential threats and determining the likelihood of their occurrence in the system. After that, a risk assessment is carried out to determine the overall level of threat, analyse its probability and possible impact, and set priorities for further response. Based on the research results, a risk management strategy is formed that involves avoiding, transferring, mitigating or even taking certain risks, with technical, organisational or procedural security measures applied. After the implementation of the chosen management strategy, it is important to constantly monitor and analyse because the emergence of new threats or changes in existing risks require a rapid response (ISO/IEC 27005:2018).

In case of incidents or security violations, the information security team should act immediately to implement the necessary measures to minimise their consequences and restore the normal functioning of the system as soon as possible. In this context, it is also important to formulate business continuity plans that ensure the rapid resumption of work after an incident and minimise its negative impact (ISO/IEC 27001:2022). These components create a holistic risk and threat management system aimed at protecting information assets and maintaining the stability of the information environment.

Document and information management is a key process involving the ordering and control of all documents and data in order to ensure their availability, integrity, confidentiality, and ease of use. Document management embraces the life cycle of records from their creation, storage, organization, search, and update to the final deletion according to established policies. A clear classification and cataloguing of documents provide easy access to them. Access control is equally important, providing the ability to work with confidential information only to authorised users and regulating the rights to view and edit various types of files. Information is protected by using encryption methods and other security tools that prevent unauthorised access and protect against hacker attacks (ISO/IEC 27002:2022). Continuous audit, monitoring, and review of the functioning of systems allows timely detection of security violations or non-compliance with requirements.

Data backup and recovery procedures require special attention, which allow to store information even in case of loss or damage. In addition, it is important to develop a data retention policy, which takes into account legal requirements and the internal needs of the organisation. Finally, the constant updating and improvement of document control systems and reference resources helps to increase overall efficiency and adapt to changing conditions. These measures exercise reliable control over information systems, reduce the risk of data loss, guarantee their security, and simplify user access to the necessary information.

Information security audit management is an important component of ensuring the information security of an organisation. It begins with the planning phase, during which the scope, purpose, objectives, and methods of the audit are determined. Planning should take into account security risks, regulatory requirements, and internal policies of the organisation. Then a direct audit includes technical and organizational aspects such as network infrastructure audits, access policy assessments, and vulnerability testing (ISO/IEC 27001:2022).

After the audit is completed, its results are evaluated. The auditor analyses the information received in order to identify potential safety problems, risks and inconsistencies, and provides recommendations on the next steps to eliminate the identified shortcomings. The next step is to prepare a report that describes the identified problems, the level of compliance with security standards and suggests measures to improve the information security system. Such a report is provided to the management of the organisation for further analysis and decision-making. The final stage of audit management is monitoring and checking the effectiveness of the implemented changes in order to make sure that the new measures improve the security level and meet the set goals. Thus, information security audit management allows timely detection and elimination of potential threats, preventing serious incidents in the future.

Information security performance management involves a thorough assessment and continuous monitoring of information security tools in order to ensure their effectiveness and compliance with established requirements. At the same time, employees' tasks and activities management is an important component, including planning, coordination, and control of work in information security in the organisation. Furthermore, management of information systems continuity and telecommunication services consists in creating a special algorithm of actions that outlines the conditions for continuous operation and the procedure for their observance (ISO/IEC 27002:2022).

Monitoring management includes timely detection and response to information security incidents. In addition, it is necessary to manage information security at all stages of the development of information systems, i.e., from their creation to support and continuation of the life cycle. Special attention should also be paid to information security human resources management, which involves improving the skills of personnel and developing their competencies in information security.

## **STRATEGIC PRIORITIES AND CYBERSECURITY IN PUBLIC ADMINISTRATION**

Another important component is information security management in the exchange of information and interaction with third parties. This component involves the implementation of measures to ensure the proper level of system security, the correct access to information during data transmission and interaction. Finally, management of processes to ensure differentiation of access rights to information and information systems of users embraces the creation of an effective model of access control, the development of rules for its differentiation, and the implementation of further control over compliance with these rules.

Such a vision of the information security management is fully correlated with the indicator 14.2 "Entry into force of legislation on strengthening the cyber defence capabilities of state information resources and critical information infrastructure facilities" and the indicator 14.3 "Approval of the action plan for the transfer of public services in electronic form until 2026" of the Plan of Ukraine within the framework of the Ukraine Facility Program (Ukraine Facility, 2025). Within the framework of indicator 14.2, normative legal acts should come into force for coordination with the NIS and NIS2 Directives. These acts should focus on the following main areas: the regulation of the mandatory implementation of measures aimed at creating the appropriate legal framework for the implementation of measures to prevent,

detect, and suppress acts of aggression in cyberspace in the conditions of the war of the Russian Federation against Ukraine; strengthening the level of protection of state information resources and critical information infrastructure from cyber-attacks; comprehensive improvement of the regulatory framework in the field of cybersecurity and information protection to strengthen the capabilities of the national cybersecurity system to counter cyber threats. Concerning the indicator 14.3, the Cabinet of Ministers of Ukraine approved the Action Plan for conducting public services in electronic form until 2026 on March 21, 2025. The Action Plan focuses on the recovery, education, health care, services for veterans, services for the military, customs, and social sphere.

Information that is easy to process using a computer has become an important factor in social development and a strategic resource equal to material and energy. It plays a key role in protecting the country from various information threats and challenges in a globalized world. The information society is characterised by an information economy and management, a high level of information needs and their satisfaction by all members of society, a high level of information culture, and the general availability of information limited only by the security of personal life. In this context, effective public administration of information security is an urgent task in all areas of activity. This requires the use of advanced technologies and tools to detect, prevent, and respond to potential threats effectively. The development of network security in the spheres of finance, trade, transport, medicine and other spheres is of great importance for ensuring the security and stability of the national economy (Haievskiy, Rebkalo, & Tulenkov, 2001).

## **CONCLUSIONS**

A basic principle of the information paradigm in modern society is the recognition that information is a critical resource with a unique value. As an independent resource, information overcomes all boundaries and barriers and thus becomes the main driving force of globalisation. This phenomenon strengthens the connection between national and international economic systems and supports countries in further integration into the world economic space. Information security is a multi-level system that includes the protection of information at the individual, social, and state levels. These levels are closely related and form an integral structure aimed at ensuring security in the information space.

The first area is state information security, embracing measures to protect state information resources and systems. Its main goal is to prevent cyber threats, abuse, and unauthorized access, as well as ensure the confidentiality, integrity, and accessibility of data in public administration. The second aspect is public information security, which is aimed at protecting citizens from misinformation, manipulation, and other information threats. In this context, the development of media literacy and critical thinking reduces the impact of false or distorted information on public consciousness. The third important component is personal data security. It includes measures to protect the personal and confidential information of each citizen from cyber threats and data theft. In addition to technical protection, it is also important to educate people on the safe use of digital services and the Internet. Thus, effective information security requires the harmonious functioning of all three components, i.e., state, social, and individual. At the same time, its reliability largely depends on the security of key political institutions, especially systems of mass electronic communications.

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# INTERNATIONAL LEGAL STANDARDS AS A DYNAMIC SYSTEM AND THE LEVEL OF ITS REFLECTION IN THE ACTIVITIES OF UKRAINIAN JUDICIAL AUTHORITIES

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## **Abstract**

This article examines the concept and classification of international legal standards in the field of judicial proceedings and analyzes their reflection in the functioning of Ukrainian judicial authorities. Based on the approaches of leading scholars and international legal instruments, the study proposes a three-tier system of international standards: general, sector-specific, and country-targeted. Particular attention is paid to the systematization of documents adopted by organizations such as the United Nations, the Council of Europe, the Venice Commission, and the Consultative Council of European Judges. The author also highlights the evolution of Ukraine's legal doctrine in adapting and integrating these standards into national legislation, emphasizing the importance of judicial independence, impartiality, and transparency. The article concludes with a critical analysis of the Venice Commission's recommendations and the need for further development of Ukraine's "judicial law" based on international standards.

**Keywords:** international legal standards; judicial system; Ukraine; European Convention on Human Rights; Venice Commission; judicial independence; rule of law; fair trial; international obligations; comparative law.

## **THEORETICAL FOUNDATIONS AND CLASSIFICATIONS OF INTERNATIONAL LEGAL STANDARDS IN THE FIELD OF JUSTICE**

There are many opinions of both domestic and foreign scholars regarding international standards in the field of judicial proceedings. Among domestic researchers, it is enough to mention such prominent names as: Baimuratov, Bryntsev, Kivalov, Kuibida, Malyarenko, Nazarov, Holubok, Konovalova, Luts and others, as mentioned in the first section.

Speaking of the concept of international standards in a general sense, and despite the multiplicity of scientific approaches, almost all researchers consider it appropriate to define the following main criteria in the definition, among others:

1. – "international standards" are the result of the process of development, recognition, signing, ratification and acceptance by signatory states of obligations to fulfill and implement international norms and principles contained in international documents (contractual and obligatory criterion, author);
2. – "international standards" are legal international norms or principles defined in international documents and which signatory states undertake to implement,

observe or take into account in their national legislation (normative and fundamental criterion, the author);

3. – “international standards” are samples, models, benchmarks, examples, specific scales of measurement, etc. in the legislative regulation of the parties to legal relations (model and exemplary criterion, the author);

4. – “international standards” are the minimum requirements (minimum acceptable consensus) established by international legal acts, which all states are obliged to adhere to in their lawmaking (minimum binding criterion, the author);

5. – “international standards” are international legal norms and principles that enshrine the rules of behavior of subjects of international and state cooperation (international behavioral criterion - the author);

6. – “international standards” are norms and principles of international law, are a value for every person, state and the world community, and therefore are subject to mandatory observance by all members, subjects of the world community (axiological and obligatory criterion, the author);

7. – “international standards” are not directly “European standards” or vice versa, because “European standards” are primarily minimum legal requirements for the legal systems of the member states of the European community, etc. (international and regional criterion, the author). Without going into a polemic on the various main scientific approaches and expressing a personal vision of the content of the general definition, it should be noted that the work fully respects each view, and all of them will be taken into account in further considerations within the defined object and subject of the study.

A few words about the classification of international standards according to numerous existing scientific views. The most common approach is to divide international legal standards into general (universal) and special standards relating to specific areas of regulation of public relations. As for the general (universal) standards, they can be classified according to the scope of their application into universal, i.e. for all states of the world, and regional, i.e. for states that are members of certain regional entities or unions; depending on the subject of development and adoption of an international document standards of the UN, Council of Europe, European Union, OSCE, ECHR, etc.; according to the legal force of legal prescriptions into mandatory (obligatory) subject to ratification or not, into recommendatory, desirable for implementation, etc. Furthermore, the views on the classification of existing international standards, which have been presented above, are correct and correct and should be applied in further considerations (Vladyshevskaya, 2016; Nazarov, 2011; Bryntsev, 2010).

With regard to the concept of “international standards” from the standpoint of secondary, insignificant features rather than the main ones, the list of scientific approaches and their research is unnecessary, as it would take up a lot of space in the paper. Moreover, it is not directly related to the subject of the study. The concept of “international standards in the field of justice” deserves the most attention for the object and subject of this study. It should be noted at the outset that this concept can be classified as a special concept, since it carries a specific color, namely, the content of international legal standards on the organization and operation of national judicial bodies. Therefore, let us examine the scientific approaches to this complex category in more detail.

Firstly, in the doctrines of international and national law, the international standard on the judiciary is considered in three ways as: 1) a standard which is a norm of international law and is mandatory or recommendatory; 2) a standard which should be applied exclusively within the competence of national judicial authorities in civil, criminal and other cases; 3) a standard which should be explained and recognized in scientific works of international legal orientation (Legal Doctrine of Ukraine, 2013, vol. 2, p. 257).

Secondly, international standards in the field of judicial proceedings are classified by the following types: 1) general in the field of state structure, human rights and substantive law; 2) procedural standards in specific branches of the judicial process (administrative, civil, commercial, criminal, etc.); 3) judicial standards, i.e. standards on which the judicial system is based (Bryntsev, 2010).

Thirdly, the analysis of international documents in the field of judicial proceedings (declarations, covenants, conventions, recommendations, etc.) makes it possible to classify international standards in terms of the principles they contain. There are two groups of such standards-principles: the first group defines the basic postulates, rules, ideas, features, etc. regarding the consideration of court cases (fairness, impartiality, publicity, openness, impartiality, equality of all before the law, competition, etc.), and the second group concerns the construction of the judicial system (rule of law, independence of the court, independence of judges, unity of the judicial system, accessibility of judicial structures to all segments of the population, territoriality, instance, specialization, etc.) (European Union, USAID, 2015).

Fourthly, all international sources-documents which contain a significant or major number of international standards can be divided into two large groups: the first group includes basic sources which contain universal principles of administration of justice (the Universal Declaration of Human Rights of 1948, the International Covenant on Civil and Political Rights of 1966, the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, etc.) (Universal Declaration of Human Rights, 1948; International Covenant on Civil and Political Rights, 1966; Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). The proponent of this classification is, for example, the previously mentioned scholar Vladyshevska (2016, p. 49), but other researchers, for example, Nazarov (2011), add to these two defined groups such sources as the practice of the European Court of Human Rights or EU standards for the construction of judicial systems (the European Union Charter of Fundamental Rights of 2000).

The reasons for citing the above-mentioned scientific approaches to possible classifications of both international legal standards and the sources where they are concentrated are not accidental, since these points are determined directly in the definitions of the concept of “international standard in the field of judicial procedure”.

In subsection 1.1. of the first chapter, we have already considered the existing views of legal scholars on various branches of the general category of “international standard in the field of justice”, namely: scholar Bontlab on the category of “international standards of civil justice”; scholar Nikitina-Dudikova on the category of “international standards of child-friendly justice in criminal proceedings”; scholar Salenko on the category of “international standards in the field of judicial system and status of judges”; scholar Tsvirkun on the definition of the category of “European standards of a fair trial”; scholar Ivanochko on the legal nature of the definition of “international legal standards of the status of judges”; scholar Losych on the concept of “international legal standards of criminal liability for committing

or threatening to commit violence against a judge and other representatives of the justice system” (European Union, USAID, 2015).

Other scholars such as Korovayko and Yuvchytsia, did not consider it necessary to provide definitions of the categories used in their research, respectively, the category “international standards of independence and impartiality of the court in criminal proceedings in Ukraine” and the category “international and European standards of independence and impartiality of the court in Ukrainian civil proceedings”. They confined themselves to the list of sources containing the existing international legal standards in relation to the subjects of their research and disclosing those categories that characterize the same subject (European Union, USAID, 2015).

Such an approach can only be welcomed. Indeed, why in the first parts of the definitions should the standard well-known general wording about “certain minimum requirements established by international legal acts (documents), enshrined in legal norms and principles to which national legislators are obliged to adhere” be given, when the main content of the category is in the second part and is directly related to the subject of the study. This does not imply that in this case the categories “international standards of independence and impartiality of the court in criminal proceedings in Ukraine” and “international and European standards of independence and impartiality of the court in Ukrainian civil proceedings” cease to be international categories. On the contrary, they directly relate to international standards, but are revealed in a scientific sense through the existing legal institutions of national branches of law. The real task of a scholar is precisely to search for similarities and differences between what is defined by international legal norms and principles and what constitutes the content of national legal categories in the field of judicial proceedings. Such a search may result in specific proposals for improving both international sources and national legislation on the organization and administration of justice.

