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ACTUAL PROBLEMS OF MODERN DEVELOPMENT OF THE STATE AND LAW

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ACTUAL PROBLEMS OF MODERN DEVELOPMENT OF THE STATE AND LAW

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ANNOTATION

The collective monograph is devoted to the study of trends in the development of modern Ukrainian legal society. The research uses an interdisciplinary approach, which allows analyzing and characterizing various aspects, aspects and approaches to the development of socio-legal processes in Ukraine and obtaining socially significant scientific results.

Leading scientists Tamila Mangora and Maryna Lukiyanova emphasize that the Ukrainian legislation, which is aimed at settling the issue of resolving labor disputes in court, needs improvement. However, in order to solve urgent problems in the specified area, studies devoted to the consideration of foreign experience in resolving labor disputes in court are of particular relevance. This is explained primarily by the fact that in many countries of Europe and the world, specialized labor courts have been operating for a long time, which play a leading role in the resolution of individual and collective labor disputes, while at the same time ensuring maximum consideration of the interests of participants in labor relations.

In their research work, Olga Durach and Yuriy Damianchuk pay attention to the organization of the work of courts during martial law, emphasize the implementation of the definition of the basic principles of the organization of the judicial power of Ukraine. They reveal the peculiarities and problematic issues of the administration of justice during martial law, consider the administrative and legal principles of corruption prevention, offer ways to solve such issues and ensure the right to a fair trial during the administration of justice during martial law.

Taisa Tomlyak examines the legal positions of the European Court of Human Rights. Explores the broad understanding in the practice of the Court of "society's interests" in the application of measures of deprivation of the right to property and at the same time ensuring a proportional relationship between the goal set and the means used. The author analyzed the current civil legislation and judicial practice of the Civil Court of Cassation, the Commercial Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court regarding certain categories of credit disputes

and land cases, including the resolution of jurisdictional problems in the consideration of land disputes.

In her chapter, Natalya Chernyshchuk states the fact that the growth of the role of a lawyer in modern society is objectively due to the complication of social infrastructure (democratization of social relations, liberalization of economic life, growth of private initiative), the development of the legal status of the individual, the expansion of individual rights and freedoms. The role of various forms of social and legal regulation is growing, which leads to the emergence of specific social mediators in relations between people and their groups, as well as the state.

In his chapter, Oleksandr Pogulyayev considered the legal approaches of the political forces of the Right Bank ethnic minorities in solving the issue of international relations during the years of struggle for Ukrainian statehood, the influence of foreign policy factors on the formation of national demands of political parties and public organizations.

Andrii Dzevelyuk, based on the study of the life path of M.Yu. Chizhov, considers his formation as a lawyer and a political scientist in an interconnected context. Analyzes his conclusions that a lawyer should study not only the forms in which law is made available to us, not only the forms in which it becomes mandatory, but also the awareness of law as one of the social phenomena, as a product of various social factors that act under the influence of certain laws.

The section prepared by Vitaly Kaidashov is dedicated to solving the problem of the legal basis of the safety of the quality of agricultural products. The author emphasizes that despite the high degree of importance of the problem under investigation, the current legislation of Ukraine on the safety and quality of agricultural products is imperfect, contains many gaps in the legal regulation of the specified issues.

Authors Andriy and Maryna Pravdyuk in the context of various aspects consider and give their practical characteristics to the constitutional obligations of citizens to pay taxes in Ukraine and the European Union.

In the research of Iryna Skichko, the legal prerequisites for the formation of modern vectors of French foreign policy are clearly observed. At the same time, the

approach of temporal differentiation and subject analysis was used, which was carried out in accordance with the periods of the reign of French presidents and in relation to the key geopolitical directions of foreign policy - European, Atlantic, Middle Eastern, African.

The content of the collective monograph corresponds to the research direction of the Department of Law of the Vinnytsia National Agrarian University "Legal protection of human rights and freedoms in the conditions of European integration". The monograph uses legal, social and legislative research methods.

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1. Labor disputes under the legislation of foreign countries

Abstract

Today, there is no doubt that the Ukrainian legislation, which is aimed at settling the issue of resolving labor disputes in court, needs improvement. However, in order to solve urgent problems in the specified area, studies devoted to the consideration of foreign experience in resolving labor disputes in court are of particular relevance. This is explained primarily by the fact that in many countries of Europe and the world, specialized labor courts have been operating for a long time, which play a leading role in the resolution of individual and collective labor disputes, while at the same time ensuring maximum consideration of the interests of participants in labor relations.

1.1 Distribution of labor disputes by subject composition and subject of dispute in the West

World experience convincingly proves that the problems of the economy and social life, including in the field of employment, are best solved if the focus is not on confrontation, but on achieving social harmony, coordinating the interests of different social groups. Each country has its own peculiarities regarding the resolution of labor conflicts [1, p. 92].

The works of domestic and foreign scientists, such as A. Ya. Antsupov, A.I. Shipilov, A. T. Ishmuratov, N. V. Grishina, S. F. Frolov et al.

The world experience of prevention and settlement of labor disputes is summarized and reflected in the Conventions and recommendations of the International Labor Organization [2]. Foreign experience in resolving labor conflicts indicates three ways of possible settlement of disputes:

- with the help of special courts for labor and social security issues (industry justice);

- through civil proceedings in general courts;

- with the help of conciliation and arbitration procedures [3]. In European countries, the USA and Japan, great importance is attached to the pre-trial procedure for the settlement of labor disputes and conflicts. In the USA, as early as 1947, the Federal Mediation and Conciliation Service (FSPP) was created under the Ministry of Labor, which 30 years later received the status of an independent organization. Currently, the director of FSPP is appointed by the President and approved by Congress. Initially, FSPP was engaged in regulating controversial issues during strikes. Today, the service carries out its activities in four main directions: consideration of disputed issues within 30 days, work in the pre-strike period and during strikes; training in the art of negotiation and constructive problem solving as one of the forms of "anticipatory" mediation; financial and technical assistance to local "labor-management" committees that solve problems of labor safety, health care, and pension provision; organization of rotation of arbitrators in the "Arbitration Service" office for parties preferring arbitration [4].

In the West, it is generally accepted to divide labor disputes into four main types according to the subject composition and the subject of the dispute:

- collective and individual,
- conflicts of interests (economic) and conflicts of law (legal).

Conflicts of interest arise in connection with requirements to establish new or existing working conditions; conflicts of law relate to the interpretation or application of norms established by laws, collective agreements or other legal acts. There are only two ways of resolving labor conflicts: consideration of the dispute in judicial or administrative bodies and conciliation and arbitration and each country has its own peculiarities. However, there is a single general rule: collective economic disputes are usually considered within the framework of the conciliation-arbitration procedure, since such disputes are usually associated with the creation of new legal norms. For example, in the USA, the conciliation and arbitration method is used to resolve collective economic conflicts and individual legal conflicts. and for collective legal conflicts – judicial and administrative proceedings; in Great Britain, the conciliation-arbitration method and court proceedings are used for all types of labor conflicts; in

France, collective economic and legal conflicts are resolved using the conciliation-arbitration method, and for the resolution of individual legal conflicts, judicial proceedings are provided [5, p. 23].

The conciliation and arbitration procedure includes three methods: negotiations of the parties, conciliation (mediation), labor arbitration. At the same time, the conciliation and mediation procedure does not provide for the creation of a commission on labor disputes. Mediation can be compulsory or voluntary.