In this sense, as an example, it is worth mentioning the views of the scholar Rumyantseva, whose views on the concept of “impartial and independent court” within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (hereinafter - the Convention) were also considered in the first subsection of the first chapter (Convention for the Protection of Human Rights and Fundamental Freedoms, 1950). The above researcher, as well as Korovayko and Yuvchytsia, also did not provide a definition of the definition itself, but focused on the study of the category “impartial and independent court” in the context of the national Ukrainian legal theory, comparing it with the content and letter of international standards. This approach resulted in the conclusion that it makes sense to talk about judicial independence when it comes to the administration of justice, not to any activity of judges in the administration of justice. Thus, without setting a goal and without formulating a general definition of the category, Rumyantseva came to a specific scientific result of her research and made a very nice suggestion regarding her approach to considering an “impartial and independent court” as an international standard from the standpoint of analyzing an international source, that is the Convention.

The scholars Kozachenko and Kalyan, mentioned in the first section, have combined the two approaches discussed above and cited the scholars' views. In other words, when studying the category of “judge's impartiality” from the standpoint of existing international standards, they characterize it in a broad and narrow sense, i.e., they formulate it from the general approaches to the international standard in the broad sense, and in the narrow sense, they

indicate the absence of bias and subjectivity in the actions of a judge in the exercise of judicial powers, when a trial is conducted by a judge who has no personal interest in the case and who is able to act as an impartial arbitrator who makes a decision based on his or her own conviction, and this decision is based on a direct, comprehensive, full and objective examination of the evidence, and in accordance with the provisions of national law (European Union, USAID, 2015).

In continuation of the above preliminary considerations, a very interesting suggestion is made by researcher Babkova, which she expressed while studying the issue of international standards as sources of judicial law in Ukraine. Indeed, why look for direct references to certain categories in international legal standards and then compare them with similar categories used in various branches of national law in the field of judicial proceedings in order to find similarities or certain differences, and on the basis of which to formulate specific proposals for improving both international legal standards and categories of national law based on them. Wouldn't it be better to immediately separate an independent branch of law, to name it "judicial law of Ukraine" and within this branch to develop the entire range of necessary categories and concepts that can be applied in the field of judicial proceedings, but to develop them exclusively on the basis of existing international legal standards. Here is what she states in her article: "the provisions of international legal acts of different legal force, subjects of adoption and scope of application form an integral system of international standards of the judiciary, among which we can distinguish:

1. general (institutional) standards of the judiciary;
2. judicial standards;
3. standards of the status of judges;
4. procedural standards.

These provisions are fundamental, basic, guiding and fundamental for national legislation, as they are the basis on which and in accordance with which the branch of judicial law of Ukraine should be built, developed and improved (emphasis added)" (Babkova, 2015).

## **THE ISSUE OF RECOGNITION OF FOREIGN COURT JUDGMENTS AS AN INTERNATIONAL STANDARD**

The opinion of the scholar Lev, exploring the problems of understanding the recognition of a foreign judgment for national judicial systems, cannot be ignored, as he notes that "recognition of a foreign judgment is a legal act by which a sovereign state, extending the effect of a foreign judgment to its own territory, expresses its attitude to it as a legal fact, which is associated with the emergence, change or termination of indisputable legal relations established by a foreign court. At the same time, a foreign judgment is perceived as final, which entails the impossibility of reconsideration of the same dispute, and is endowed with the same legal properties as judicial acts of the state of recognition, but the limits of its effect cannot be wider than those by which it is limited in the country of origin" (Lev, 2013).

Approximately similar thoughts are expressed by scholars such as Fursa, Prytyka, Chubarev, Stefan, and others. The question arises whether the recognition of a foreign judgment can be considered an international standard for its further implementation in the national judicial system. The answer should be clear: no, it cannot. Recognition applies only to a specific entity (individual or legal entity) in respect of which a foreign court has made a decision, it cannot

be extended to an unlimited number of entities, it must be applied only once, without the possibility of applying it a second time and only by one court, etc. It is no coincidence that the Law of Ukraine "On Private International Law" of June 23, 2005 regulates the issue of recognition and enforcement of foreign court judgments very carefully, clearly defining when foreign court judgments can be recognized and enforced in Ukraine and when they cannot. In addition, it has a reference article that defines the recognition and enforcement of foreign court judgments in the manner prescribed by a separate law of Ukraine (Law of Ukraine No. 2709-IV, 2005).

## **INTERNATIONAL SOURCES OF LEGAL STANDARDS IN THE FIELD OF JUSTICE: TYPOLOGY AND OVERVIEW**

Now let's analyze international documents, which contain the entire system of international standards in the field of judicial proceedings. It should be noted at the outset that it is practically impossible to cover all international documents containing international legal standards and to carry out a full analysis of them within the framework of one applied study, as their number and content is constantly growing. For example, if a researcher begins his or her analysis, by the time he or she has completed the study, the number of international sources will have grown so much that the analysis will have to be started anew. It is still possible to make an approximately complete analysis, but at least in a few fundamental works specifically designed to study the entire system of existing international sources not only in the field of judicial proceedings, but also in other areas of international and national law that are directly or indirectly related to it.

Therefore, let us proceed from the thesis, which has not yet been proven, but which clearly reflects the essence of the existing phenomenon. Currently, in the legal reality there is an objective rapid development and growth in various directions, as well as in quantitative and substantive characteristics of international legal standards in the field of judicial proceedings, that the entire accumulated number of sources available at present can be categorized according to the categorical series, which in dialectical cognition is represented by the concepts of "individual", "special" and "general". And this, in turn, gives grounds to talk about the existence of a certain system in which one can clearly distinguish:

- international sources that contain general principles and standards, the content of which is to determine the fundamental approaches to building national judicial systems;
- international sources that establish the peculiarities of the organization and administration of justice in general in national states in specific areas, forms, methods, etc.;
- international sources that have legal prescriptions that are directed to a particular state (states) in order to draw their attention either to the mandatory implementation of standards, or to compliance with or consideration of them when adopting a particular national legislative act in the field of judicial proceedings.

International sources that define general principles and standards for building judicial systems in poor countries that are signatories to the international document.

Speaking about international sources that contain the most general principles of building national judicial structures, we should undoubtedly start with the Universal Declaration of Human Rights of 1948, which defines such fundamental principles as: everyone has the right to an effective remedy by the competent national tribunals for violations of the fundamental rights granted to him by the constitution or by law (Art. 8); no one may be subjected to arbitrary arrest, detention or exile (Art. 9); everyone is entitled to have his rights and obligations determined and the validity of criminal charges against him established in full equality (Art. 9); everyone is entitled, in full equality of arms, to a fair and public hearing by an independent and impartial tribunal in order to determine his rights and obligations and to determine the validity of any criminal charge against him (Art. 10); presumption of innocence (Art. 11); no one shall be convicted of a crime on the ground of any act or omission which did not constitute a crime under national or international law at the time it was committed; nor shall any heavier penalty be imposed than that which would have been applicable at the time the crime was committed (Art. 11) (Universal Declaration of Human Rights, 1948).

The next source is the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (European Convention on Human Rights), which established the principle that no one can be deprived of his or her life intentionally except in execution of a sentence of death passed by a court after being found guilty of a crime for which the law provides for such a penalty (Art. 2), and clearly defined the categories of “lawful arrest,” “lawful imprisonment,” and “lawful detention.” The Convention also defined the fundamental rights of the arrested person, namely: to be informed promptly, in a language he understands, of the grounds for arrest and of any charges against him; to have the grounds for arrest or detention examined by a judge without delay; to be tried within a reasonable time or released during the proceedings (Art. 5); to a fair trial (Art. 6); and to be held to account without law (Art. 7) (Council of Europe, 1950)

No less significant than the previous ones is the International Covenant on Civil and Political Rights of 1966, which states the following: the need to dispel the possibilities of judicial protection of a person and his or her rights and freedoms (Art. 2); the death penalty may be carried out only in pursuance of a final sentence passed by a competent court; the death sentence shall not be imposed for crimes committed by persons under the age of eighteen and shall not be carried out against pregnant women (Art. 6); the obligatory notification of the arrested person of the reasons for his or her arrest; bringing the arrested or detained person before a court for a judicial review of the reasons and circumstances of the arrest (detention); judicial review of the case by a court within a reasonable time; detention of persons awaiting trial should not be a general rule, but release may be made conditional on the submission of guarantees of appearance at trial, appearance at any other stage of the trial and, if necessary, appearance for the enforcement of the sentence; the right to compensation for those who have been victims of illegal arrest or detention (Art. 9); equality of all before courts and courts of law; the right to a fair and public hearing by a competent, independent and impartial tribunal established by law; presumption of innocence. The right to a review of conviction and sentence by a higher court; the right to receive compensation in the event of a miscarriage of justice; no one shall be subject to a second conviction for the same offense; the right of a person in the trial of any criminal charge against him or her to at least the following guarantees on the basis of full equality, in particular: (a) to be informed promptly and in detail, in a language which he understands, of the nature and grounds of the charge against him; (b) to have sufficient time and facilities for the preparation of his defense and to communicate with legal assistance of his own choosing; (c) to be tried without unreasonable delay; (d) to be tried in his presence and to defend himself in person or through legal assistance of his own choosing; to be

informed of this right if he does not have legal assistance, and to have legal assistance assigned to him in any case where the interests of justice so require, free of charge if he does not have sufficient means to pay for it; (e) to examine the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him; (f) to have the free assistance of an interpreter if he cannot understand or speak the language used in court; (g) not to be compelled to testify against himself or to confess guilt (United Nations, 1966).

A significant milestone in the development of general principles governing the organization and operation of national judicial systems was the adoption of the Montreal Universal Declaration on the Independence of Justice during the First World Conference on the Independence of Justice held in Montreal in 1983 (Montreal Universal Declaration, 1983). At that time, among various issues concerning the judiciary, the independence of national judicial structures emerged as the foremost priority. Consequently, the first global conference was dedicated to the issue of judicial independence, urging the United Nations to consider the Declaration it had adopted. The core postulates of the Declaration included the following: the purpose and functions of judges encompass ensuring the safety of all individuals' lives and upholding the rule of law; judges are independent from the executive and legislative branches of the state; no special temporary tribunals should be established; no force may be applied to interfere with the judicial process; executive bodies must not control judicial organs through court administration; no legislative or executive normative act may attempt to retroactively alter specific court decisions; judges may collectively safeguard their independence, among other principles.

Among the sources delineating the general principles for the establishment of national judicial systems, the document titled Basic Principles of the Independence of the Judiciary, endorsed by United Nations General Assembly Resolutions 40/32 and 40/146 on 29 November and 13 December 1985, merits attention. Its annex articulates and elaborates the content of six key principles (United Nations, 1985): the independence of the judiciary, encompassing guarantees, implementing measures, and necessary procedures and resources to ensure the proper execution of judges' functions; the freedom of expression and association for judges to protect their interests, enhance professional development, and preserve judicial independence; the specialized selection of candidates for judicial positions, considering both the requisite qualities of judges and the methods of selection; the legal assurance of judges' terms of office, independence, security, adequate remuneration, service conditions, pensions, retirement age, as well as provisions for promotion and the equitable distribution of cases among judges; the protection of professional confidentiality and immunity from liability for pecuniary damages arising from wrongful acts or omissions in the performance of judicial duties; and the establishment of specific procedures for determining disciplinary measures, removal from office, or dismissal in accordance with established standards of judicial conduct, with decisions on such matters subject to independent review.

In 1989, four years later, for the effective implementation of the above-mentioned Basic Principles on the Independence of the Judiciary, fifteen recommendations were adopted by the UN Economic and Social Council Resolution 1989/60, which were then approved by the UN General Assembly Resolution 44/162 of December 15, 1989 (European Union & USAID, 2015). The recommendations, detailing the implementation of the Basic Principles, identified the need to provide certain resources necessary for the functioning of the judicial system, to provide courts with the necessary staff and equipment, and to provide judges with

a decent level of personal security, pensions and salaries (Recommendation No. 5). Recommendation 8 establishes that every five years, the UN General Secretariat should prepare an independent report to the Committee on Crime Prevention and Control on progress in the implementation of the Basic Principles, based on information from Member States. Recommendation No. 12 suggests that regional and interregional UN research and training institutes on crime prevention or criminal justice, as well as other bodies within the UN system, should promote the implementation of the Basic Principles, pay special attention to the means and methods of applying the Basic Principles in their research and programs, provide technical assistance to Member States upon request, develop training courses, as well as specialized courses on human rights, etc.

A significant international document establishing general principles for the functioning of judicial systems is the *Statute of Judges in Europe*, adopted by the European Association of Judges in 1997. This document incorporates the following fundamental principles: the unconditional independence of each judge, which all national and international authorities must guarantee; judges are accountable solely to the law, remaining unaffected by political parties or pressure groups; the administration of judicial power must be conducted by a body representing judges and independent of any other authority; the Statute of Judges must be clearly enshrined in legislation; the principles of the Statute also apply to prosecutors, in accordance with their specific status within the national judicial system.

The *European Charter on the Status of Judges*, adopted by the Council of Europe in July 1998, holds a prominent place among general sources (European Charter on the Status of Judges, 1998). Its primary objective was to encourage European countries to enact national legislation on the status of judges to ensure optimal guarantees of judicial competence, independence, and impartiality. The Charter also provided detailed interpretations of provisions from previously adopted international judicial documents, addressing the selection, appointment, and initial training of judges, their appointment and non-transferability, promotion procedures, judicial accountability, remuneration and social protection, and termination of office.

The *General (Universal) Charter of the Judge*, adopted on 17 November 1999 by the Central Council of the International Association of Judges in Taipei, Taiwan, is a pertinent source regarding the general principles of judicial system functioning (Universal Charter of the Judge, 1999). Notable provisions in this document include: judges must perform their duties effectively and diligently without unjustified delays; judges must exercise their duties with restraint and respect for the court and all participants in the process; judges must not engage in any other activities unless fully compatible with their judicial duties and status; any legislative change establishing a retirement age for judges must not have retroactive effect; disciplinary measures against a judge may only be imposed based on existing law and in accordance with a clearly defined procedure.

The final source in the list of sources establishing general principles should, therefore, be the *Magna Carta of Judges (Fundamental Principles)*, which, on the occasion of its 10th anniversary, the Consultative Council of European Judges (CCJE) adopted during its 11th plenary session (Strasbourg, November 17–19, 2010) and which summarizes and codifies the main results of the Conclusions previously adopted by the CCJE (CCJE, 2010). All these 12 opinions contain additional recommendations on the topics covered in this document and have been brought to the attention of the Committee of Ministers of the Council of Europe. These include the following principles: the rule of law and justice; independence of the judiciary; guarantees of independence; the functioning of the public authority responsible for ensuring independence; access to justice

and transparency; ethics and responsibility of judges; and the very interesting and important principle that all of these principles apply *mutatis mutandis* (with appropriate modifications) to judges of all European and international courts.

International sources with general principles may have the following titles: basic principles; fundamental principles; recommendations; explanatory notes; opinions; reports; universal declarations; general or universal charters; statutes of judges, etc. The sources are accepted by the following subjects of origin: UN General Assembly; UN Economic and Social Council; Council of Europe; Committee of Ministers of the Council of Europe; Consultative Council of European Judges (CCJE); OSCE; European Commission for Democracy through Law (Venice Commission); world conferences on the independence of justice; Central Council of the International Association of Judges in Taipei (Taiwan); European Association of Judges, etc.

International sources that establish the specifics of the organization and administration of justice in national states in certain areas, forms, methods, etc. without providing proposals or recommendations to a particular state (states).

The largest group of international sources encompasses various aspects of judicial activity, including: judicial ethics and conduct; procedures for the appointment and career advancement of judges; judicial training and professional development; judicial self-governance; court organization and public relations; information management in judicial activities (selection, processing, presentation, and archiving of judicial decisions in legal information retrieval systems; development and restructuring of judicial systems and legal information in a cost-effective manner; provision of judicial and other legal services to citizens using advanced technologies; ensuring functional interoperability of information systems in the justice sector; archiving electronic documents in the legal domain; enhancing judicial efficiency through the use of information technologies); access to justice and legal aid; organization and conduct of judicial proceedings; administration of criminal justice; enforcement of judicial decisions; the role of national judges in ensuring the effective application of international and European law; interaction between courts, judges, the legal profession, and prosecution authorities; and the evaluation of the quality of judicial proceedings (European Commission for the Efficiency of Justice [CEPEJ], 2023; Consultative Council of European Judges [CCJE], 2023).

International sources can be variously titled, for example, opinions, reports, recommendations, responses, declarations, resolutions, general comments, guidelines, instructions, checklists or introspective questionnaires, etc. International sources in this group can also be classified by their originating entities. They can be adopted: The UN Economic and Social Council; the Consultative Council of European Judges (CCJE); the European Commission for Democracy through Law (Venice Commission); the Committee of Ministers of the Council of Europe; the UN Human Rights Committee; the European Commission for the Efficiency of Justice (CEPEJ); the European Parliament and the Council of the European Union; the European Court of Human Rights (ECtHR), etc. (Council of Europe, 2022; CEPEJ, 2021).

Among the sources of the second group, a significant portion comprises international instruments adopted by the Committee of Ministers of the Council of Europe. Since 1976, the Committee has adopted 25 recommendations, resolutions, replies, declarations, and related documents addressing various issues, including: provision of free legal aid in civil, commercial, and administrative matters (1976); principles of civil procedure aimed at enhancing judicial efficiency (1984); measures to prevent and reduce excessive judicial workload (1986); effective access to law and justice for the most disadvantaged populations (1993); establishment and improvement of appeal systems and procedures in civil and commercial cases (1995); selection, processing, presentation,

and archiving of judicial decisions in legal information retrieval systems (1995); management of the criminal justice system (1995); review or reopening of certain cases at the national level following decisions of the European Court of Human Rights (2000); provision of judicial and other legal services to citizens using advanced technologies (2001); integration of the European Convention on Human Rights into university education and professional training (2004); role of prosecutors outside the criminal justice system (2012); protection of witnesses and individuals cooperating with judicial authorities (2022); protection of the rights of migrant, refugee, and asylum-seeking women and girls (2022); and rights, services, and support for victims of crime (2023) (Council of Europe, 2023).

A significant part of the sources of the second group is the opinions of the Consultative Council of European Judges (CCJE) to the Committee of Ministers of the Council of Europe. From 2001 to the present, the CCJE has adopted 26 opinions on various issues. It is enough to mention the documents for the last six years, namely: on the prevention of corruption among judges (2018); on the role of judicial assistants (2019); on the role of judges' associations in ensuring judicial independence (2020); on the evolution of judicial councils and their role in independent and impartial judicial systems (2021); on the freedom of expression of judges (2022); on the use of assistive technologies in judicial proceedings (2023) (CCJE, 2018, 2019, 2020, 2021, 2022, 2023).

## **TARGETED INTERNATIONAL RECOMMENDATIONS FOR THE REFORM OF NATIONAL JUSTICE SYSTEMS**

International sources that provide rules, suggestions, recommendations, advice, guidance, etc. to a particular state(s) to improve and enhance the functioning of its judicial system(s).

A striking example of an international source of this group is the 2010 Kyiv Recommendations on the Independence of the Judiciary in Eastern Europe, the South Caucasus, and Central Asia, which define international legal standards in the field of justice for clearly defined countries in these regions, based on the specifics of their historical, cultural, legal traditions and customs, as well as the consequences of being in the socialist camp or the former USSR. For example, the specifics of building the structure of the judiciary in such a way that it reflects the structure of the population as a whole were determined. In order to increase the representation of minorities in the judiciary, groups that are underrepresented should be encouraged to acquire the qualifications necessary to become a judge. Furthermore, no one should be subject to restrictions on the basis of belonging to a particular minority group, as stated in the Kyiv Recommendations (Kyiv Recommendations, 2010).

International standards developed by the European Commission for Democracy through Law (Venice Commission) are recommended to specific states for implementation within their national judicial systems, such as the Opinion on the Law on the Integrity of High Officials of Public Bodies and Elected Persons of Albania (2009), the Draft Opinion on the Law on Determining a Criterion for Limiting the Exercise of Public Office, Access to Documents, and Disclosure of Information on Collaboration with State Security Bodies (Lustration Law) of the former Yugoslav Republic of Macedonia (2012), and the Opinion on the Draft Criteria and Standards for the Election of Judges and Court Presidents of Serbia (2009). The Joint Opinion of the Venice Commission on the Law on the Constitutional Court of Poland (2016), the Joint Opinion of the Venice Commission and the OSCE ODIHR on the Constitutional Law on the Judicial System and the Status of Judges of the Republic of Kazakhstan (2001), and the Joint Opinion of the Venice Commission and the OSCE ODIHR on the Draft Amendments to the Regulatory Framework on the Disciplinary

Liability of Judges in the Kyrgyz Republic (2014) represent key international assessments of judicial reforms and constitutional frameworks in these respective countries (Venice Commission, 2009, 2012, 2014, 2016; OSCE ODIHR, 2001).

Since the onset of the 21st century, a series of international documents have emerged, aimed at establishing international legal standards specifically for Ukrainian judicial proceedings, including: the Joint Opinion of the Venice Commission on the Law of Ukraine "On the Judicial System and the Status of Judges" (2010); the Joint Opinion on the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine to Prevent Abuses of the Right to Appeal" (2010); the Joint Opinion on the Draft Law "On Amendments to the Law of Ukraine 'On the Judicial System and the Status of Judges' and Other Legislative Acts of Ukraine" (2011); the Opinion on the Draft Law "On Amendments to the Constitution of Ukraine Regarding the Strengthening of Guarantees of Judicial Independence" (2013); the Opinion on Proposals for Amendments to the Draft Law "On Amendments to the Constitution of Ukraine Regarding the Strengthening of Guarantees of Judicial Independence" (2013); the Interim Opinion on the Law of Ukraine "On Purification of Power" (Lustration Law) (2014); and Opinion No. 801/2015 – Joint Opinion of the Venice Commission and the Directorate of Human Rights of the Council of Europe on the Law of Ukraine "On the Judicial System and the Status of Judges" and Amendments to the Law of Ukraine "On the High Council of Justice" (Venice Commission, 2010, 2011, 2013, 2014, 2015).

Incidentally, the last international source mentioned above identifies many international legal standards that, if implemented in the Ukrainian and other national judicial systems, would indeed significantly increase public confidence in courts and judges. In view of the importance and urgency of the content, it seems appropriate to quote one of the provisions of this joint opinion in full. It seems reasonable to the Venice Commission and the Directorate that all judges should be proficient in the national language, but a provision that would exclude a significant part of the population from serving as jurors should be considered. The language issue raises delicate and complex issues not only in Ukraine but also in many other countries; it is difficult to address them in the context of the Law on Judicial Procedure as a secondary issue. Therefore, the language issue should be carefully studied and considered in a separate special law, taking into account more practical and constructive solutions that can ensure effective access to justice for everyone (Venice Commission & Directorate of Human Rights, 2015).

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# INTERNATIONAL LEGAL STANDARDS AS A SYSTEM OF NORMS, PRINCIPLES AND RECOMMENDATIONS THAT REFLECT THE DIRECTIONS, COMPETENCE AND SPECIFICS OF NATIONAL JUDICIAL AND OTHER LAW ENFORCEMENT AGENCIES

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## **Abstract**

The article examines international legal standards as a complex and systemic phenomenon regulating the activities of national judicial and law enforcement agencies. Based on a comparative legal analysis, it outlines two main groups of international standards: those enshrining human rights and freedoms, and those establishing professional and ethical behaviour for law enforcement officers. Particular attention is paid to how these standards are implemented in Ukrainian legislation through national codes of ethics and statutory provisions. The study also identifies systemic gaps, such as the absence of formalised ethical frameworks for intelligence and security agencies. Emphasis is placed on the role of international instruments, such as the European Code of Police Ethics and Amnesty International's Ten Basic Human Rights Standards for Law Enforcement Officials, in shaping ethical norms. The article concludes that the development of clear, enforceable ethical codes based on international standards is a vital sign of democratic maturity and the effective functioning of Ukraine's law enforcement system.

**Keywords:** international legal standards, professional ethics, law enforcement, police ethics, human rights, judicial conduct, international instruments, Ukraine, codes of conduct, democratic governance

## **THEORETICAL FOUNDATIONS OF INTERNATIONAL LEGAL STANDARDS IN LAW ENFORCEMENT**

The consideration of international legal standards from a systemic perspective has gained attention of legal scholars. There are some articles in which international standards are considered independent systems in relation to the activities of a particular judicial or law enforcement body or a particular area of professional legal activity, such as advocacy or notary work, etc.

In this regard, Shandula examines the system and sources of international law in relation to international standards of organisation and activities of the Bar. The author notes that "the system of international standards of the legal profession consists of principles and rules in the following areas: access to lawyers and legal aid; special guarantees for lawyers; qualification and training of lawyers; duties and responsibilities of lawyers; guarantees of lawyers' activities; freedom of expression and association; professional associations of lawyers; disciplinary sanctions and disciplinary proceedings". The author adds that international standards for the bar should be considered in conjunction "with the

international standards of related legal institutions in the field of justice - the judiciary and the prosecution (our italics author)" (Shandula, 2022).

Kuchynska and Tsyhaniuk, supported by Khmelevska and Garmatyuk, claim that the system of international human rights standards in criminal procedure of Ukraine is characterised by certain features: a) a person is the main element of the standards; b) the reason for the implementation of international standards is the protection and defence of his or her rights and freedoms; c) international standards are contained in the international treaties ratified by the Verkhovna Rada of Ukraine, namely, in treaties that determine the legal status of a person in criminal procedures; d) the system is dynamic because it can be supplemented with new standards due to the development of generations of human rights; e) the system cannot be classified according to the criteria of substantive or procedural law as it comprehensively contains their norms; f) the system of international human rights standards in criminal procedure provides for its compliance with the Criminal Procedural Code of Ukraine and other laws of Ukraine that contain criminal procedural norms (Kuchynska & Tsyganyuk, 2019; Khmelevska & Garmatyuk, 2020).

When researching the issue of international standards of the rights of convicts and detainees in relation to persons who have committed transnational crimes, Popko does not use the word "system", but speaks of the formation of minimum standards for the treatment of convicts and detainees. In other words, he regards the set of "minimum standards" as the elements of an independent system that forms and represents international standards of the rights of convicts and detainees. Having counted more than thirty international legal documents detailing general principles and directly relating to convicts, Popko concludes that "the number of such documents requires systematisation, possibly in the form of codification, which would facilitate comprehensive coverage of the issues of detention and treatment of convicted and imprisoned persons". Thus, he outlines the set of international standards of the rights of prisoners from a systemic perspective and includes the elements of this system as components of the implementation mechanism: relevant legal norms (international and national legislation), national institutions (e.g., the State Department for the Execution of Sentences, the Ombudsman), national legal means (e.g., adaptation of legislation to the international obligations of the state), forms of implementation (adoption of domestic legal acts or authorisation of international legal norms), etc. (Popko, 2018).

## **CLASSIFICATION AND ROLE OF INTERNATIONAL LEGAL STANDARDS IN LAW ENFORCEMENT PRACTICE**

It is necessary to mention that there is a certain system of international legal standards covering the entire array of international documents for the organisation and implementation of the activities of each national judicial or other law enforcement agency, signed by national legislative bodies. They enshrine norms, principles, and recommendations for their implementation in national legislation. In other words, the system combines mandatory or recommended normative minimums of the legal status of each body or legal prescriptions for legal profession (Shandula, 2022; Kuchynska & Tsyganyuk, 2019). Therefore, it is essential to examine the system of international legal norms, principles, and recommendations that form the regulatory basis of national judicial and law enforcement agencies. Consequently, two groups of international standards are distinguished. The first group includes international legal acts that proclaim human rights

and freedoms, particularly those that may be violated by unethical behaviour of law enforcement officers as representatives of state bodies (Amnesty International, 2011). The second group is represented by international legal standards of professional and ethical behaviour of employees of a particular law enforcement agency, indicating the proper behaviour of law enforcement officers in judicial, prosecutorial, police, operational, and investigative actions, etc. (Council of Europe, 2001; CCPE, 2018; Prosecutor General's Office, 2017). The main emphasis is placed on the need to establish the rules of professional ethical behaviour for all law enforcement agencies, including those with special rights and competence (Berendieieva, 2016; Ministry of Internal Affairs of Ukraine, 2016; 2018; 2024).

Having analysed the international legal standards, Ukrainian legal acts, and the scope of academic research, this study focuses on the regulatory basis for national law enforcement agencies that can only be a system of constantly changing international legal norms, principles, and recommendations (Kuchynska & Tsyganyuk, 2019; Khmelevska & Garmatyuk, 2020). This study is aimed to identify the prospects for developing and improving the existing codes of ethics of professional conduct for judicial and law enforcement officers in Ukraine. As a starting point for further considerations, it is assumed that in a democratic state there is an objective regularity of the comprehensive influence of the system of international legal standards on the regulatory basis for national judicial and law enforcement agencies. At the same time, national historical, cultural, and legal traditions should be taken into account. In our opinion, international standards should be adopted harmoniously to the national legislative specifics. No international document that contains standards in the form of norms, principles and recommendations should claim to be supranational. However, if it contains imperative norms, they are implemented by the state by virtue of the fact that the international act was signed by its authorised representative and ratified by the legislative body of the state (Verkhovna Rada of Ukraine, 1996; Supreme Court of Ukraine, 2015). Thus, it can be stated that this is how the management algorithm for the implementation of international legal standards in the national legislation of Ukraine was developed.