Courts are used in all Western countries to consider and resolve legal (individual and collective) labor disputes, and sometimes, in the USA, administrative bodies. In most European countries, such disputes are considered in specialized labor courts. The competence of these courts lies in the resolution of individual and collective labor conflicts, while the norms of civil procedural law are applied, but there are significant procedural features of consideration of labor conflicts [6, p. 56].

1.2 Conciliation procedure and voluntary arbitration - as a type of collective labor dispute resolution

The Institute of Collective Labor Disputes received its legal form in the Law of Ukraine "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" [7, p. 67] dated March 3, 1998. The legal forms of social partnership include, first of all, the conciliatory procedure enshrined in the Law, which is based on the peaceful methods of resolving labor disputes provided for by international labor standards. ILO Recommendation No. 92 on Voluntary Conciliation and Arbitration of 1951 established the basic principles of the conciliation and mediation procedure for resolving collective labor conflicts. Recommendation No. 130 of 1967 on handling complaints at the enterprise with a view to resolving them establishes the procedure for handling individual complaints.

Recommendation No. 92 provides for two types of resolution of collective labor conflicts. First, in order to promote the prevention and resolution of labor conflicts between entrepreneurs and workers, voluntary conciliation bodies should be

established, which meet national conditions, with an equal number of representatives of the parties. The conciliation procedure should be free of charge and prompt. The deadlines for resolving labor conflicts should be determined in advance and reduced to a minimum. The conciliation procedure can be initiated by one of the parties or ex officio by the voluntary conciliation body. If, by agreement between all interested parties, a conciliation procedure is applied to the conflict, the parties are advised to refrain from strikes and lockouts throughout the duration of the conciliation negotiations. All agreements reached by the parties during or as a result of conciliation negotiations shall be in writing and shall have the same force as contracts concluded in the usual manner. Second, it is voluntary arbitration. If, by agreement between all interested parties, the conflict is referred to the final decision of the arbitration body, then the parties are advised to refrain from strikes and lockouts during the consideration of the matter by the arbitration body and to accept the arbitration award. Recommendation No. 92 contains an important provision that the need to apply conciliation procedures should not be interpreted as a reason to limit the right to strike. International labor standards were taken into account when developing the Law of Ukraine "On the procedure for resolving collective labor disputes (conflicts)".

Analyzing the procedure for resolving collective labor disputes in Western countries, I. Ya. Kiselyov uses the terms "labor dispute" and "labor conflict" as synonyms [8, p. 245]. Both terms are used in ILO acts. Thus, the ILO Recommendation No. 158 on Labor Regulation: Role, Functions and Organization, 1978 stipulates that in the event of collective disputes, the competent bodies in the labor regulation system should be able to provide, in agreement with the interested organizations of entrepreneurs and workers, conciliation and intermediary services that meet national conditions (clause 10). In Recommendation No. 92 on voluntary conciliation and arbitration of 1951, the term "labor conflict" is used, it is assumed that, in order to promote the prevention and resolution of labor conflicts between entrepreneurs and workers, voluntary conciliation bodies should be established, which should meet national conditions.

Some domestic experts suggest considering conflicts of law as disputes, and conflicts of interests as actual conflicts [6, p. 24]. This approach is based on the results of the research of the consultant of the Central and Eastern European branch of the ILO in Budapest, J. Casale, who divides collective labor disputes into legal disputes and conflicts of interest [9, p. 34]. At the same time, J. Casale interprets legal, collective and labor disputes in a limited way and reduces them to cases of different interpretations of the norms of the collective agreement by employees and the administration. A conflict of interests, in his opinion, is a failure to reach an agreement between the employees and the employer regarding the change of the existing rule or the establishment of a new norm (for example, an increase in salaries). To collective labor disputes, in addition to those indicated by J. Casale, S. Ukrainets includes disputes regarding non-compliance or non-fulfillment of the norms of the contract (agreement).

Let us turn to special studies of social conflicts, which are conducted by representatives of eleven sciences: history, political science, psychology, law, sociology, philosophy, etc. The beginning of the 1990s is associated with the formation and development of an independent science - conflictology, that is, the science of the regularities of the occurrence, development, and termination of conflicts, as well as the principles, methods, and methods of their constructive regulation. Recently, in Ukraine and Russia, the first textbooks, teaching aids on conflict studies have appeared [10, p. 335]. Representatives of this science, studying conflicts in various spheres of interaction, also distinguish labor conflicts. Yes, A. Ya. Antsupov and A. I. Shipilov calls labor conflict a type of social conflict, distinguishing between labor conflict and labor dispute [9, p. 34]. Labor disputes include disputes between an employee (a group of employees) and an employer regarding working conditions. According to scientists, labor conflict is a broader concept that, in addition to conflicts in the field of labor relations, also includes conflicts of interests and therefore can be regulated both by the norms of labor legislation and by other legal and non-legal means. As we can see, the differences between dispute and conflict are distinguished primarily depending on their subject, and only then - on the degree of intensity and tension. Collective labor disputes

that arise, for example, regarding the conclusion or change of a collective agreement, agreement, and their implementation have as their subject a wider range of socio-economic issues than only the issue of establishing working conditions. Taking into account the conclusions of conflict experts that the concept of "conflict" is broader than "dispute", we propose to keep the term "conflict" in the title of the Law and exclude the double name of disagreements arising between employers and employees.

In the legislation of most of the former republics of the USSR, the concept of a collective labor dispute is revealed through two main features - the subject of possible disagreements and the parties to the dispute. The legislation of Ukraine, Belarus, Kazakhstan, and Tajikistan includes disagreements regarding the establishment of new or changes in existing socio-economic conditions of work and industrial life as a subject of collective labor disputes; concluding or changing a collective agreement, agreement; implementation of a collective agreement, agreement or individual provisions thereof. The law of Ukraine also provides for collective labor disputes regarding non-fulfillment of the requirements of the labor legislation, and the labor codes of Tajikistan and Uzbekistan - disagreements regarding the application of the provisions of the current legislation.

Compared to the legislative acts of other CIS states, the Law of Ukraine "On the Procedure for the Resolution of Collective Labor Disputes (Conflicts)" formulates the subject of collective labor disputes more broadly, and therefore more fully ensures the collective protection of the rights and interests of employees. Requirements for the implementation of a collective agreement, agreement or their separate provisions (clause c) of Art. 2 of the Law) and failure to comply with the requirements of labor legislation (item d) of Art. 2) may be the subject of an individual labor dispute. Unlike the Federal Law, which does not apply to the resolution of collective labor disputes arising in connection with the collective protection of individual rights of employees, the Law of Ukraine gives employees the right to apply for collective remedies, to resort to the resolution procedure provided for by the Law to satisfy their collective demands collective labor disputes. The latter, unlike individual labor disputes, are characterized by a collective nature, which is manifested in the fact that one of the parties to the

dispute - employees - is connected by organizational unity, that is, they are members of the labor team, a trade union, the collective nature of the demands and the specificity of the subject of disagreements. And although this procedure is quite difficult, and the path to a strike is long and difficult [11, p. 62], one cannot fail to recognize the fact that in some cases it is through this procedure that employees achieve satisfaction of their demands. In collective labor disputes regarding the implementation of a collective agreement, an agreement or their separate provisions, as well as non-fulfillment of the requirements of labor legislation, disagreements arise regarding the application of subjective rights provided for by legislation, collective agreements, agreements, and an employment contract (contract). Disagreements regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life, the conclusion or changes of a collective agreement, agreements represent a conflict of labor and socio-economic interests (pay, working conditions, profits, social benefits and compensations, etc.) and each of the parties at the same time defends its interests. The parties have no right to insist on the satisfaction of their demands, since subjective rights and obligations are only established for the future.