Generally, international legal standards of national law enforcement systems consist of the rules of law enforcement organisation provided for in international law, the rules governing the organisation and activity of each judicial or law enforcement body (Malimon & Shevchenko, 2015; Volosheniuk, 2019). Regarding national judicial and law enforcement systems, international legal acts enshrine the basic principles, forms, and methods of their functioning, develop standards and benchmarks of guarantees of human and civil rights and freedoms, and recommend them to the legislative bodies. That is why the recognition of international legal acts, ratification, and implementation of their provisions in national legislation is one of the obligations assumed by Ukraine before the international community. Accordingly, Article 9 of the Constitution of Ukraine declares that international treaties in force that were ratified by the Verkhovna Rada of Ukraine are part of the national legislation of Ukraine. International treaties that do not contradict the Constitution of Ukraine are binding on all legal entities and individuals (Verkhovna Rada of Ukraine, 1996).

It should be noted that the number of law enforcement agencies may vary from a state to a state, depending on internal and external circumstances. They include the judiciary, prosecutors, state security and border authorities, criminal justice and law enforcement agencies, intelligence and counterintelligence agencies, etc. This also applies to law enforcement activities, namely: judicial functions, prosecutorial supervision, operational

and investigative activities, state border protection, intelligence and counterintelligence activities, etc. Thus, these standards can be taken from international legal acts as certain rules or benchmarks for each body and each area of its activity (Korystin, 2017; Bilas, 2016). For example, regarding police activities in the area of property rights protection, three groups of international legal acts can be classified as international standards as follows:

1. regulating the right to property (Universal Declaration of Human Rights of 1948 (Article 17), UN Convention relating to the Status of Refugees of 1951, Convention relating to the Status of Stateless Persons of 1954, International Convention on the Elimination of All Forms of Racial Discrimination of 1965, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families of 1990, etc.) (Amnesty International, 2011);
2. regulating the protection of property rights at the regional level (Protocol No. 1 to the European Convention on Human Rights and Fundamental Freedoms clarifies the legal understanding of property rights in comparison with Article 17 of the Universal Declaration of Human Rights, expanding the scope of possible application of this norm of international law) (Council of Europe, 2001; Supreme Court of Ukraine, 2015);
3. interpreting and applying the European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols in relation to the protection of property rights (in accordance with Article 32 of the ECHR, the European Court of Human Rights decisions extend to all cases of interpretation and application of the Convention and its protocols) (Supreme Court of Ukraine, 2015).

## **STRUCTURE AND TYPOLOGY OF INTERNATIONAL LEGAL ACTS IN LAW ENFORCEMENT**

Hence, international standards of police activity in relation to administrative and legal protection of property rights are a system consisting of universal and regional standards of human rights protection, international standards of property rights protection, standards of police activity, and standards of administrative activity (Marusiak & Pavliuk, 2020). International standards of the observance and guarantee of human rights in the activities of law enforcement agencies are organised similarly.

The first group of acts includes those that define general standards of behaviour of law enforcement officers in various situations related to combating offenses, detention of offenders, custody, execution of sentences, etc. It includes the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Final Document of the Vienna Meeting of the Representatives of the States Parties to the Conference on Security and Cooperation in Europe (1989), the Charter of Paris for a New Europe (1990), the Documents of the Conference on the Human Dimension of the Conference on Security and Cooperation in Europe (1990, 1991), the European Convention for the Protection of Human Rights and Fundamental Freedoms (1950), the Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1955) (Amnesty International, 2011; Supreme Court of Ukraine, 2015; Kuchynska & Tsyganyuk, 2019).

The second group includes acts that directly regulate the behaviour of officials, such as the *Code of Conduct for Law Enforcement Officials*, adopted by the UN General Assembly in 1979; the *European Code of Police Ethics*, adopted by the Committee of Ministers of the Council of Europe on September 19, 2001 (Council of Europe, 2001); and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990 (Amnesty International, 2011). The third group includes judgments of the European Court of Human Rights in cases of citizens whose rights were unlawfully restricted by actions or inactions of internal affairs officials.

Furthermore, smaller international standards can be singled out within these three groups. For example, the first group also includes international legal standards of police activity to combat torture such as the *Universal Declaration of Human Rights* (1948), the *European Convention for the Protection of Human Rights and Fundamental Freedoms* (1950), the *Declaration on the Protection of All Persons from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1975), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* (1985), the *European Prison Rules* (1987), and the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (1987) (Amnesty International, 2011; Supreme Court of Ukraine, 2015).

The second and third groups contain acts that directly regulate the behaviour of officials, for instance, the *Code of Conduct for Law Enforcement Officials* (UN, 1979); the *European Code of Police Ethics* (Council of Europe, 2001); and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Amnesty International, 2011). They also include ECHR judgments in cases of citizens who have been subjected to torture or other inhuman treatment by law enforcement officials.

This research is focused on the second group of international legal acts, which contain standards for further development and adoption of national legal acts in the form of codes (rules) regulating professional and ethical conduct of judicial and law enforcement officials.

## **IMPLEMENTATION OF ETHICAL STANDARDS IN UKRAINIAN LAW ENFORCEMENT BODIES**

The functioning of any judicial or law enforcement agency is determined by the professional activities of its employees, which are carried out within the limits of the competence established by law. One of the key prerequisites for their effectiveness is compliance with international legal norms and principles, which are inviolable and universal standards of law enforcement. Until a country ratifies relevant international instruments, the impact of international legal standards on the organisation and operation of law enforcement agencies is limited. In contrast, the historically established legal traditions of the state and generally accepted ethical ideas about the professional activities of the law enforcement agency prevail.

However, with the establishment of the state as a bearer of democratic values and a guarantor of respect for human and civil rights and freedoms by law enforcement agencies and the ratification of international conventions, codes, agreements, rules, and

recommendations, the role of international legal norms and principles as standards in national legislation on law enforcement agencies is growing. These norms begin to dominate the legal system of the state. This trend is reflected in Article 9 of the Constitution of Ukraine, which recognises international treaties ratified by the Verkhovna Rada of Ukraine as part of national legislation (Verkhovna Rada of Ukraine, 1996).

On the contrary, ethical rules as standards of recommended behaviour can be considered mandatory for law enforcement agencies. In this regard, Volosheniuk notes that “it is useful to recall one of the so-called Thompson’s paradoxes: although ethics sometimes seems less important than all other issues but since it indirectly affects all decisions made, it ultimately turns out to be the most important one”. He confirms that in recent decades, formalised ethical norms have found a concentrated expression in various codes relating to the activities of certain categories of civil servants. The need to codify the basic ethical requirements for representatives of various branches of government is attributed to the need to ensure effective public administration, unify ethical requirements for officials, minimise the risks associated with conflicts of interest and other possible abuses of office, and strengthen public trust. The code of ethics plays the role of a moral navigator in the complex socio-cultural conditions of today (Volosheniuk, 2019).

Similarly, Malimon and Shevchenko note that a characteristic trend of modern social life is designing and approving value-normative documents, i.e., ethical codes. Since the late twentieth century, the rapid rehabilitation of normativity, associated with the institutionalisation of moral evaluation criteria, has acquired a trait of a special ethical codification. They assert that the contextualisation of ethical codes is now quite relevant for the modernisation of the public administration system when reforming the civil service in Ukraine (Malimon & Shevchenko, 2015).

Therefore, it is impossible to develop national ethical codes of conduct for law enforcement officers without previously established international legal standards, i.e., without certain international acts (conventions, recommendations, codes, etc.) that reflect the concentrated experience of proper conduct of law enforcement officers in the form of norms, principles, recommendations. For example, the regulation of police professional ethics in Ukraine is carried out by the Constitution of Ukraine, laws of Ukraine, regulations of central state bodies, and departmental regulations (orders, instructions, orders of the Ministry of Internal Affairs of Ukraine, etc.).

Nevertheless, Berendieieva underlines that international standards are the basis of regulation of police professional ethics in Ukraine. Given the tendency to the unification (equalisation, harmonisation) of legal norms and the globalisation of legal processes, it is appropriate to start the analysis of police ethics with international standards. Although in the legal hierarchy international acts are lower than the Constitution of Ukraine and have less legal force, they form the basis for national legislation. In other words, the laws of Ukraine are created taking into account these international norms (Berendieieva, 2016).

In this regard, Berendieieva classifies all international legal acts that form the legal basis of police professional ethics into two groups. The first group contains international legal acts that proclaim human rights and freedoms, including those that may be violated by unethical behaviour of law enforcement officers, such as the Convention for the Protection of Human Rights and Fundamental Freedoms (ratified by Ukraine in 1997), the International Covenant on Civil and Political Rights (ratified by Ukraine in 1973), and the Convention against Torture and Other Cruel, Inhuman or

Degrading Treatment or Punishment (ratified by Ukraine in 1984). The second group includes international legal standards of professional ethics of police officers, which indicate the proper behaviour of law enforcement officers (Code of Conduct for Law Enforcement Officials, 1979; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, 1990; European Code of Police Ethics, 2001) (Berendieieva, 2016).

The provisions of international legal acts forming the legal basis for police professional ethics are reflected in the Constitution of Ukraine. Thus, Article 3 proclaims that a person, his/her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value. Article 28 establishes that everyone has the right to respect for his/her dignity, and that no one shall be subjected to torture, cruel, inhuman or degrading treatment or punishment. Article 62 declares the presumption of innocence, while Article 63 exempts a person from liability for refusing to testify against himself/herself, members of his/her family and close relatives (Verkhovna Rada of Ukraine, 1996).

In addition, the professional ethics of police officers is also enshrined in the laws of Ukraine “On the National Police of Ukraine,” “On Prevention of Corruption,” and “On the Disciplinary Statute of the Internal Affairs Bodies of Ukraine.” Moreover, the regulatory acts of central state bodies provide for rules of conduct of police officers. For example, the Resolution of the Cabinet of Ministers of Ukraine of 11 March 2020 No. 211 “On prevention of the spread of COVID-19 acute respiratory disease caused by the SARS-CoV-2 Coronavirus” and the Resolution of the Cabinet of Ministers of Ukraine of 29 December 2021 No. 1456 “On approval of the procedure for checking documents of persons, inspection of things, vehicles, luggage and cargo, office premises and housing of citizens in ensuring the measures of the legal regime of martial law,” which authorise police officers to check a person’s documents.

Lastly, departmental regulations such as orders and instructions of the Ministry of Internal Affairs of Ukraine also establish rules of professional ethics. At the same time, these departmental regulations most often prescribe the rules of professional ethics for employees of a particular police agency—for example, the *Rules of Ethical Conduct for Police Officers*, approved by Order of the Ministry of Internal Affairs of Ukraine No. 1179 of 09.11.2016 (Ministry of Internal Affairs of Ukraine, 2016), or the *Rules of Ethical Conduct of Employees of the State Emergency Service of Ukraine*, approved by Order No. 932 of 16.11.2018 (Ministry of Internal Affairs of Ukraine, 2018). However, these legal acts do not contain direct or purely technical transfers of specific wording from international documents, such as the *European Code of Police Ethics* (Council of Europe, 2001). Despite the presence of the phrase “police ethics” in the title of the latter, its content is focused not so much on ethical standards of behaviour of police officers as on defining key, fundamental principles of organisation and functioning of national law enforcement institutions with police competences.

Moreover, the *European Code of Police Ethics* provides a full range of legal frameworks that can be used to govern the activities of any police agency that meets democratic standards, namely: objectives; a legal basis; a role of the police in the criminal justice system; police structures; qualification, recruitment, training and motivation of police officers, their rights and obligations; guidelines for the conduct of operational and investigative activities (operations); tactical methods of arrest or detention; responsibility of the police and control over its activities by state structures; conducting research of law enforcement and global cooperation. The most significant aspects of this Code are that each of the standards is accompanied by detailed comments that explain and interpret the standard based on the

collected and scientifically analysed positive experience of police agencies of the Council of Europe member states (Council of Europe, 2001).

However, the Code is not a set of fixed and dogmatic rules. At the end of the Code, there is a provision that directs nation states to work steadily and continuously to improve international legal standards: "First, the code is a basic text which should be complemented with other Council of Europe legal instruments targeting specific topics more in depth. Second, an intergovernmental structure within the Council of Europe could be a useful basis for furthering police matters in member states. Considering that the police in all member states are bodies closely associated with the criminal justice systems and their activities are mainly related to law and order, crime prevention and crime control, follow-up action should preferably be considered in such a context. The knowhow and expertise built up with regard to police ethics, criminal justice, the individual's fundamental rights, and the rule of law, could in such a way be maintained in the future within the Council of Europe" (Council of Europe, 2001, p. 72).

Hence, it can be claimed that there is an extensive and comprehensive system of international legal standards and principles that regulate law enforcement activities carried out by national police structures. This system includes two groups of standards. The first group is concentrated on international legal acts that proclaim and define human rights and freedoms, including those that may be violated by unethical behaviour of law enforcement officers. Thus, almost all professional activities of a police officer are related to human rights and freedoms because police officers maintain contacts with people. While on duty and acting on behalf of the state, they are obliged to act only on the basis, within the powers and in the manner provided for by the constitution and laws of the state. Unlike an ordinary citizen, representatives of a police agency may not do anything that is not prohibited by law while on duty. They must perform their duties strictly in the manner prescribed by law, including the rules of ethical behaviour. In this case, international legal standards of the second group should be applied, which prescribe the algorithm of police officers' actions in standard situations of contact with individuals, citizens, offenders, and criminals.

Therefore, the question arises as to how a police officer should act in a particular situation if the rules do not specify the ways to resolve it and options for lawful behaviour. Such legal incidents, or rather gaps in the rules of ethical behaviour of police officers, cannot exist. The rules should be developed in such a way that they fully cover all possible standard situations that a law enforcement officer might face while on duty. However, if a police officer faces such a situation, he or she should exercise his or her powers based on the general principles of police or law enforcement activities.

In this sense, this research adopts the law enforcement models suggested by Bilas. Accordingly, the standard situation looks like an abstraction that accumulates previous positive experience of police behaviour. In other words, the law enforcement model is a conceptual model of potential future professional behaviour, requiring lawyers to clearly establish it in the form of rules of professional ethical behaviour of a police officer. Meanwhile, such a model requires the representatives of law enforcement agencies preliminary assimilation and practical mastery in order to be effectively used in typical situations that arise during the performance of official duties. Thus, analysing the main typical models of law enforcement of the EU countries, Bilas defines the model of law enforcement as "a system of norms and principles that form the basis of regulation of law

enforcement, the subject composition and areas of this activity, the objects it is aimed at, the forms and methods of its implementation” (Bilas, 2016).

Furthermore, Korystin defines the law enforcement models more fully and reasonably, referring to the work of Bell Peter and Congram Mitchell. Thus, there are five models of policing: traditional policing; community policing or community-oriented policing; problem-oriented policing; computer statistical model (CompStat); and intelligence-led policing (ILP) (Korystin, 2017). All aspects related to professional ethical standards that police officers must adhere to in the performance of their duties belong to the traditional policing model. In particular, this refers to the reactive and incident-based style, in which police officers respond to offences and provide services in response to citizens’ requests. This approach includes responding to calls, receiving complaints, patrolling public places to demonstrate police presence, and solving crimes that have already occurred or are in the process of being committed (Korystin, 2017). Therefore, the policing model should be clearly and fully defined in ethical behaviour rules. Moreover, the implementation of certain measures pertaining to the model through constant training will guarantee full compliance with human rights and freedoms by police officers in specific real-life situations. Similarly to policing, rules of ethical behaviour should be developed for employees of other national law enforcement agencies on the basis of international legal standards.