The subject of collective labor disputes is defined quite broadly in the Law of March 6, 1990 "On Regulation of Collective Labor Disputes" [12, p. 77] of Bulgaria, promulgated by Decree No. 251 of March 7, 1990 p., according to which the collective dispute concerns issues of labor relations, social security and the standard of living of workers. In the Hungarian Labor Code, a collective labor dispute is defined as a conflict arising between an employer, on the one hand, and a works council or trade union, on the other, in connection with labor relations. The Law of Poland "On the Regulation of Collective Labor Disputes" of 1991 recognizes working conditions, wages or social benefits as the subject of a collective labor dispute. In some countries, collective labor disputes concern only the conclusion or fulfillment of obligations within the framework of a collective agreement (Czech Republic, Slovakia, Estonia, etc.). Disputes regarding individual claims from a collective agreement are not considered collective.

Disputes regarding the establishment of new or changes to existing working conditions are divided into two categories Disputes regarding the establishment of new

or changes to existing working conditions are divided into two categories - disputes not related to collective agreement regulation and disputes related to collective agreement regulation. The Law of Ukraine singles out a separate type of collective labor disputes - disputes regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life (including wages). These disputes are not related to the conclusion of collective agreements, agreements. And although the establishment of new or changes to existing collective labor conditions mostly takes place precisely when concluding or changing a collective agreement and other local normative legal acts, collective agreements, the laws establish the possibility of collective protection of the interests of employees in the event of disagreements with the owner and when collective there is no contractual regulation. - disputes not related to collective contractual regulation and disputes related to collective contractual regulation. The Law of Ukraine singles out a separate type of collective labor disputes - disputes regarding the establishment of new or changes to existing socio-economic conditions of work and industrial life (including wages). These disputes are not related to the conclusion of collective agreements, agreements. And although the establishment of new or changes to existing collective labor conditions mostly takes place precisely when concluding or changing a collective agreement and other local normative legal acts, collective agreements, the laws establish the possibility of collective protection of the interests of employees in the event of disagreements with the owner and when collective there is no contractual regulation.

According to the Law of Ukraine, such disputes may arise not only regarding working conditions, but also regarding issues of industrial life. For example, the employees of one of the secondary schools in the city of Kherson put forward demands to speed up the construction of a new school, to allocate funds for the capital repair of the school building, for the purchase of multiplication equipment, sports equipment and equipment, and for the nutrition of students. According to the Federal law, these disputes do not belong to disputes regarding the establishment of working conditions, and therefore their resolution using the procedure established for collective labor

disputes is impossible. They can be the subject of a collective labor dispute only if the relevant obligations of the administration have been included in the content of the collective agreement by agreement of the parties, and disagreements have arisen regarding the implementation of the collective agreement. According to the Law of Ukraine, such requirements can be the subject of a dispute even when a collective agreement has not been concluded, since the Law foresees the emergence of disagreements regarding the establishment of new or changes in socio-economic conditions of work and industrial life.

In the literature, the procedural and material content of the concept of "collective labor dispute" is highlighted [13, p. 108] regarding the procedural content, the correctness of the definition of a collective labor dispute through the use of the terms "dispute" and "conflict", "disagreements" or "unresolved disagreements" is considered. In Art. 2 of the Law of Ukraine correctly defines a collective labor dispute (conflict) as "disagreements". At that time, the labor codes of the Republics of Belarus and Tajikistan use the term "unsettled differences", which, according to O. Abramova, implies preliminary negotiations between the parties to settle the conflict that has arisen [12, p. 75]. It is impossible to agree with this, because there are no settled differences. The last statement is not new. Questions about the concept of a labor dispute, its subject, moment of occurrence, etc. discussed in the literature regarding individual labor disputes. The material content of the concept of "collective labor dispute" is its subject.

In sociology, the term "social labor conflict" is used, which is considered by sociologists as a type of social conflict. The latter comes from the Latin conflictus - collision and is a clash of interests of different social groups, a special case of the manifestation of social contradictions, one of their forms, characterized by the presence of a pronounced opposition of social forces. The core of the conflict can be a problem, as well as awareness by the bearers of the conflict situation (conflicting groups) of their opposing interests and activity goals [14, p. 51].

In turn, social labor conflict is a type of social conflict, the stage of maximum development of contradictions between social subjects of social and labor relations

(social or socio-professional groups) directly in labor or related spheres of activity (in the spheres of distribution, exchange, consumption, etc.) at enterprises and institutions, in various branches of production, in society as a whole. In this definition, two main features can be distinguished - a high degree of intensity of contradictions; contradictions arise from labor and socio-economic issues, that is, in the social and labor sphere. At the same time, the concepts of "social-labor conflict" and "social antagonism" should be distinguished, although these concepts are sometimes equated in the literature [15, p. 24].

Social partnership acts as a phenomenon opposite to social and labor conflicts. The social partnership system is designed to regulate social and labor conflicts, to create the necessary conditions for their prevention and resolution through conciliation procedures. In the social and labor sphere, such conflicts are determined by the process of social stratification, the formation of different strata according to the degree of qualification, the level of material support, etc. Such conflicts are characterized by the coincidence of economic and social interests. The subject of a social-labor conflict can be a complex of issues related to the preservation of the existence of one or another social group. An example of such conflicts can be conflicts at enterprises that are converted, privatized, etc.

The subject of social and labor conflicts is broader than the subject of collective labor conflicts. In a broad sense, social and labor conflicts should be understood as any disagreements that arise between employees and employers in the social and labor sphere. In our opinion, social and labor conflicts can be defined as disagreements that have arisen between employees and employers on labor and socio-economic issues at the industrial, sectoral, territorial, and national levels. To resolve such conflicts, it is necessary to use the norms not only of labor law, but also of other fields - social security law, civil law, medical law, housing law, etc. We consider it expedient to extend the effect of the Law of Ukraine "On the procedure for resolving collective labor disputes (conflicts)" to the resolution of social and labor conflicts.

1.3 Parties to a collective labor dispute

An important issue is the determination of the parties to a collective labor dispute. From the content of Art. 2 of the Law of Ukraine "On the Procedure for Resolving Collective Labor Disputes (Conflicts)" states that the parties to a collective labor dispute are parties to social and labor relations. It is difficult to agree with such a definition. It is no accident that in practice, the party to the dispute and its representative are often confused. As already noted, the category "social and labor relations" remains undefined by the legislator. If the parties to a collective labor dispute are considered to be parties to social and labor relations, then the Law should clearly define the latter.

The law provides for four levels at which collective labor disputes arise - industrial, sectoral, territorial, national - and depending on the level, parties to the dispute (conflict) are established (Article Z of the Law). Enshrining various levels of collective labor disputes (conflicts) is one of the specific features of the Law of Ukraine. In the Federal Law, labor codes and laws of other states - the former republics of the USSR, disputes at the level above the production level (industry, regional, etc.) have not received official recognition, although in practice such disputes arise.