In the following considerations, the starting point is that the system of law enforcement includes not only a set of judicial institutions, but also all law enforcement and security agencies with special tasks, functions, and competences enshrined in national legislation. These bodies include the prosecutor’s office, the National Police, tax police units, the State Bureau of Investigation, the border guard service, security and foreign intelligence agencies. The composition and structure of the law enforcement system in each country varies depending on the domestic political situation and the foreign policy context in which the country operates.

Professional ethics and behaviour of judges are regulated by a wide range of European and international standards (Supreme Court of Ukraine, 2015). Among them, the *Bangalore Principles of Judicial Conduct*, approved by UN Economic and Social Council Resolution No. 2006/23 of July 27, 2006 and the *Conclusion No.3 (2002)* of the Consultative Council of European Judges on the principles and rules governing the professional conduct of judges in ethics, incompatible conduct and impartiality (Strasbourg, 19 November 2002, document No. CCJE (2002) Op. No.3). These international legal acts were taken into account in the formation of a national approach to the regulation of judicial ethics, in particular during the development of the *Code of Professional Ethics of a Judge*, approved by the V Congress of Judges of Ukraine on October 24, 2002 (Verkhovna Rada of Ukraine, 2002).

Similarly, international legal standards of prosecution define the status of prosecutors and their professional and ethical behaviour. In this regard, the major document is the *Opinion No. 13(2018) of the CCPE: “Independence, accountability and ethics of prosecutors”* (Consultative Council of European Prosecutors, 2018). In particular, this document explicitly states that “the ethical rules of prosecutors’ behaviour should preferably be determined by law and take the form of codes of ethics that are prepared and promulgated by national statutory and/or disciplinary bodies, such as the Councils of Judges or Prosecutors. When developing such national ethical codes, it is necessary to consider the relevant international documents” (Consultative Council of European Prosecutors, 2018). Thus, the development

and adoption of the *Code of Professional Ethics and Conduct of Prosecutors* by the All-Ukrainian Conference of Prosecutors of 27.04.2017 can be considered a direct implementation of this standard (Prosecutor General's Office, 2017).

The current legal reality in Ukraine demonstrates a different trend, i.e., along with traditional law enforcement agencies with special competence in judiciary, prosecution, and policing, there is a gradual formalised consolidation of ethical standards in the form of codes of professional ethics for a wide range of categories of civil servants involved in ensuring national law and order. In particular, a number of documents have already been introduced at the regulatory level such as the *Rules of Ethical Conduct for Employees of the Ministry of Justice of Ukraine and Its Territorial Bodies* (Ministry of Justice of Ukraine, 2017); the *Rules of Ethical Behaviour of Employees of the State Institution "Main Medical Centre of the Ministry of Internal Affairs of Ukraine"* (Ministry of Internal Affairs of Ukraine, 2024); the *Rules of Ethical Behaviour in the Bodies of the State Tax Service* (State Tax Service, 2019); and the *Code of Conduct for Employees Whose Functional Responsibilities Include Border Management* (Ministry of Internal Affairs of Ukraine, 2011).

Despite the coverage by ethical rules of the entire sphere of ensuring national law and order, the activities of civil servants of such law enforcement agencies as the Security Service of Ukraine and intelligence agencies of Ukraine remain out of sight. In part, their ethical behaviour is regulated by the Law of Ukraine *On the Prevention of Corruption* (Verkhovna Rada of Ukraine, 2014) and the *General Rules of Ethical Conduct for Civil Servants and Local Government Officials* (National Agency of Ukraine on Civil Service, 2016).

However, these legal acts define only the general duties of a civil servant and do not reflect the full range of professional activities of special services employees. According to the Laws of Ukraine *On the Security Service of Ukraine* and *On Intelligence*, intelligence officers have broad powers to conduct a number of clearly defined operative investigations against persons and citizens, intelligence and counterintelligence measures, during which human rights and freedoms may be violated by unethical behaviour by representatives of special bodies. Hence, attempts were repeatedly made to develop normative rules of conduct for security service employees. For example, the *Decree of the President of Ukraine No. 92/2010 "On Approval of the Annual National Program for 2010 to Prepare Ukraine for Membership in the North Atlantic Treaty Organization"* declares the need to develop and approve a *Code of Professional Ethics for Employees of the Security Service of Ukraine* (President of Ukraine, 2010). In addition, a draft *National Code of Intelligence Ethics* was prepared with the participation of domestic and international experts and submitted for public discussion. However, as of today, neither the *Code of Professional Ethics for Employees of the Security Service of Ukraine* nor the *National Code of Intelligence Ethics* has entered into force.

## **INTERNATIONAL POLICE STANDARDS AND FUTURE PROSPECTS FOR UKRAINE**

Given the presence in different countries of law enforcement agencies that differ in their functional purpose, and taking into account their actions regarding the protection of human rights and freedoms within the framework of international law, through the efforts of the international legal community, police representatives, independent experts, and the international human rights organisation Amnesty International, ten basic standards of

human rights, called International Police Standards, were formed. These standards are mandatory for all law enforcement officers regardless of jurisdiction. As evidenced by explanations and comments to the document, these standards are created to increase awareness of law enforcement agencies among government officials, parliamentarians, media representatives, and non-governmental organizations. The document notes that these ten fundamental provisions should become an integral part of police education and practice, while law enforcement institutions should use them as a starting point for developing internal instructions, training personnel, and monitoring the police officers' behavior (Amnesty International, 2011, p. 4).

In order to demonstrate the level of implementation of international standards in the national legislation of Ukraine, it is advisable to provide ten basic standards (in the author's translation). They are almost completely reflected in the provisions of the Law of Ukraine "On the National Police", with minor exceptions (in particular, Standard 9).

- **Standard 1** – everyone has the right to equal protection before the law, without discrimination on any grounds, violence or threat (Article 7, paragraphs 4 and 5 of the Law);
- **Standard 2** – all victims of crime should be treated with compassion and respect, their safety and confidentiality should be protected (Article 18, paragraph 1);
- **Standard 3** – the use of force is allowed only in cases of emergency and only to the extent that is minimally sufficient in accordance with specific circumstances (Articles 42–46);
- **Standard 4** – when taking measures to curb illegal but non-violent gatherings, law enforcement officials should refrain from using force. In case of termination of violent gatherings, the use of force is allowed only to the extent that is minimally necessary to achieve a legitimate goal (Article 45);
- **Standard 5** – the use of force that can cause death is allowed solely for the purpose of protecting one's own life or the lives of others (Articles 42–46);
- **Standard 6** – individuals cannot be detained without legal grounds provided by the current legislation. Detention is allowed only within the established legal procedures (Article 23);
- **Standard 7** – it is necessary to ensure that persons in custody have the right to contact their family members, and legal representatives and guarantee them the timely provision of the necessary medical care (Article 18);
- **Standard 8** – detainees should be treated humanely, refraining from any actions that could lead to torture or ill-treatment, regardless of the circumstances. It is also important to refuse to comply with any orders that may contribute to such actions (Article 7, paragraph 4);
- **Standard 9** – it is essential to avoid carrying out, giving orders or concealing extrajudicial executions or disappearances and refuse to carry out any orders leading to such actions (absent in the Law);
- **Standard 10** – it is necessary to inform the senior officer and representatives of the prosecutor's office about all cases of violation of these Standards. All possible measures should be taken to ensure proper investigation of these violations (Article 7, paragraph 4).

Consequently, it can be argued that almost all the basic standards, with the exception of the ninth, are reflected in national legislation. It can be assumed that when drafting a legislative act, the Ukrainian legislator believed that this principle implicitly followed from the

provisions of a number of articles, in particular those relating to the goals, objectives, principles, the rights, and obligations of police officers. However, it would also be advisable to consolidate this principle with a separate provision in Ukrainian legislation.

Hence, in addition to domestic constitutional and legislative acts, the regulatory basis of the national judicial and law enforcement agencies is constituted by international legal norms and principles, classified into two groups. The first group consists of international legal acts that proclaim human rights and freedoms, primarily those that may be violated by the unethical behaviour of law enforcement officers. The second group is represented by international legal standards of professional and ethical behaviour of employees of a particular law enforcement agency, the norms of which directly indicate the proper behaviour of law enforcement officers in a specific field of law enforcement activity (judiciary, prosecution, policing, investigative, etc.).

Finally, the unification of ethical requirements for representatives of each law enforcement agency minimises the risks associated with a conflict of interest, guarantees the prevention of possible abuse of power, enhances the citizens' trust, increases the effectiveness of all spheres of national law and order. Ethical codes of conduct act as a moral navigator in the complex socio-cultural conditions of the present. Therefore, in the future, it is necessary to establish the rules of professional ethical behaviour of employees of all law enforcement agencies, including those legally endowed with special rights and competence. This will be a significant sign of the democratic development of Ukraine.

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## SECTION 4. ECONOMY, SPACE AND POST-WAR RECONSTRUCTION

### UTILIZATION OF SPACE OBJECT RESOURCES: DISCUSSION, SOLUTIONS, PERSPECTIVES

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#### **Abstract**

The 21st century has witnessed rapid advancements in space technologies, bringing humanity closer to the colonization of near space within the Solar System. This goal is unachievable without the utilization of extraterrestrial resources, such as regolith, subsoil, gas, and water. However, the notion of "utilization" often overlaps with that of "appropriation," raising significant legal concerns in international law. The ownership, sovereignty, or privatization of celestial bodies remains a contentious issue among states, corporations, and individuals. This paper emphasizes the urgent need for legal reform in the realm of space activities to prevent future conflicts, including potential militarized disputes in space. The author aims to examine the development and legal frameworks of both international and Ukrainian legislation concerning the extraction and use of space resources, highlighting regulatory gaps and proposing directions for future modernization.

**Keywords:** space law, outer space, space resources, appropriation, sovereignty, regolith, international legal regulation, space colonization.

#### **INTRODUCTION**

Today, the exploration of outer space utilization is primarily conducted by countries with developed space infrastructure (USA, Russia, China, UAE, Israel, India, Japan, Great Britain, France), which have an interest in the space sector and are participants in international and other space programs, as well as private companies (Shyshka, 2018). At the very beginning of the space era of humanity, the leading states of the world laid the foundations for the legal regulation of space activities. Currently, the main international legal documents that define the legal regime of space objects are: the *Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies*; the *Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space*; the *Convention on Registration of Objects Launched into Outer Space*; the *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies*; and the *Principles Governing the Use by States of Artificial Earth Satellites for International Direct Television Broadcasting*.

The primary agreement defining the regime for the exploration and use of outer space and celestial bodies is the *Treaty on Principles Governing the Activities of States in the Exploration*

*and Use of Outer Space, including the Moon and Other Celestial Bodies* of 1967 (hereinafter – the Outer Space Treaty). Its first article stipulates that "the exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind." Furthermore, it proclaims that no country in the world has the right to appropriate any space objects. The rule of equality of all states is ensured, and discrimination against any countries in the exploration of outer space is prohibited. However, the "use of outer space" is not denied, which causes considerable attention to projects for the colonization of the Moon and Mars by both commercial entities and governments. Moreover, the mentioned document does not actually regulate the specifics of the peaceful activities of the participating states in the exploration of outer space, except that they must inform the UN Secretary-General, "as well as the public and the international scientific community," about the "nature, conduct, location and results of such activities" (Kulikpaeva, 2018).

## **ATTEMPTS TO DEFINE THE USE OF LUNAR RESOURCES IN THE 1979 AGREEMENT**

Attempts to update the understanding of the use of our natural satellite's resources were made by a number of UN member states in the *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies* of 1979. The document outlines several important provisions:

1. It provided for the regulation of situations where different parties simultaneously showed interest in the same area on the Moon, requiring them to "immediately inform the other State of the time and plans for its activities".
2. The agreement affirmed the freedom of scientific research by various states without "discrimination, on the basis of equality and in accordance with international law".
3. It stipulated that "States Parties may pursue their activities in the exploration and use of the Moon anywhere on or below its surface, subject to the provisions of this Agreement"; they could land spacecraft, place stations and installations, provided such activities did not hinder the activities of others.
4. The document declared that "the Moon and its natural resources are the common heritage of mankind", and therefore cannot be appropriated. The placement of any objects "shall not create a right of ownership" over lunar territories.
5. The agreement confirmed that States Parties retain jurisdiction and control over their personnel and ownership over equipment, vehicles, and infrastructure they place on the Moon.
6. Finally, it outlined plans to establish an international regime for the Moon's resources to ensure "orderly and safe development", "rational management", expanded usage, and "equitable sharing" of benefits, with special regard for developing countries and those who contributed to lunar exploration (Uhoda, 1979).

The *Agreement Governing the Activities of States on the Moon and Other Celestial Bodies* did not become a cornerstone document for the global community in regulating lunar activities.

Firstly, it encouraged its signatories to conduct space expansion with regard to the interests of non-participating countries, a position that did not align with the priorities of economically and technologically advanced states. Secondly, it failed to provide concrete mechanisms for resolving conflicts beyond general appeals to consultation and peaceful settlement, rendering it more declarative than enforceable. Thirdly, while the Agreement permitted states to place property on and below the Moon's surface and to remove lunar rocks for study and use, it explicitly denied ownership rights over these materials or territories, creating ambiguity in its interpretation. Fourthly, the Agreement restricted lunar activity to state actors alone, thereby excluding private enterprises, which are now among the primary drivers of space development.

To date, only thirteen states have signed and ratified the Agreement—none of which are central players in the modern lunar race. Ukraine, for example, is not among them. The ambiguity of many of the Agreement's provisions, humanity's technological advances in space exploration, and the emergence of the private sector as a spacefaring force necessitate a reconsideration of foundational space treaties and an update to the legal framework supporting scientific and economic activities beyond Earth.

Although both the Outer Space Treaty and the Moon Agreement declare that natural celestial bodies cannot be appropriated, the recognition of the right of first discoverers or developers to utilize such resources effectively contradicts the principle of non-appropriation. This legal "loophole" has prompted the development of national space legislation that implicitly or explicitly enables property rights in space. A prime example is the *US Commercial Space Launch Competitiveness Act* of November 2015, which permits American citizens to commercially explore and extract space resources, including water and minerals. While the Act maintains that the United States does not claim sovereignty or exclusive rights over celestial bodies, it grants U.S. nationals the right to appropriate and utilize resources from such bodies (U.S. Congress, 2015; Zadorozhnii, 2021, pp. 131–132).

The Treaty did not become a cornerstone document for the global community in regulating lunar activities. Firstly, it inclined its signatories to carry out space expansion taking into account the interests of outsiders in this process, which was not in the interests of economically and technologically powerful states. Secondly, it did not provide clear explanations on how to act in the event of conflict situations, other than arranging consultations and seeking peaceful means of settlement, which looks more like a wish than a regulation. Thirdly, while allowing the presence of state property on and below the Moon's surface, as well as the removal of its rocks for study and use by them, it still did not allow ownership rights, which led to ambiguity in the interpretation of the act. Fourthly, the role of a participant in the Moon's exploration was assigned only to states by the Agreement. Currently, only 13 states in the world have signed and ratified the Agreement; none of them are key players in the «moon race»; Ukraine is also not a signatory. The vagueness and imprecision of many formulations of this act, humanity's progress in the exploration of outer space, and the emergence of the private sector in this process over the specified period inevitably raise the question of revising the basic agreement of the world's countries on space, as well as updating the legal support for the scientific and economic expansion of outer space (Soglashenie, 1979; Uhoda, 1979).

As stated in both agreements, space objects of natural origin cannot be objects of ownership. However, the recognized right of the first discoverer and first developer to use them actually contradicts the thesis of the impossibility of appropriating discovered resources. Indeed, the existence of a legal «loophole» in the Outer Space Treaty led to the formation of national space

law, which effectively establishes ownership rights to space objects. Thus, in November 2015, the «US Commercial Space Launch Competitiveness Act» was passed in the United States, which allows «US citizens to engage in commercial exploration and exploitation» of space resources «[including ... water and minerals]». At the same time, the law states that the United States itself «does not assert sovereignty or sovereign or exclusive rights or jurisdiction over, or ownership of, any celestial body» (U.S. Congress, 2015; Zadorozhnii, 2021, pp. 131–132).

The existence of such a law increases the integration of private capital into the promising space industry, especially in the development of mineral resources beyond Earth. The interest of private capital is enhanced by the extraordinary prospects of enrichment even under conditions of significant investments in the extraction of natural resources at a distance of several astronomical units. In particular, the approximate value of asteroid 16 Psyche, rich in gold, iron, and nickel deposits, was estimated at US\$10,000 quadrillion in 2023, which is more than 75,000 times the value of the entire Earth's economy (Express, 2023). However, even much smaller M-type asteroids guarantee huge profits in the coming decades from the moment of their exploitation.

The example of the United States prompted other countries to begin modernizing their space legislation. Thus, in 2016, the Luxembourg parliament passed a law (which came into force on August 1, 2017) allowing private companies to mine minerals in space. This regulatory act establishes procedures for approving space mining projects, the order of commercial use of resources, and the principles of control over the implementation of projects. At the same time, unlike the law adopted in the United States, the document does not require Luxembourg enterprises to be controlled by Luxembourgish entities, but only to have a representation in the country. The act immediately transformed Luxembourg into one of the leading space powers in the world, as it enabled businesses to obtain permission from the country's government to use space resources provided they have an office in the Grand Duchy (Nihreieva, 2022, pp. 85–86). Similar laws were passed in the United Arab Emirates in 2019 and in Japan in 2021 (Drahan, 2024, p. 144; Nihreieva, 2022, p. 25).

This proved particularly important with the renewal of lunar exploration programs. Thus, on December 11, 2017, the 45th anniversary of the first human landing on the Moon, US President D. Trump signed «Space Policy Directive 1», aimed at resuming crewed missions to the Moon and also focused on further exploration of Mars. Two years later, he signed the «National Defense Authorization Act for Fiscal Year 2020», which approved the subsidizing of the «Artemis» program. However, the lack of funding (NASA's expenditures in 2020 amounted to 0.48% of the total US federal budget – \$22.629 billion, while the cost of just one lunar mission was \$30 billion) dampened hopes for a repeat of crewed flights in the spirit of «Apollo», which led, firstly, to the US government's proposal to involve private space companies in the program, and secondly, to transform «Artemis» into an international project (Soroka, 2020, pp. 287–288; Soroka, 2019, p. 82). Ultimately, on April 6, 2020, an Executive Order on Encouraging International Support for the Recovery and Use of Space Resources was adopted, establishing US policy regarding the exploration and extraction of minerals on the Moon and other objects in the Solar System, including through private entities (Zadorozhnii, 2021, p. 133).

In contrast to the «Agreement Governing the Activities of States on the Moon and Other Celestial Bodies», the specificity of the Artemis Accords lies in the combination of the political will of participating countries, government orders, and the execution of basic technical tasks by private companies. To this end, NASA, even before the signing of the Accords, launched the Commercial Lunar Payload Services program, aimed at attracting commercial firms to the exploration of the Moon. It involves the conclusion of fixed-price

contracts with NASA for payloads that need to be sent to the Moon. The company that receives the contract independently organizes the entire delivery process (Max Polyakov, 2022, January 12).

The Ukrainian side's direct conclusion of the Artemis Accords was preceded by the Verkhovna Rada of Ukraine's amendments on October 2, 2019, to the current Law of Ukraine «On Space Activities» (1996). It can be stated that in signing the agreement, the Ukrainian side was primarily guided by the «old» norms of Articles 4 and 17 of the Law of Ukraine «On Space Activities» (1996), which indicate our state's readiness for international cooperation, as well as Ukraine's right to «carry out its space activities on the principles of equality with other states, taking into account its national interests». In addition, the Law was supplemented by Articles 91 («Declaration on the Implementation of Economic Activities in the Field of Space Activities»), which opens up opportunities for the activities of private companies registered in Ukraine («a subject of space activity of Ukraine of private ownership») in the space sector, and 111, which regulates the functioning and subordination of space activity subjects to the central executive body that ensures the formation and implements state policy in the field of space activities (Verkhovna Rada of Ukraine, 1996). This opens up the possibility for Ukraine to implement the idea of public-private partnership, similar to what is observed in the United States. The current head of the space industry of Ukraine (SSAU) has already confirmed the participation of the Agency's business partners in «Artemis» (obviously, so far we are talking about foreign companies) (LB.ua, 2021, September 14).

The conclusion of the bilateral Accords took place at the LXXI International Astronautical Congress on October 13, 2020. They were concluded between the governments of the USA, Australia, Japan, Luxembourg, Great Britain, UAE, Italy, and Canada. Ukraine became the ninth state to join this list, signing the document a month later (November 13, 2020). At the same time, the Ukrainian side did not make proposals for amendments to the text of the agreement. The latter aims to «establish a common vision via a practical set of principles, guidelines, and best practices to enhance the governance of civil space exploration and use, with the intent of advancing the Artemis Program». According to its participants, this should increase the safety of operations, reduce uncertainty, and promote the sustainable and beneficial use of space for all humanity. The Accords are designed to ensure the practical functionality of the provisions of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (1967). This is also confirmed by the preamble to the Accords, which states that they are based on the desire to implement the provisions of the Outer Space Treaty and other relevant international documents. Thus, the Accords can establish political coherence of mutually beneficial practices for the future exploration and use of outer space, with an emphasis on measures taken in support of the Artemis Program (NASA, 2020, October 13; Kirpachova, 2020).

Each participating party must ensure the inclusiveness of the Accords' principles. The latter contain the following articles: peaceful exploration (peaceful purposes of outer space exploration); transparency (informing the public about the implementation of national space policy); compatible actions (in the creation of infrastructure, delivery systems); emergency assistance (rescue-evacuation-assistance to astronauts); registration of space objects; publication of scientific data (open exchange of scientific data – a norm that, however, does not apply to representatives of the private sector); preservation of space

heritage (historically significant landing sites of humans or robotic systems, spacecraft, and other artifacts of human presence on celestial bodies); space resources (their use will benefit humanity; at the same time, the extraction and use of resources must «be carried out in a manner that complies with the Outer Space Treaty; space resources cannot be appropriated by states; informing the UN Secretary-General and the public about activities related to the extraction / use of resources») (NASA, 2020, October 13). According to the definition of The Hague International Working Group on Space Resources Governance (November 2019), space resources are minerals and gases extracted from outer space, including on celestial bodies. Other provisions include deconfliction of space activities (recognition of the principles of the UN Outer Space Treaty; refraining from any intentional actions capable of causing harmful interference with the use of outer space; informing the participants of the agreements about actions that may harm a particular party; coordinating joint efforts with it to avoid obstacles; adherence to the principles regarding safety zones – areas where the activity of one / several parties takes place, agreed with other participants to prevent harmful impact; providing each other with the opportunity to use safety zones; adherence to safety rules for carrying out certain operations that should not harm the other party; respecting the principle of free access to all areas of celestial bodies); orbital debris (taking measures to reduce the release of debris into space, disposal of spacecraft at the end of their mission); final provisions (arranging regular consultations between the parties to establish cooperation and possible revision of the provisions of the Accords) (State Space Agency of Ukraine, 2020, November 13). At the same time, the original text of the signed Accords is kept by the US government and is not subject to registration with the UN. Thus, the United States does not entrust the United Nations with the function of depositary of the Accords.

In my opinion, the most significant aspects of the Artemis Accords are the emphasis on the possibility of using extraterrestrial resources and the establishment of the concept of «safety zones», which should be understood not only as a certain space of vacuum between solid objects but also as future bases on celestial bodies, including the Moon. Although the signatory parties consciously refrain from the «privatization» of extraterrestrial objects, the Accords do not regulate the prospects for the appropriation of resources by private entities, which, in fact, has been criticized by many specialists in the field of space law. Furthermore, the casuistry of the issue of access to safety zones will increasingly depend, according to M. O. Kirpachova, legal counsel for Space Logistics Ukraine, on the interpretation of the treaty clauses. For example, «when Subject 1 establishes a corresponding safety zone on a section of a celestial body, Subject 2's free access to this section, which seemingly exercises its right in accordance with paragraph 11, may be regarded by Subject 1 as harmful interference with its use of outer space. At the same time, Subject 1 may, in practice, engage in space activities in the same area of a celestial body for a rather long period, building the necessary infrastructure for the life and work of its personnel. Thus, if during this period the legislation on Earth changes, and the «Outer Space Treaty» for one reason or another loses its validity or relevant amendments are made to it, Subject 1 may acquire ownership rights to the structures and buildings located there, without acquiring ownership of the land under them, as is specifically defined by the institution of superficies in Roman law» (Kirpachova, 2020).

In addition, the relative vagueness and generality of certain provisions are surprising, which actually reduces the significance of the Accords to a declaration of intent (the division of responsibilities of the parties is not specified, there is no specific subject of the agreement, its term of validity, financial obligations of the parties, etc.). Finally, there is the problem of the lack of a sufficient legal basis for the appropriation of resources from celestial bodies, since the Outer Space Treaty, which clearly states that no national government has the right to appropriate outer space,

does not provide for the separation of the concepts of «outer space» and «extraterrestrial natural resources».

Even in the second half of the last century, some specialists expressed optimism regarding the «ownerlessness» of space and the possibilities of consuming its resources by both states and their citizens. In particular, P. Sterns, G. Steen, L. Tennen, and W. Jenks argued that the condition of the Outer Space Treaty regarding the prohibition of national appropriation of outer space equally applies to private companies, since if a state is prohibited from engaging in a certain type of activity, then it cannot authorize entities under its jurisdiction to engage in it. However, recently there has been an attempt by some states to circumvent the wording of the Outer Space Treaty. Indeed, this is what we observe in the example of the Artemis Accords. The latter, together with the adopted acts on the commercialization of space exploration, causes a wide discussion in the scientific community and at the level of international organizations regarding their compliance with the norms of international space law. According to Ukrainian scientist O. Nigreieva, «such commercial use of resources... does not correspond to the regime of the common heritage of mankind of outer space, giving it, instead of the status of *res communis*, that is, territories and resources that do not belong to anyone specifically because they are in common use and cannot be appropriated, the status of *res nullius*, that is, territories and resources that do not belong to anyone, and therefore can be appropriated according to the principle of primary acquisition» (Nihreieva, 2022, p. 25). All this intensifies the legal collision of the synthesis «no one's» – «one's own» in the context of the upcoming expansion of outer space, which will inevitably raise the question of the use / appropriation of the discovered, achieved, colonized world.

Ms. O. Nigreieva emphasizes that current international space law proceeds from the understanding of natural space objects that, as a form, they are not subject to appropriation, while their content can be appropriated by the user. This very approach is applied to the high seas, which is an international territory that cannot be appropriated, but whose resources can be used and appropriated by states, their citizens, or other private entities registered with them (Nihreieva, 2022, pp. 26–27). This resembles the development of the Wild West in North America, Patagonia, and Australia by European settlers, or the Wild Fields by Ukrainian migrants who used the right of “zaymanshchyna” (squatting).

O. Nigreieva not only states the legal collisions of the use of space resources but also, following some lawyers, proposes a way out of the situation, relying on the UN Convention on the Law of the Sea of 1982 in articles concerning the seabed. The parties could agree on the following principles:

1. the impossibility of proclaiming sovereignty over any part of the relevant territory;
2. the use of territories only for peaceful purposes;
3. joint management;
4. the distribution of profits from exploitation;
5. the protection of the common heritage object from degradation;
6. the ownership of rights to resources by humanity or the international community as a whole, taking into account the interests of future generations as well (Nihreieva, 2022, p. 28).

The author of this publication shares these views, because another scenario, in which “successful nations” will appropriate space objects, will lead to an even more blatant division of the world, while the exploration of space according to the principle “For All Mankind” will stimulate the economic and social development of all humanity, from which all earthlings

will benefit. Obviously, no other structure besides the UN is currently capable of coping with the task of a new international space treaty that is fair to all nations (Svitlychnyi, 2018, pp. 90–91).

## CONCLUSIONS

The lunar race is slowly turning Earth's natural satellite not only into an object for working out the technical aspects of the colonization of planets, satellites, and other objects in the Solar System, but also into a kind of “testing ground” for space law. In this process, we can distinguish three stages in the development of the latter:

1. the adoption of the Outer Space Treaty (1967) and the accession to it by the majority of the world's countries;
2. the approval by a number of countries of the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (1979);
3. the start of the Artemis Accords (2020), which, as of the summer of 2022, had been signed by 21 countries around the world (2020, October 13; 2020, November 13).

At the same time, the development period of both the Outer Space Treaty and the Artemis Accords coincided with a period of increased human attention to Earth's natural satellite, which led to their successful ratification. The provisions of the Law of Ukraine “On Space Activities” are based primarily on the norms of international space law, the cornerstone of which is the Outer Space Treaty itself (Zakon, 1996). However, in recent years, national space legislation has undergone changes precisely under the influence of the Artemis Accords. The latter lay the foundation for further law-making by the international community on the issue of the use of space object resources. At the same time, most of the principles of the Outer Space Treaty, the Agreement Governing the Activities of States on the Moon, and the Artemis Accords, such as the peaceful exploration of outer space, the transparency of the parties' intentions, mutual assistance, the accessibility of scientific research, the right of any state to carry out space expansion, etc., I am sure, will remain in force and will form the basis of subsequent acts.