The parties to a collective labor dispute are more successfully defined in the Federal Law "On the Procedure for the Resolution of Collective Labor Disputes" - in accordance with Art. 2 employees and employers are recognized by them. Together with the parties to a collective labor dispute, this article defines the representatives of employees and employers. According to the Law, the representatives of employees are the bodies of trade unions and their associations, authorized for representation in accordance with their statutes, bodies of public self-activity, created at meetings (conferences) of employees of the organization, branch, representative office and authorized by them. The right to represent employers belongs to heads of organizations or other authorized persons in accordance with the organization's charter, other legal acts, authorized bodies of employers' associations, other bodies authorized by employers. According to the Belarusian Labor Code, the Kazakh Law "On Collective Labor Disputes and Strikes", the parties to a collective labor dispute are collectives of

employees, on whose behalf trade unions and other authorized bodies can act, and employers (employers), whose interests can be represented by employers' associations (employers). According to the Labor Code of Kyrgyzstan, employers and trade unions and other representative bodies of employees are considered parties to a collective labor dispute. According to the Law of the Republic of Moldova "On the Settlement of Collective Labor Disputes", the parties are considered to be the enterprise (management of the enterprise) and employees, including employees of one division or its part. As we can see, the legislation of the states - former republics of the USSR ambiguously defines the parties to a collective labor dispute, which indicates the prolongation of the search for optimal options.

The law of Ukraine establishes the procedure and deadlines for considering the demands of employees or trade unions (Article 5). The prescribed three-day period for consideration of claims by the owner or his authorized body (representative) from the day of receipt (the Labor Code of the Republic of Belarus limits this period to ten days). In contrast to the codes and laws of other states - the former republics of the USSR, the Law of Ukraine regulates the relationship between the owner and the body authorized by him in the event that the latter considers the demands of employees and the satisfaction of the demands goes beyond his competence (Part 2, Article 5). The procedure for consideration of employee claims by the employer is regulated in more detail by the Law of Moldova and the Law of the Republic of Kyrgyzstan. The Moldovan Law obliges the heads of enterprises to accept a statement with demands and register it, to state their point of view on each demand of employees in the answer. Article 3 of the Law of the Republic of Kyrgyzstan obliges the employer to try to reach an agreement on the substance of the dispute, and in the event of failure to reach an agreement within three days to bring his decision and proposals to the attention of the labor team, indicating the personal composition of his representatives for further consideration of the dispute.

In cases where joint or joint demands of two or more labor collectives are put forward, they are sent to the relevant bodies of employers (entrepreneurs), who are obliged to consider them and report their decision to the joint representative body of

labor within seven calendar days from the day of receipt collectives It seems that these norms may be of interest to the Ukrainian legislator.

1.4 The moment of occurrence of a collective labor dispute

The next issue that should be investigated is the moment of collective labor dispute (conflict). In accordance with Part 1 of Art. 6 of the Law of Ukraine, a collective labor dispute (conflict) arises from the moment when the authorized representative body of salaried employees, a category of salaried employees, a collective of employees or a trade union received a notification from the owner or a body authorized by him about a full or partial refusal to satisfy collective demands and made a decision on disagreement with the decision of the owner or a body (representative) authorized by him or when the terms for consideration of claims provided for by this Law have expired, and no response has been received from the owner.

A peculiarity of the Law of Ukraine is the possibility of a collective labor dispute regarding the conclusion or change of a collective agreement at the stage of collective negotiations. If during the negotiations the parties did not reach an agreement for reasons beyond their control, then a protocol of disagreements is drawn up, which indicates the occurrence of a collective labor dispute. Therefore, the absence of Art. 6 of the provision on recognition of the moment of occurrence of a collective labor dispute as the date of drawing up a protocol of disagreements during collective negotiations. Not fully defined is the provision on the adoption by an authorized representative body of employees, a category of employees, a collective of employees or a trade union of disagreement with the decision of the owner or the body (representative) authorized by him. Is such a decision made in the order provided for the formation of requirements? If so, then reference should be made to Art. 4 of the Law.

The beginning of the conciliation procedure and the formation of the conciliation commission are associated with the moment of the collective labor dispute (conflict) (Part 2, Article 8 of the Law of Ukraine). The legality of strikes depends on compliance

by employees, a trade union, an association of trade unions or their authorized bodies with the provisions of the Law on the Occurrence of a Collective Labor Dispute (Conflict) (clause b) of Art. 22 of the Law of Ukraine). One of the parties may initiate the formation of a conciliation commission. For disagreements regarding the implementation of a collective agreement, an agreement or their individual provisions, non-fulfillment of the requirements of the labor legislation, the occurrence of a collective labor dispute should be connected with the proposal of one of the parties or an independent mediator to form a labor arbitration.

The legislation of the states-former republics of the USSR is distinguished by a significant variety of conciliation procedures. The Labor Code of the Republic of Belarus provides for consideration of a collective labor dispute in a conciliation commission with the participation of a mediator and (or) in labor arbitration. The Moldovan Law establishes a one-tier procedure - in the model commission. Thus, the federal law and the Labor Code of the Republic of Belarus give the parties the opportunity to choose conciliation bodies, which indicates greater flexibility of the collective labor dispute review system provided for by these acts.

The procedure for resolving a collective labor dispute by a conciliation commission is provided for in Art. 9 of the Law of Ukraine. According to Art. Art. 7, 10, 13, 14 of the Law were developed and approved by the order of the National Conciliation and Mediation Service of May 4, 1999 No. 36 Regulation on the Conciliation Commission [16, p. 64], which determines the procedure for the formation of a conciliation commission; the procedure for considering a collective labor dispute (conflict) and making a decision; the status of a member of the conciliation commission, his rights. The regulation contains procedural norms regarding the formation and activity of the conciliation commission. The law of Ukraine, as well as the laws of Kazakhstan and Moldova, provides for reaching an agreement between the parties in the commission itself. The decision of the conciliation commission is drawn up in a protocol and is binding for the parties (Part 4, Article 9 of the Law of Ukraine).

Unfortunately, in Art. 9 of the Law of Ukraine does not specify the procedure for making a decision by the conciliation commission. This procedure is not provided for

in the Regulation "On the Conciliation Commission", in clause 3.5. which refers to the authority of the conciliation commission to consider a case on a collective labor dispute and make a decision (at least 2/3 of representatives from each of the parties and an independent mediator, if he is included in the commission, must be present at its meeting). Based on the principles of formation of the conciliation commission and the essence of its activity, it is clear that the decision is made by agreement of the parties, but this must be provided for in the Law.

The law of Ukraine establishes the responsibility of persons who represent the interests of the parties and who committed a violation of the provisions of part 4 of article 9 of the Law regarding the implementation of the decision of the conciliation commission.

An independent mediator is called upon to assist the parties in a collective labor dispute in its resolution. By order of the NSPP dated November 11, 1999 No. 106, the Regulation "On the Intermediary" was approved, which establishes the conditions and procedure for the selection of intermediaries, acquisition and termination of powers; the procedure for engaging a mediator to participate in conciliation procedures; his rights and duties, qualification requirements for the intermediary, responsibility. The list of intermediaries is formed by NSPP. The mediator is offered to participate in the conciliation procedure by the NSPP body upon the written application of the parties to the collective labor dispute. The mediator has the right to offer the parties for discussion and selection various options for resolving a collective labor dispute. Of interest are the provisions of Article 208 of the Labor Code of Tajikistan, according to which the mediator gives the parties recommendations on dispute settlement. The recommendations become binding for the parties if none of the parties has rejected the mediator's proposals within ten days or if the parties have previously concluded an agreement on their implementation. Please note that according to the Law of Ukraine, an independent mediator is determined by the parties' joint choice. By the provision "On mediator", the possibilities of the parties regarding the choice of mediator are actually limited to NSPP.