The field of legal discussion opens up regarding the limits of the use / appropriation of space resources by states and subjects of the private sector of the economy (over time, a situation may arise when the right to use the resources of a celestial body transforms into ownership, as observed in the history of mankind in its use of the resources of its native planet) (Nihreieva, 2022, p. 25; Svitlychnyi, 2018, pp. 90–91). This has already influenced the introduction of changes in national space legislation, including that of Ukraine. Further agreements that will be concluded between the two sides, clearly stipulating their rights and obligations within such interaction, will be of decisive importance for cooperation between Ukraine and other space powers, especially the United States, in the deep space exploration program. Specialists in commercial law, private international law, international space law, and many other legal practices will need to be involved in the preparation and examination of such international treaties to prevent potential risks. In this regard, participation in the Artemis Accords allows confirming the readiness of counterparties for joint activities based on the principles outlined in the Agreement, including “open doors” for further negotiations and the conclusion of subsequent, more specific agreements. The harmonization of

international and national space law will create a solid basis for the implementation of selenopolitics by the governments of space powers, including Ukraine. In Ukraine, the legal regulation of space activities and space security currently needs improvement to meet the needs of the development of space activities and their various types. Therefore, Ukraine should follow the legislative activities in this direction of the United States, Luxembourg, and the UAE (Drahan, 2024; Soroka, 2020).

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# THE SYSTEMIC STRATEGIZING FOR POST-WAR RECONSTRUCTION OF UKRAINE'S TERRITORIES

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## Abstract

This monograph addresses the urgent need for a systematic approach to the post-war recovery of Ukraine's territories, focusing on strategic planning at regional and local levels. It presents theoretical foundations of systemic strategising within the framework of public administration and provides practical tools and methodological recommendations for restoring war-affected areas. The study integrates systems analysis, scenario planning, stakeholder mapping, and international best practices to guide strategic governance in volatile and uncertain environments. Through comparative analysis and modeling, the work emphasizes the significance of adaptive planning, digital tools, and evidence-based policymaking. The research concludes with specific models and instruments tailored for Ukrainian post-conflict contexts, offering actionable insights for government bodies, communities, and international partners involved in reconstruction efforts.

**Keywords:** Post-war recovery, systemic strategising, public administration, strategic planning, territorial development, reconstruction models, scenario planning, stakeholder analysis, Ukraine, resilience, governance, sustainable development, regional policy.

## INTRODUCTION

**Relevance of the topic.** The post-war restoration of territories is one of the most important tasks for a state that has survived an armed conflict. Ukraine is currently facing serious challenges related to large-scale destruction of infrastructure, social facilities, business and housing, as well as social and demographic losses (Shalal, 2025). A significant aspect of the effective recovery of the Ukrainian state is the development and implementation of a systematic approach to strategic recovery management. This approach should be adapted to the specific conditions of different territories, from the local to the regional level (UNDP, n.d.-a).

Territorial recovery strategies developed with systemic strategising allow not only to preserve economic and social stability, but also to become the basis for sustainable development in a post-conflict situation (Sakalasuriya, Haigh, & Amaratunga, 2018). Therefore, studying the theoretical and practical aspects of systemic recovery strategy is extremely important for successfully overcoming the consequences of war and restoring normal life at all levels of government.

**Purpose, objectives, object, and subject of the study.** The objective of this monograph is to develop theoretical, methodological, and practical recommendations on the application of

systemic strategising for the post-war restoration of Ukraine's territories, with a particular focus on regional and local levels of government.

To achieve this goal, the following tasks need to be solved:

1. To define the theoretical foundations of systemic strategising in the context of public administration.
2. To conduct a systematic analysis of the socio-economic and infrastructural challenges faced by the territories that have been destroyed.
3. To develop methodological approaches to the formation of a recovery strategy at the regional and local levels.

The object of the study is the processes of post-war restoration of the territories of Ukraine, which are carried out at the regional and local levels of government.

The subject of the study is the methods and tools of systemic strategising used to restore territories after armed conflicts, in particular to adapt to new realities and ensure sustainable development of the settlement.

## **METHODOLOGICAL BASIS OF THE STUDY**

The study is based on the general principles of a systemic approach that involves the integration of various elements and factors that affect the restoration of territories (OECD, n.d.). The methods used are system analysis, comparative analysis, case studies, and empirical methods, including document and data analysis, expert and focus group interviews (King, 2025; Lee, 2025).

## **PRACTICAL RELEVANCE**

The practical relevance of this work lies in the development of recommendations for local and regional authorities on the effective use of strategic planning mechanisms in the post-war recovery of territories. These recommendations are also expected to be useful for local communities, non-governmental organizations, and international partners involved in the restoration of the affected regions of Ukraine (UNDP, n.d.-b; World Bank, n.d.).

## **STRUCTURE OF THE MONOGRAPH**

The structure of this monograph is logically aligned with the purpose and objectives of the research. It consists of an introduction and three main chapters.

1. The **first chapter** addresses the theoretical and methodological foundations of systemic strategising in the context of public administration, highlighting the importance of strategic frameworks in governance and recovery management (Luther, 2024; OECD, n.d.).
2. The **second chapter** provides an analytical overview of the current challenges and opportunities related to the restoration of war-damaged territories through the lens of systemic analysis and planning tools such as SWOT and PESTEL analysis (BDC.ca, n.d.; WSU, n.d.).

3. The **third chapter** presents models of systemic strategising designed for implementation at the regional and local levels, including strategic scenario planning and stakeholder engagement techniques (Lee, 2025; Girot & Pérez de Madrid, 2020).

The monograph concludes with a summary of key findings and a reference section.

## **1. THEORETICAL AND METHODOLOGICAL FOUNDATIONS OF SYSTEMIC STRATEGISING FOR POST-WAR RECOVERY**

### **1.1. Categorical apparatus: ‘systemic strategising’, ‘post-war recovery’, ‘levels of public administration’**

The concept of *strategy* derives from the Ancient Greek word στρατηγός (*strategos*), originally meaning "army leader" in the Athenian polis, combining military leadership with political authority. Over time, this concept expanded beyond warfare and into other spheres of governance and management (Encyclopædia Britannica, n.d.).

The earliest systematic understanding of strategy can be traced back to *The Art of War* by Sun Tzu, written between the 6th and 5th centuries BCE. In this treatise, strategy is framed as the art of achieving victory with minimal losses. Sun Tzu emphasizes the significance of intelligence, the accurate calculation of time and space, and the tactical exploitation of an opponent’s weaknesses. The central maxim is: “Know your enemy and know yourself, and you will be able to fight a hundred battles without danger or defeat.” He also advocates for flexibility and unpredictability in decision-making as core strategic principles (Sun Tzu, n.d.).

In the 20th century, strategising evolved beyond the military realm. The establishment of the RAND Corporation in 1948 marked a turning point. As a research institution dedicated to long-term planning in the context of nuclear threats, RAND introduced systematic analytical methods to strategic foresight—methods that would eventually shape the foundations of strategic planning in both governmental and corporate settings (RAND, n.d.).

Hence, strategising has matured from an art rooted in ancient military practice into an institutionalized, interdisciplinary methodology of anticipatory governance and goal orientation. In its modern form, it serves as a guide for navigating complex systems under conditions of uncertainty and rapid change.

### **1.2. Theoretical foundations of strategising in public administration**

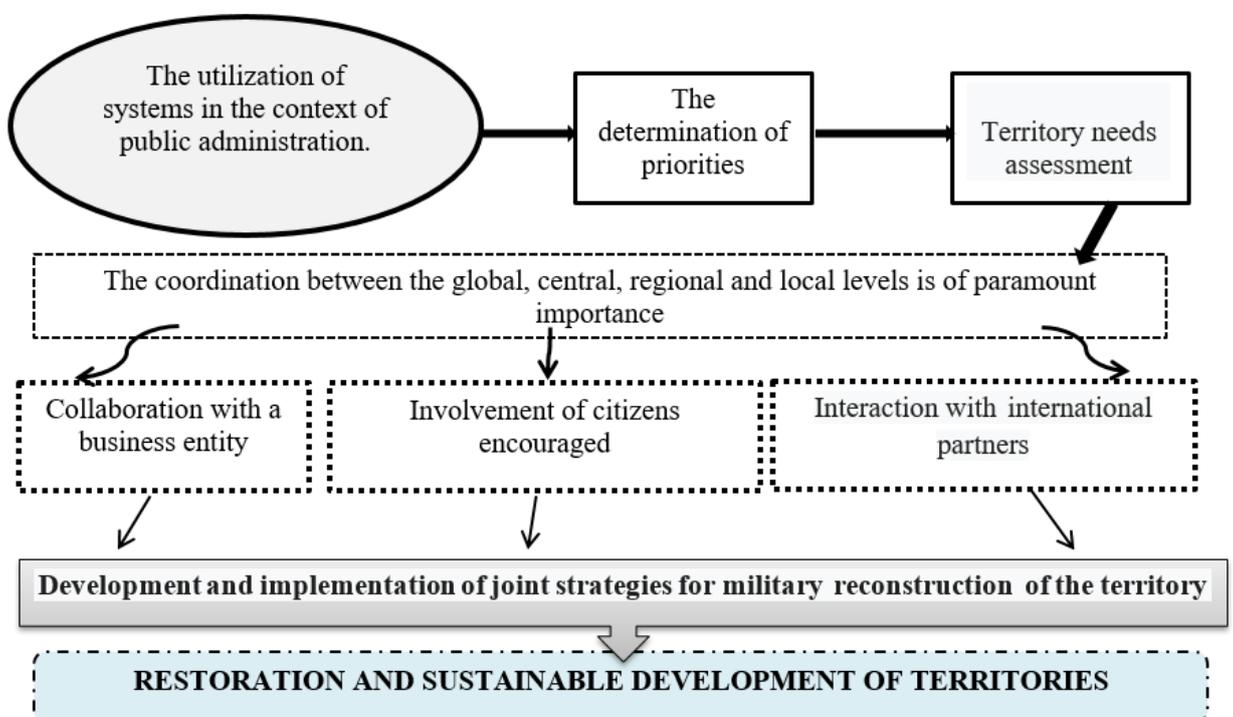
In today’s complex socio-political landscape, strategic planning has become a multidimensional system encompassing long-term goal-setting and implementation. This system accounts for the interdependence of global, national, regional, and local dynamics. A comprehensive strategy begins with defining a mission and strategic objectives, followed by an analysis of internal capabilities, scenario planning, and continuous outcome monitoring for feedback and adaptation (Luther, 2024).

Strategising in public administration requires a balance of flexibility and institutional stability. It must integrate technological advances and economic transformations into responsive governance structures. Scenario planning and adaptive foresight are therefore essential tools for mitigating the risks posed by volatile conditions (Lee, 2025). Effective strategic management also calls for coordinated actions across various levels of government, enabling the harmonization of local initiatives with broader regional and national objectives (OECD, n.d.; World Bank, n.d.).

As a result, systemic strategising is not merely a procedural mechanism but a collaborative tool that embraces complexity and change. Its foundation lies in participatory governance, empirical analysis, and the readiness to align innovation with public interest, making it indispensable for contemporary public administration and post-conflict recovery frameworks.

### 1.3. The application of management principles to the development of territories: a methodological approach

In the context of public administration, the use of GIS (Geographical Information System) plays a critical role in visualizing spatial data, especially when allocating and managing state resources in post-conflict environments. Local authorities and other entities involved in territorial governance are key actors in ensuring the systematic development and long-term management of affected regions. Their role is to coordinate multilevel efforts with public, private, and international partners to generate recovery strategies that are data-driven, locally responsive, and aligned with national priorities.



**Figure 1. Algorithm of Systemic Strategic Planning in Public Governance for Post-War Territorial Recovery**

**Figure 1** illustrates a conceptual algorithm of systemic strategic planning tailored to post-war territorial recovery. This phased model incorporates several critical components: environmental diagnostics, stakeholder mapping and engagement, goal formulation, resource allocation, implementation design, and iterative feedback mechanisms. A core feature of this approach is the harmonization of national and local strategies and the use of continuous monitoring for flexibility and adjustment throughout the recovery process.

The systemic approach is particularly vital in post-war conditions due to the complexity of social, economic, and environmental disruptions caused by conflict. Strategic planning under such conditions must be adaptive and territory-specific, recognizing the uniqueness of local needs and capacities. According to Lukianova, Holovach, and Zakryzhevskya (2023), this method enables public administration actors to formulate recovery strategies that are resilient, goal-oriented, and rooted in real territorial data.

To further support strategic coordination in post-conflict contexts, Table 1 presents a generalized public administration model adapted to the conditions of war-affected areas. The table emphasizes the need for structured analysis at the outset, enhanced intersectoral collaboration, and feedback loops that allow timely adaptation to dynamic internal and external environments. Each phase is supported by tailored characteristics relevant to post-war realities, ensuring contextual sensitivity and institutional responsiveness.

Table 1. Stages of Strategic Planning in Public Governance for Post-War Territorial Recovery

| Strategic Planning Stage                      | Stage Description   | Post-War Recovery Specifics  |
|---|---|--|
| 1. Situation Analysis                         | Collection, systematization, and evaluation of available data   | Assessment of destruction scale, humanitarian needs, and security risks; use of both local and international information sources |
| 2. Identification of Problem Areas            | Detection of critical dysfunctions in public administration, logistics, social services, and economic development | Development of problem area maps; application of systems analysis to reveal root causes  |
| 3. Formulation of Strategic Goals             | Definition of development priorities, overarching goals, and expected outcomes                                    | Emphasis on sustainable development, social cohesion, safety, and economic recovery  |
| 4. Development of Tasks and Tactical Measures | Specification of actions, performance indicators, responsible actors, and implementation timelines                | Adaptability to changing conditions; integration of digital governance tools and project management instruments                  |
| 5. Strategy Implementation                    | Execution of actions, resource mobilization, and coordination among stakeholders                                  | Importance of multilevel partnerships: state, regions, communities, international organizations, private sector                  |
| 6. Monitoring and Performance Evaluation      | Assessment of outcomes achieved and comparison with projected indicators  | Use of performance-based monitoring, community feedback mechanisms, and iterative strategy revision                              |
| 7. Strategy Adjustment                        | Updating based on newly emerging challenges and needs   | Flexibility of managerial decisions; application of scenario planning techniques   |

Following the end of the active phase of armed conflict, Ukraine faces the urgent challenge of comprehensive recovery across economic, social, infrastructural, and environmental domains. This process extends far beyond physical reconstruction—it requires rebuilding trust, fostering social cohesion, and ensuring long-term sustainable development.

Economic revitalization is a central pillar of the recovery agenda, focused on restoring businesses, supporting entrepreneurship, and revitalizing industrial capacity. It involves creating a favourable investment climate, promoting small and medium-sized enterprises, and deepening Ukraine's integration into the global economy. According to estimates by the World Bank, Ukraine's reconstruction and recovery needs are projected to total approximately \$524 billion over the coming decade, underscoring the immense scale and complexity of the country's recovery efforts (Shalal, 2025).

Social reconstruction focuses on restoring access to essential services such as education, healthcare, and housing, while also ensuring the continuity of social support systems and safeguarding vulnerable populations. Programs supported by the UNDP have played a vital role in rebuilding schools, hospitals, and other social infrastructure, contributing to the social resilience of local communities (UNDP, n.d.-a).

Environmental rehabilitation aims to restore natural resources and mitigate the ecological damage caused by military activities. This includes decontaminating affected areas, reforesting damaged ecosystems, and restoring water bodies, along with the promotion of sustainable environmental management practices. UNDP continues to support these efforts, reinforcing Ukraine's environmental security and advancing its sustainable development goals (UNDP, n.d.-a).