Labor arbitration, like the conciliation commission, is not a permanent body (the only exception is the Belarusian Republican Labor Arbitration). According to Art. 11 of the Law of Ukraine, labor arbitration is established at the initiative of one of the parties or an independent mediator. The quantitative and personal composition of the labor arbitration is determined by agreement of the parties. In addition to the Law, the procedural norms regarding its formation and operation are contained in the Regulation "On Labor Arbitration" approved by the Order of the NSPP dated 05/04/1999. No. 37. Conditions and procedure for selection of arbitrators, acquisition and termination of their powers; procedure for involvement of arbitrators in labor arbitration; rights and duties of the arbitrator; the qualification requirements for him, the responsibility of the arbitrator are determined by the provisions on the arbitrator, approved by the Order of the National Assembly of Ukraine dated 11.11.1999. No. 105. NSPP forms the List of arbitrators in Ukraine.

According to Part 5 of Article 12 of the Law of Ukraine, the decision of the labor arbitration on the resolution of a collective labor dispute (conflict) is binding if the parties have previously agreed on it. A similar rule is contained in the codes and laws of all states-former republics of the USSR. In addition, Russian and Kazakh laws, the Labor Code of the Republic of Belarus provide for the very fact of reaching an agreement between the parties on rendering the decision (recommendations) of the labor arbitration binding.

The Law of Ukraine provides guarantees for independent mediators, members of conciliation commissions and labor arbitrations (Article 14 of the Law). It is about preserving the place of work (position) and average earnings, as well as extending to them the guarantees provided for in Art. 252. KZpP for elected trade union workers, members of councils (boards) of enterprises and councils of labor collectives.

The legislation of the CIS states does not uniformly address the issue of the procedure for providing guarantees to members of conciliation commissions, labor arbitrators and mediators (where there is a mediation procedure) and financial support for these guarantees. Financial issues related to the provision of the specified guarantees are resolved in accordance with Part 2 of Art. 14 of the Law of Ukraine and

the Regulation on the procedure for reimbursement of expenses related to participation in the conciliation procedure for the resolution of a collective labor dispute (conflict) by an independent mediator, members of the conciliation commission and labor arbitration, approved by the order of the National Conciliation and Mediation Service (NSPP), the Ministry of Finance and Ministry of Labor and Social Policy of Ukraine dated December 1, 1999 No. 116/308/210. It is difficult to agree with the fact that the remuneration of these persons in the amount of at least the average monthly salary and the reimbursement of expenses related to participation in the conciliation procedure are carried out at the expense of the parties to the collective labor dispute (conflict) by agreement, and if the parties did not reach an agreement - in equal shares. Considering today's financial situation, it is unlikely that this norm can be implemented in practice. It seems that the National Conciliation and Mediation Service should organize the financing of conciliation procedures, and the financial support of the members of the conciliation commission and labor arbitration should be left to the employers.

In the Law of Ukraine, the norms on responsibility for violations of the legislation on collective labor disputes (conflicts), as well as in the legislation of most CIS countries, are mainly rescissory in nature. In more detail, issues of responsibility are regulated by the Labor Code of Tajikistan, which establishes the types of offenses in the resolution of collective labor disputes and specific sanctions for their commission. The law of Ukraine provides for several other classifications of entities guilty of violating the legislation on collective labor disputes (conflicts). Without establishing specific sanctions, the Law of Ukraine, unlike the Russian Law, establishes the responsibility of a wider range of persons (in addition to employees and employers, also persons representing the interests of the parties) and for a more complete list of offenses: employees for participating in a strike recognized by the court illegal (Article 30), persons guilty of collective labor disputes (conflicts) or who delay the implementation of decisions of conciliation bodies, as well as decisions of executive authorities, local self-government bodies (Article 31), persons for organizing a strike recognized by the court as illegal , non-execution of the decision to declare a strike

illegal (Article 32), persons for forcing them to participate in a strike or preventing them from participating in a strike (Article 33).

Compared to the Law of Ukraine, the Russian Law provides for a higher level of guarantees for employees when they are subject to disciplinary liability for participating in a strike, which is recognized by the court as illegal. In accordance with Part 1 of Art. 28 of the Law of Ukraine, the organization of a strike, recognized by the court as illegal, or participation in it is a violation of labor discipline. A similar norm is contained in Kazakh, Kyrgyz, and Tajik legislation. Therefore, the employees are subject to disciplinary liability regardless of the termination of the strike after being informed of the court's decision on its illegality. That is, the Law of Ukraine recognizes participation in an illegal strike as a violation of labor discipline both before the case is considered by the court and after it has made a decision.

The legislation of the CIS states provides for compensation for damages caused by a strike. Another approach can be traced in the laws of Ukraine and the Republic of Kazakhstan. In accordance with Part 2 of Art. 34 of the Law of Ukraine, damages caused to the owner or an authorized body (representative) by a strike, which was recognized by the court as illegal, shall be compensated by the body authorized by the employees to conduct the strike, in the amount determined by the court (within the funds and property belonging to it). The responsibility of the trade union organization does not depend on certain conditions.

As already noted, in Western countries, labor disputes are divided into four main types. There are only two ways of resolving labor conflicts: consideration of the dispute in judicial or administrative bodies and conciliation and arbitration. Moreover, each country has its own peculiarities. At the same time, there is a single general rule: collective economic disputes are usually considered within the framework of the conciliation-arbitration procedure, since such disputes are connected, as a rule, with the creation of new legal norms. For example, in the USA, the conciliation-arbitration method is used to resolve collective economic conflicts and individual legal conflicts, and for collective legal conflicts - judicial-administrative proceedings; In Great Britain, conciliation - arbitration method and court proceedings are used for all types of labor

disputes; in France, collective economic and legal conflicts are resolved using the conciliation-arbitration method, and for the resolution of individual legal conflicts, judicial proceedings are provided.

Amicable - the arbitration procedure includes three methods: negotiations between the parties, conciliation (mediation), labor arbitration. At the same time, conciliation - the mediation procedure does not provide for the creation of a commission for labor disputes. Mediation can be compulsory or voluntary. Courts are used in all Western countries to consider and resolve legal (individual and collective) labor disputes, and sometimes, in the USA, administrative bodies. In most European countries, such disputes are considered in specialized labor courts. The competence of these courts is to resolve individual and collective labor conflicts. When considering them, the norms of civil and procedural law are applied, but there are significant procedural features of the consideration of labor conflicts. As noted by I. Ya. Kiselyov, the creation of labor courts, the active development of labor justice is a logical consequence of the recognition of the autonomy of labor law, which contributes to the consolidation and further affirmation of this autonomy. In this regard, Western experts emphasize the need for the formation of labor procedural law.

In domestic literature, this problem has not yet become the subject of active discussion from a special study. Although some scientists emphasize the existence of procedural labor relations [10, p. 25] and associate them with the resolution of individual and collective labor disputes. Proposals regarding the formation of specialized labor courts are also expressed in the literature [10, p. 111].

Chanysheva G. I. notes in her work that in most European countries, labor disputes have been resolved by specialized labor courts for a long time, the functioning of which is of interest to Ukraine. Such courts have been established in Austria, Belgium, Great Britain, Norway, Finland, France, Germany, Switzerland, Sweden and some other countries. Labor courts are either part of a single court system, or, as in Germany, represent an autonomous system of courts endowed with broad jurisdiction [17].

World practice has shown that specialized labor courts play a leading role in resolving individual and collective labor disputes in countries with developed market

economies (Israel, Great Britain, Sweden, Norway, Germany, some other countries of Central and Eastern Europe) and at the same time act very effectively, ensuring maximum consideration of the interests of the participants in labor relations. Specialized courts for the consideration of labor disputes in different countries, despite having the same name, differ somewhat in terms of jurisdiction, procedure, composition and powers. Institutions of special labor justice have long existed in the West (in France, for example, since 1806) and have accumulated enormous experience in resolving labor disputes. Foreign experience shows that labor courts perform important tasks related to the application of labor law, its interpretation, satisfaction of legal claims of participants in labor relations to each other, promote their reconciliation on the basis of compromises, prevention of labor disputes, and thus act as a factor supporting social stability [2].

The activity of labor courts in most countries is based on the principles of tripartite cooperation (tripartism). Court cases are considered by a panel consisting of a professional judge and two non-professional judges nominated by trade unions and employers' organizations. Such a composition of the court is designed to ensure a comprehensive, impartial consideration of the dispute and the adoption of a fair decision. It is also of great importance that labor courts can provide qualified consideration of the case, since professional judges of such courts are lawyers specializing in the field of labor law, and non-professional judges are practitioners, well-versed in issues of labor and labor relations [2]. Labor courts are usually embedded in the general court system, and only two countries - Germany and Israel - have fully autonomous labor court systems with broad jurisdiction. As a rule, labor courts function on the basis of rules and procedures established in civil procedural legislation, that is, they consider cases on the basis of the adversarial principle. But certain amendments have been made to this principle: the procedure in labor courts is faster and less expensive than in ordinary courts; some formalities inherent in the civil process are missing; courts show more initiative in the conduct of the court process, the involvement of evidence. There are specifics regarding representation of the parties, distribution of the burden of proof, evaluation of evidence. Great importance

is attached to encouraging the parties to reconcile at all stages of the process. In a number of countries, a special pre-trial stage of proceedings is used for these purposes. In most industrialized countries, there are state mediating structures whose purpose is to settle labor conflicts. Moreover, the differences between them (in terms of available resources and scope of powers) are probably more than similarities [2]. Thus, in Finland, the tasks of the state mediator are: conflict prevention, reconciliation of the parties, analysis of the situation. Mediation can be carried out at the request of the parties or on their own initiative. If readiness for conflict is announced (strike readiness or lockout warning), then the mediator is obliged to intervene. The warning period is 14 days. The mediator is not entitled to postpone the intended measure, but can send a submission to the Ministry of Labor, which has the right to postpone it for another 14 days, and if it is a question of the state or municipal sector, then this period is extended by one more week [2].

The concept of judicial reform in Ukraine does not provide for the establishment of special courts for labor and social issues. The socio-economic crisis is associated with the emergence of conflicts, during which demands are made not only on labor, but also on economic and social issues. As for the latter, not all of them fall under the scope of the Law "On the procedure for resolving collective labor disputes (conflicts)". At the same time, these issues belong to the subject of social partnership. Therefore, in order to ensure the rights and interests of social partners at all levels, we consider it expedient to create special judges on labor and social issues (social and labor courts).

The current procedure for resolving collective labor disputes needs improvement. One cannot agree with the fact that the Law does not provide for the possibility of judicial resolution of collective labor disputes regarding the implementation of a collective agreement, agreement or their separate provisions, as well as regarding non-fulfillment of the requirements of labor legislation. Instead of going to court to protect their violated rights, employees are forced to go to the employer and reach a compromise with him. This is really necessary in case of disagreements during the introduction of collective negotiations on the conclusion of collective agreements, agreements, establishing new or changing existing working conditions, but it is hardly

advisable in case of non-compliance by the employer with the requirements of labor legislation, as well as non-fulfillment of the collective agreement, agreement.

In our opinion, it is worth considering the experience of Germany, because it is in this country that the legislator pays special attention to the issue of protecting the labor rights of employees. In addition, unlike most European countries, Germany has a completely autonomous system of labor courts. Note that since Germany is a member of the European Union (hereinafter referred to as the EU), German labor legislation is significantly influenced by EU law, because German legislation and judicial practice must be consistent with EU regulations and directives, as well as interpretations of these acts by the European Court of Justice. Protection of labor rights in Germany is carried out according to clearly regulated federal rules of judicial procedure, in particular the Act of the Labor Court (Arbeitsgerichtsgesetz – ArbGG) [18, p. 43]. The competence of the Court includes filling gaps in legislation, therefore the role of judicial decisions in the protection of labor rights in Germany is quite significant [18, p. 43]. In order to resolve labor disputes in the Federal Republic of Germany (hereinafter referred to as FRG), the vertical of labor and state labor courts and the Federal Labor Court were established, which consider disputes between employers and workers on issues of remuneration, vacations, dismissals, as well as conflicts between trade unions and associations of entrepreneurs. The Federal Labor Court operates in the composition of 5 senates, collegially considering cassation appeals in the composition of three specialists and two "honorary judges". Each of the states has one land court for labor matters, and in North Rhine-Westphalia, due to the saturation of this federal state with industrial enterprises, they have been created. In labor courts, collegiums consisting of one expert judge and two "honorary judges" are formed, which represent the interests of employees and employers. Land labor courts have the authority of an appellate authority that reviews the decisions of labor courts that resolve all labor conflicts [19, p. 14]. In 2016, approximately 60% of labor claims brought to the German labor courts of first instance were resolved in court. This indicator has become the largest since the country emphasized procedures for conciliation of participants in a labor dispute, because for almost thirteen years, state bodies and courts

were entrusted with the duty of amicable settlement of each case before starting a judicial resolution of a labor dispute. So, without a doubt, the experience of Germany is interesting not only for Ukraine, but also for many other countries of Europe and the world, because in this state an absolutely autonomous system of labor courts has been created, which have a wide jurisdiction during the resolution of labor disputes. These courts deal with both individual and collective labor disputes. In addition, it is worth noting an important feature of the judicial review of labor cases in the Federal Republic of Germany, which is its focus on finding a compromise between the participants in a labor dispute. The next country we will pay attention to is France. The experience of this country is of particular interest, because: firstly, it was in France that the first labor codes were adopted, which became a tool for the protection of employees, and this was their social purpose; secondly, the labor legislation of Ukraine and France is somewhat similar. It should be noted that in France, specialized courts for labor disputes have been operating since 1806, that is, for more than three hundred years, which is quite a respectable period. In France, such courts have a special name - "prudential councils", which comes from "prud'homme" - the old French name for a person of recognized wisdom and honesty [20]. The following conditions must be met for consideration of a case in a labor court: the existence of an employment contract; the reason for filing a lawsuit is non-fulfillment of an employment contract by one of the parties; a labor dispute must have an individual character. This means that the plaintiff personally considers himself the injured party. Other employees of the same enterprise cannot file a complaint with the local court of solidarity; a specific prudomal court has the right to consider a complaint if the condition of its territorial and professional competence is met. The Prudomalny court accepts cases from labor disputes of an individual nature (within the territorial and professional competence) and only if there is an employment contract [21]. The procedure for consideration of complaints by a civil court can be presented as follows: 1) conciliation procedure, which usually takes place behind closed doors. The conciliation bureau consists of two members (representatives of employers and employees). They are trying to reach an amicable settlement. The plaintiff and the defendant are obliged to be present in person during the conciliation procedure.