Infrastructure reconstruction encompasses the restoration of essential services such as water supply, electricity, and transportation networks—critical components for reestablishing the basic functionality of war-affected regions. The World Bank, along with other international partners, has been actively supporting these efforts by providing financial resources and technical assistance for the implementation of key infrastructure projects (Shalal, 2025).

A comprehensive approach to Ukraine's recovery necessitates the coordination of efforts among government institutions, international organizations, civil society, and the private sector. Only through collective action can the country achieve effective and sustainable recovery, laying a solid foundation for long-term development and prosperity.

In the post-war context, strategic governance plays a pivotal role in integrating and aligning the diverse components of recovery. It involves a systemic process that combines environmental assessment, priority setting, action planning, and ongoing evaluation. A critical first step is a thorough analysis of external conditions using the PESTEL framework, which examines political, economic, social, technological, environmental, and legal factors. This tool helps identify key challenges and opportunities that shape the recovery landscape and guide decision-making at the community level (UNDP, n.d.-b).

The second stage focuses on internal diagnostics: a SWOT analysis is employed to systematically identify local strengths and weaknesses, as well as external opportunities and threats that influence the recovery process. By combining both internal and external perspectives, public managers are able to gain a realistic understanding of viable development strategies and the risks that must be accounted for. This integrative

assessment supports evidence-based planning and enhances the adaptability of strategic responses in the face of uncertainty (LibGuides, n.d.).

Based on the collected data, strategic goals are formulated by identifying priority areas of recovery: economic revitalization of business and industry, infrastructure reconstruction, restoration of social services, and environmental rehabilitation. At this stage, strategic planning models serve as a key instrument, enabling alignment of available resources with long-term objectives and formalization of target success indicators (BDC, n.d.).

The further development of an implementation plan involves the specification of concrete actions, allocation of necessary resources, and the establishment of clear timelines. The World Bank emphasizes the importance of integrating budgetary and organizational decisions into a unified governance system that directs financial and technical assistance to areas where they can generate the greatest impact, taking into account local specificities (King, 2025).

The next component of the methodology encompasses monitoring and adjustment. According to the OECD, monitoring and evaluation (M&E) systems should be based on reliable indicators and regular reporting, enabling real-time corrective decisions and enhancing transparency and accountability in the public sector (World Bank, n.d.; OECD, n.d.).

Modern strategic management tools complement traditional approaches: scenario planning enables preparation for multiple development trajectories by creating flexible and responsive mechanisms; risk modelling supports the quantitative assessment of system vulnerabilities; stakeholder analysis ensures that the perspectives of communities, donors, and businesses are taken into account (OECD, n.d.; Lee, 2025; Sakalasuriya, Haigh, & Amaratunga, 2018).

The UNDP highlights the importance of active engagement of local communities and other stakeholders in both the design and implementation of recovery strategies, which fosters trust and strengthens the social legitimacy of recovery projects (Giroto & Pérez de Madrid, 2020). Furthermore, the application of systems-based strategic planning helps recognize the interdependence across different recovery domains and avoids fragmented approaches.

Thus, the methodology of strategic management in the public sector for post-war recovery integrates a deep environmental analysis, clear goal-setting, a detailed action plan, systematic monitoring, and modern planning tools—ensuring coherence and effectiveness in implementing comprehensive recovery measures.

#### **1.4. Foreign Experience in Post-War Recovery Planning (Case Analysis)**

Urban and national post-war reconstruction strategies demonstrate that successful recovery requires a combination of political will, international support, and systematic planning. The cases reviewed reveal a consistent sequence of recovery phases: rapid restoration of basic infrastructure, medium-term institutional reforms, and long-term economic and social revitalization. Across all examples, key success factors included effective donor

coordination, active community engagement, and the implementation of adaptive strategic approaches.

#### 1.4.1. Reconstruction of West Germany (1945–1949)

Following Germany's capitulation, the British occupation zone initiated a detailed reconstruction plan in 1944–1945. This plan emphasized decentralized restoration of power grids and transportation routes, while simultaneously supporting the revival of industry, agriculture, food supply chains, and housing for the civilian population. The British administration effectively integrated social programs, restoring schools and hospitals by 1949. This comprehensive approach helped stabilize local communities and laid the groundwork for what would later be known as the "German Economic Miracle" (History & Policy, n.d.).

#### 1.4.2. The Japanese Economic Miracle (1946–1952)

In post-war Japan, the Ministry of International Trade and Industry adopted a "targeted production" model aimed at swiftly rebuilding the steel and coal industries. Parallel labour market reforms encouraged female participation in the workforce. Additionally, the surge in military procurement during the Korean War provided industrial enterprises with a financial foundation for growth. By 1952, Japan had been reintegrated into the global economy under the protection and oversight of the United States (Hu, 2023, pp. 240–241).

#### 1.4.3. Integrated Planning and Community Participation in Kosovo

Kosovo's post-conflict strategy involved the establishment of the UN Coordination Office for Reconstruction, which employed a mixed-methods approach to assess needs related to road repair, housing, and public services. The integration of international donor expertise with active involvement of local leaders accelerated the rehabilitation of critical infrastructure and social services. This inclusive approach promoted legitimacy and responsiveness in the recovery process (Kryshtal, 2023).

#### 1.4.4. Rebuilding through Reconciliation and Social Investment in Rwanda

Following the 1994 genocide, Rwanda prioritized reconciliation programs, decentralization of power, and reintegration of former combatants into civilian life. These efforts were accompanied by massive investments in education and healthcare. The expansion of microcredit schemes and support for small businesses through widespread training initiatives significantly accelerated economic recovery and enhanced citizens' trust in public institutions (Ferragamo, 2024).

#### 1.4.5. Bosnia and Herzegovina: From Peace Agreement to Sustainable Stability

After the signing of the Dayton Accords in 1995, NATO deployed the Implementation Force (IFOR), later followed by the Stabilization Force (SFOR), to maintain peace and oversee the agreement's enforcement. Simultaneously, the European Union launched civilian missions aimed at rebuilding governance structures and infrastructure. The combination of military stabilization and the swift devolution of powers to local authorities served as a foundation for sustainable regional renewal (NATO, n.d.).

#### 1.4.6. Iraq and Mosul: Challenges of Large-Scale Reconstruction

Following the 2003 intervention, the U.S. administration in Iraq faced major shortcomings in coordinating military and civilian efforts, resulting in funding inconsistencies, delays, and cost overruns (Pollack, 2006). In Mosul, the restoration of cultural heritage sites, led by UNESCO, alongside direct cash assistance to residents, demonstrated the effectiveness of an approach that links cultural revitalization with economic incentives for the return of internally displaced persons (Martany, 2025).

International experiences confirm that successful post-war recovery planning relies on a clear division of roles among international stakeholders, national authorities, and local communities. Phased implementation, combined with continuous monitoring, ensures coherence and responsiveness. The integration of social, economic, infrastructural, and cultural dimensions paves the way for resilient development in complex post-conflict contexts.

## **2. ASSESSING THE CHALLENGES AND POTENTIAL OF POST-WAR TERRITORIAL RECOVERY: A SYSTEMS ANALYSIS**

A systems analysis of post-war recovery allows for the identification of both general trends and regional specificities, enabling a comprehensive assessment of challenges and opportunities. This methodology, grounded in interdisciplinary approaches, combines an examination of external and internal drivers, socio-economic diagnostics, and the identification of infrastructural, demographic, and environmental risks, alongside detailed stakeholder mapping. Such an approach enables not only the identification of problem areas but also the formulation of adaptive development scenarios for each region (Sakalasuriya, Haigh, & Amaratunga, 2018).

### **2.1. Methodology of Systems Analysis for Identifying Key Issues and Opportunities**

The systems analysis begins with constructing an integrated model of the region, encompassing its economic, social, institutional, and environmental subsystems. A PESTEL analysis is applied to assess external factors—political, economic, social, technological, environmental, and legal—that define the framework for recovery (LibGuides, n.d.). Concurrently, a SWOT analysis is conducted to systematically identify local strengths and weaknesses, as well as external opportunities and threats (BDC, n.d.). The combination of these tools allows decision-makers to highlight priority areas for intervention and identify the most effective entry points for resource allocation.

To deepen understanding, scenario planning is employed to generate several alternative development trajectories based on conflict dynamics, donor support trends, and economic patterns (Lee, 2025). It is also essential to incorporate risk management. Quantitative vulnerability modelling—such as assessments of the financial stability of local budgets or credit accessibility—helps pinpoint systemic bottlenecks most susceptible to disruption (OECD, n.d.).

## **2.2. Socio-economic Diagnostics of Regions/Communities Affected by War**

The socio-economic assessment focuses on indicators related to employment, household incomes, the condition of small and medium-sized enterprises, and access to essential services. Statistical data is collected on unemployment rates, internal migration flows, the number of internally displaced persons (IDPs), and their integration into local communities. Special attention is given to poverty indices, social tension, and demographic trends, such as population decline or, conversely, temporary increases in populations in new centres for the accommodation of displaced persons (UNDP, n.d.).

Qualitative methods include surveys and focus groups involving vulnerable groups—such as veterans, women, and the elderly—to not only quantify needs but to understand their deeper nature. Only by constructing a comprehensive picture based on such data can social support programs and strategies for economic recovery be formulated (World Bank, n.d.).

## **2.3. Infrastructure, Demographic, and Environmental Challenges**

The infrastructure component of the analysis addresses the state of roads, bridges, energy networks, water supply, and communication systems. The key task is not only to assess the scale of destruction, but also to determine the criticality of each element for the functioning of the community (Shalal, 2025). Demographic challenges include the uneven settlement of displaced persons, the ageing population in remote villages, and the depletion of the younger workforce in urban areas. These factors complicate the planning of both infrastructure projects and social services.

The environmental component focuses on the aftermath of combat activities: soil and water pollution, the destruction of forest areas, and the risks associated with landmines. Priority areas requiring demining and environmental clean-up are identified, with measures for ecological rehabilitation, ranging from reforestation to the modernization of wastewater treatment plants, being developed (UNDP, n.d.).

## **2.4. Stakeholder Analysis: Interaction Among Public, Private, and Civil Actors**

A key step in this process is the mapping of stakeholders, including central and local government authorities, international donors, the business community, non-governmental organizations, and local leaders. For each group, their interests, resources, and channels of influence are identified. The level of involvement and cooperation among the actors is assessed, and gaps are identified—who is excluded from the process or lacks access to decision-making and information.

The construction of a power and influence matrix helps synchronize efforts. For example, partnerships can be forged between businesses and local communities to restore small businesses, or between civil society movements and government bodies to ensure the transparent distribution of humanitarian aid. This approach significantly enhances the

effectiveness of recovery and strengthens public trust in institutions (Giroto & Pérez de Madrid, 2020).

### **3. MODELS OF SYSTEMIC STRATEGIC PLANNING FOR RECOVERY AT THE REGIONAL AND LOCAL LEVELS**

The effective strategic recovery of war-affected regions in Ukraine requires models rooted in a systemic approach, adaptability to dynamic changes, and precise goal-setting with clear performance metrics. Equally essential is the integration of digital technologies, which enable greater transparency in planning, monitoring, and citizen participation.

#### **3.1. Strategic Planning through a Systemic Lens**

The systemic approach to strategic planning views the region as a complex, open system where economic, social, environmental, and institutional components are interconnected. Any change in one area inevitably impacts the others, necessitating coordination of goals, priorities, and resource allocation.

This approach involves a thorough diagnosis of the region's current state, forecasting possible development scenarios, formulating interdependent actions aimed at stabilization and growth, and assessing risks while identifying mechanisms to mitigate them. Systemic thinking promotes a holistic strategy that accounts for the complexity and uncertainty of post-war recovery (Sakalasuriya, Haigh, & Amaratunga, 2018).

#### **3.2. Adaptive Strategy Formation in an Unstable Environment**

Given the constant external changes, driven both by ongoing military threats and global economic processes, the adaptability of strategies becomes crucial. An adaptive strategy involves the continuous reassessment of plans based on regular evaluations of internal and external shifts. It is structured on a modular principle, meaning each strategic direction must offer alternative paths depending on the unfolding situation.

Critical to the success of adaptive strategies are tools such as scenario planning, real-time monitoring of key indicators, flexible resource allocation mechanisms, and institutionalized processes for regular strategic reviews. These tools enable regions and communities to minimize the negative impacts of unexpected events and strengthen their resilience (Lee, 2025).

#### **3.3. SMART Goals, KPIs, and Performance Indicators**

For strategic planning to yield tangible results, goals must adhere to the SMART framework—Specific, Measurable, Achievable, Relevant, and Time-bound. Each goal should be paired with a set of Key Performance Indicators (KPIs) to monitor progress.

These indicators should not only be quantitative, such as the number of restored buildings, but also qualitative, such as the level of public satisfaction with services. This dual approach ensures a comprehensive understanding of outcomes (King, 2025).

The development of the KPI system should emphasize data accessibility for monitoring, transparency in calculation methods, and regular updates to ensure ongoing relevance (OECD, n.d.).

### **3.4. Digital Tools for Strategic Planning (GIS, Monitoring Systems, Participation Platforms)**

Integrating digital technologies into strategic planning offers new opportunities for enhancing efficiency, transparency, and public engagement.

Geographic Information Systems (GIS) allow for the creation of interactive maps detailing damage, reconstruction plans, and resource distribution, aiding in the visualization of issues and priorities (UNDP, n.d.).

Electronic monitoring systems facilitate the real-time tracking of initiatives, financial expenditures, and the achievement of defined objectives. Citizen participation platforms, such as online petitions or strategy discussions, foster local involvement in decision-making, improve trust in authorities, and increase the legitimacy of strategic documents (World Bank, n.d.).

The integration of these tools must adhere to principles of data openness, cybersecurity, and inclusive access to ensure widespread participation and confidence in the recovery process.

## **CONCLUSIONS**

The research highlights the significance of systemic strategic planning in post-war territorial recovery at the regional and local levels. The key scientific outcomes include the development of methodological approaches to strategic management under conditions of high uncertainty, the identification of adaptive planning models, and a refined understanding of the role of digital tools in the recovery processes. It is proposed to integrate systemic analysis for a comprehensive assessment of the challenges and potential of regions, enabling the identification of development priorities while considering infrastructure, socio-economic, and environmental aspects.

Practical recommendations aim to enhance the effectiveness of strategic management at the local level. Specifically, the implementation of digital platforms for monitoring and public participation is recommended, as well as the development of institutional capacity for local governments through educational programs. The creation of multi-level coordination councils involving the public sector, business, and civil society. Special attention is given to the necessity of aligning strategies across different management levels and strengthening the financial resilience of the recovery process through international technical assistance and public-private partnership mechanisms.

Future research prospects include refining methods for evaluating the resilience of regional recovery strategies, studying innovative mechanisms for engaging citizens in planning processes, and developing adaptive risk management models in prolonged crises. The integration of gender equality, inclusivity, and environmental sustainability in territorial recovery strategies remains crucial, as it will ensure long-term sustainable development.

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