However, disputing parties can seek the help of a lawyer, trade union representatives, company personnel, and work colleagues. Thus, the case is usually transferred to the next stage - the stage of the court procedure [21]. It is worth noting that reconciliation procedures are successful in approximately 10% of cases; 2) judicial procedure, which, in turn, takes place in an open mode. The judicial bureau consists of at least four members (two representatives of employers and two representatives of employees). The parties can be represented by proxies and have the help of lawyers, trade union representatives, etc. The waiting time for the court procedure can be very long, as many complaints are received by the civil courts. If the fine that one or the other party must pay does not exceed the amount fixed annually by a special decree, then the court's decision is considered final and is not subject to appeal. The decision-making procedure is resorted to in urgent cases, if the complaint concerns a simple and urgent matter for which there is no need to convene a conciliation office or a court office (for example, reinstatement of a woman dismissed due to pregnancy) [20, 21]. Therefore, in France, specialized courts usually deal with individual labor disputes. The resolution of disputes in court takes place in two main stages: 1) reconciliation of the parties; 2) consideration of the case and sentencing. If the conflict between the employer and the employee or between the employees cannot be resolved through the reconciliation of the parties, the court issues a verdict. In addition, on the positive side, it is also worth noting that the procedure for consideration of labor disputes in court is quite fully and comprehensively defined by the legislation. The next European country, whose experience we will pay attention to, is Great Britain. Thus, since 1964, specialized courts in labor disputes - the so-called industrial courts - have been operating in Great Britain. Their jurisdiction includes individual labor disputes. Industrial courts have a tripartite basis, judges are represented by professional lawyers, representatives of trade unions and employers' organizations. Courts consider cases in the composition of three persons: the chairman is a professional lawyer and two non-professional judges. Lay judges are chosen by the regional head of the court for each specific case from a list drawn up by the Minister of Labor after consultation with trade unions and business organizations. The list includes persons with experience in the field of labor relations. A significant part of them are

representatives of trade unions and business organizations who have resigned. Decisions of industrial courts in connection with the violation of legal rules can be appealed to the Employment Appeal Court, which also has a tripartite basis. The decision of this court may be appealed to the Court of Appeal (England and Wales) and to the Court of Session (Scotland). Finally, the decisions of these courts can be challenged in the House of Lords - the highest court of Great Britain [20]. The Italian system of resolving labor courts is regulated by Art. Art. 409-447 of the Civil Procedure Code of Italy. Individual or collective disputes can be resolved in court. A labor dispute heard in court may relate to: labor relations (both private and public), agency relations, cooperation on a permanent basis, agricultural workers and social security issues. Self-employed workers are not subject to the jurisdiction of labor courts. The resolution of labor disputes is entrusted to the district court, depending on where the plaintiff lives or where the defendant is located. It is worth noting that the following guiding principles are the basis of the resolution of labor disputes: 1) the need for a written statement of the plaintiff; 2) the principle of contradiction; 3) legal burden of proof; 4) direct and personal approach of judges to the consideration of the case. The court's decision takes effect immediately. In order to challenge the decision and stop its 202 No. 6/2019 consequences, the parties can appeal it to the Court of Appeal. They can also go to a higher level of appeal, the so-called. As for Spain, out-of-court forms of resolving labor disputes are most often practiced in this country. Participants in labor disputes in most cases have the opportunity to resolve the dispute in an out-of-court session. Spanish labor law stipulates that the parties must attempt conciliation or mediation as a prerequisite to legal action. Both procedures involve finding an out-of-court way of resolving the dispute, therefore, the parties themselves agree to terms that can end the conflict. They may also agree to arbitration, although this is not a commonly used alternative. The high volume of labor litigation faced by the Spanish judiciary in the context of the economic crisis has led to the development of legislation that promotes the development of alternative methods of resolving labor disputes, which in turn lightens the workload of the courts and encourages consensus decisions. Consequently, the Spanish system offers several out-of-court alternatives for the resolution of labor disputes. Despite the fact that conciliation

plays an important role, it would be desirable to make additional efforts to expand mediation and arbitration, because out-of-court solutions facilitate the work of the judicial system, provide quick results, and contribute to reaching consensus.

Specialized labor courts have been established in Hungary and Poland. Courts can hold employers accountable for breaching a collective agreement. The court also hears individual labor disputes. The legislation of the Republic of Kazakhstan, Tajikistan, and Uzbekistan provides for a judicial procedure for resolving collective labor disputes ("legal disputes" in Western terminology). According to Art. 4 of the Law of the Republic of Kazakhstan, Part 1 of Art. 210 of the Labor Code of Tajikistan, collective labor disputes regarding the application of legislative and other normative acts on labor (non-implementation or violation of them) are subject to judicial review at the request of a representative of one of the parties. According to Part 2 of Art. 210 of the Labor Code of Tajikistan, when considering applications in courts and executing their decisions, the relevant rules and deadlines established for individual labor disputes are applied. In contrast to the Kazakh Law and the Labor Code of Tajikistan, the Labor Code of the Republic of Uzbekistan (Article 281) includes two categories of disputes under the competence of the courts - regarding the application of legislative and other normative acts on labor and regarding the non-fulfillment of collective agreements, agreements, in the consideration of which rules and terms are applied, provided for individual labor disputes. In this regard, the issue of criteria for distinguishing individual and collective labor disputes, peculiarities of judicial procedures for their resolution, etc., needs to be developed. Thus, in these countries, the formation of court procedures for consideration of collective labor disputes has already begun.

Concluding the review of the experience of European countries, it is worth noting that the activity of labor courts in most of these countries is based on the principles of tripartite cooperation (tripartism). Court cases are considered by a panel consisting of a professional judge and two non-professional judges nominated by trade unions and employers' organizations. Such a composition of the court is designed to ensure a comprehensive, impartial consideration of the dispute and the adoption of a fair decision. It is also of great importance that labor courts can provide qualified consideration of the

case, since professional judges of such courts are lawyers specializing in the field of labor law, and non-professional judges are practitioners, well-versed in issues of labor and labor relations. In addition, it is worth noting that labor courts are usually integrated into the general judicial system, with the exception of Germany (since, as we have already noted above, there is an autonomous system of labor courts). Usually, labor courts operate on the basis of rules and procedures laid down in civil procedural legislation, that is, they consider cases on the basis of the adversarial principle. But some amendments have been made to this principle: the procedure in labor courts is faster and less expensive than in ordinary courts; some formalities inherent in the civil process are missing; courts show greater initiative in the conduct of the court process, the collection of evidence [7].

1.5 The European Court of Human Rights, as the highest international authority for resolving labor disputes

On July 17, 1997, the Verkhovna Rada of Ukraine ratified the European Convention on Human Rights. It entered into force on September 11. Since then, our compatriots for the first time actually received the right provided for in Article 55 of the Constitution: to apply for the protection of their violated rights to international organizations, in particular to the European Court of Human Rights in Strasbourg. And our state has confirmed its desire to comply with the commitments made upon joining the Council of Europe.

As of September 3, 1999, the European Court received 1,257 complaints from citizens of Ukraine, but only 349 of them were registered, and only eight were deemed acceptable, that is, taken up by the court for consideration.

The reason for such a large "dropout" is the legal ignorance of our citizens. Many people are completely unaware of the procedure for applying to the European Court. Not knowing the rules and norms of the Convention, people often waste time, even when the case falls under the mandate of the European Court. The European Court did not take into consideration those cases in which either the application deadlines were violated, or

all national human rights protection mechanisms were not used, or the events took place before the European Convention on Human Rights entered into force.

Among the eight complaints from Ukraine, which the court in Strasbourg accepted for consideration, there are two cases regarding unpaid wages (from Chervonograd in Lviv Oblast and Veliki Dederkal in Ternopil Oblast). It should be emphasized that these cases were initiated not due to the fact of non-payment of wages, but due to non-execution of court decisions related to these non-payments.

Consideration by international courts of violations of labor and socio-economic rights, for example, such as non-payment of wages or pensions, is provided for by the European Social Charter. However, Ukraine has not yet ratified it.

The implementation of the decisions of the European Court is controlled by the structures of the Council of Europe. The control body is the Committee of Ministers of the Council of Europe. By the way, in more than 40 years of the existence of the European Court of Human Rights, there has not been a single case that its decision was not implemented by the offending country.

If the European Court makes a decision in favor of the plaintiff, the state that is the defendant must compensate for material and moral damages. After all, when turning to an international organization, a person is contesting the actions of the state. Although in Ukraine it is still not legally regulated who will pay compensation in these cases.

The consideration of two cases regarding non-execution of court decisions on non-payment of salaries is unique. If the European Court of Justice had made a decision in favor of the plaintiffs, it could have affected our government. The state would feel that there is a serious and influential control over compliance with its obligations to its citizens.

An individual (group of individuals) or non-governmental organization has the right to apply to the European Court in case of violation of personal political and civil rights. These are the right to life, freedom and personal integrity, the prohibition of torture, government interference in personal and family life, violation of freedom of conscience and religion, the right to property, education, and free elections. An appeal to the

European Court is possible only when all national human rights protection mechanisms have been exhausted.

Whether in a civil case or in a criminal case, it is necessary to obtain a decision of the cassation instance. That is, it is necessary to go through the procedure of the first court instance, then the higher cassation instance. The decision of the Supreme Court of Ukraine is not mandatory. Only when the Supreme Court considered the case at first instance, then the Plenum of the Supreme Court is the mandatory higher instance. If the case falls under the mandate of the European Court, it can be appealed to within six months from the date of the cassation ruling. Only according to court decisions issued in relation to events that took place no earlier than September 11, 1997. That is, since the European Convention on Human Rights entered into force.

The appeal can be written in the official language of the European Court of Justice (English, French) and in any of the official languages of the 41 countries that have ratified the European Convention on Human Rights. Including Ukrainian, Russian.

Appeal to the European Court is free. If the European Court accepts the application for consideration, the lawyer's services may be reimbursed by the European Court to the applicant if he proves that he does not have sufficient funds to pay for a lawyer.

The Human Rights Commissioner of the Verkhovna Rada is not one of the mandatory authorities for applying to the European Court of Justice. This instance does not represent citizens' cases in court (this can only be done in person or through a lawyer).

CONCLUSION

Thus, after completing and analyzing this course work, you can come to the following conclusions that the interests of the employer and the employee do not always coincide, and naturally, a clash of these interests is possible at any stage of the labor relationship, which in turn leads to disagreements. Therefore, in many enterprises. in most institutions there are such manifestations of incompatibility of interests as labor disputes. The implementation of relations, both individual and

collective, does not always go smoothly. Since it is said that there are two types of relations with the employment of workers at enterprises. Accordingly, two types of disagreements arise between the subjects of these relations: individual and collective.

The causes of labor disputes are divided into two types: organizational and industrial in nature and legal.

The reason for the emergence of labor disputes can be various actions or inaction of one of the subjects of labor relations.

According to the sign of sub-department, three types of consideration of these disputes can be distinguished: in a general procedure, in a judicial procedure, in a special procedure.

After the beginning of the reforms in our country, they also began to look for a more effective mechanism for resolving labor disputes, but, unfortunately, for many years, it was not possible to solve this problem. To date, even an approximate model of labor courts does not exist in Ukraine.

In England, a similar service is called the "Conciliation and Arbitration Service", it exists under the government, this service is, as it were, three-tiered. If a person has problems at work, he can first of all use the hotline, such a contact network is quite well-known in England. Qualified specialists will help with advice. After the consultation, the majority, without bringing the case to a conflict, find legal ways to influence the employer, but when, after all, a person fails to protect his rights on his own, reconciliation of the parties begins with the help of arbitrators. If these procedures also reach a dead end, the case is referred to labor arbitration. Experienced arbitrators carefully study the conflict and prepare a court decision that is binding on the conflicting parties.

Conflicts at work, as they were not considered, are not considered until now. The court is helpless and will remain so until the rights of the employee and the employer are equalized in labor disputes. There must be special rules for the protection of the rights and guarantees of citizens in the field of labor; only the Labor Procedural Code of Ukraine (TPK) can become a set of such rules.

In this code, it is necessary to reflect all existing issues related to the consideration of labor disputes and conflicts, and these issues can be resolved precisely with the help of the labor procedural code, without going beyond the boundaries of civil courts, these institutions should simply be supplemented by judicial bodies that are well-versed in modern labor right Conflicts over non-payment of wages, length of service, industrial labor insurance, collective agreements, agreements and many other issues related to labor law should be referred to these bodies.

It is possible to take the French model of labor courts as a basis, which are called prudomal. Representatives of employers and employees, who are elected in special elections, sit in them on a parity basis. similar to parliamentary ones. But it is necessary not just to automatically transfer the French scheme to our land, but to try to adapt it to our reality, to create an effective mechanism to protect the weak side - the employee.

To date, there are still many unresolved issues in Ukraine in the field of protection of violated labor rights of employees. Of course, all these problems carry a conflict. For a long time, most problems were solved by strikes and pickets, but the active work of the NSPP gives significant positive results in improving social and labor relations, legal resolution of disputes and conflicts, prevention of strikes and other social protest actions.

In our opinion, specialized labor courts are necessary in Ukraine. So, today, it can be noted that the NSPP is a prototype of the system of specialized labor courts and it is from the NSPP that this system of courts can grow. The system of pre-trial specialized labor courts, whose decisions do not have legal effect, is widespread in many countries with developed economies, for example: in Great Britain, Germany, Israel. And everywhere these courts have proven themselves to be one of the most successful ways of resolving conflicts without the unnecessary red tape and formalities required in a court of general jurisdiction.

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2. Organization of the work of courts during the state of martial. Ensuring access to justice

Abstract

The basic principles of the organization of the judicial power of Ukraine have been determined. The peculiarities and problematic issues of the administration of justice during the period of martial law are revealed. Ways of solving such issues and ensuring the right to a fair trial during the administration of justice during martial law are proposed.

The relevance of the chosen topic is determined by its novelty, a new challenge for the State, society, law enforcement and judicial bodies in connection with the introduction of martial law in Ukraine. The rule of law is actually formed in society when law becomes the center of society's life, when relations between citizens and the state are relations of law, not force, and the inviolability of the citizen's legal position is guaranteed by justice, in which the legal relationship between the state and the individual is institutionalized.

The court must ensure the protection of socio-economic, political rights, personal rights and freedoms of citizens in any period. Judicial protection is the highest guarantee of ensuring the rights and freedoms of citizens, since the court occupies a certain place in the government system.

Changes in the political, economic, and social spheres of society are inextricably linked with the construction of the rule of law, legal reform, and establishing the exclusivity of the judiciary. Therefore, I believe that highlighting the specified problems will contribute to their solution and ensure the proper functioning of the courts, access to justice, timely, effective and, given the circumstances, safe protection of the violated rights of citizens.

2.1 Principles of organization of the judicial power of Ukraine

In accordance with Part 1 of Art. 6 of the Constitution of Ukraine, state power is exercised on the basis of its division into legislative, executive and judicial. This constitutional provision enshrines the conceptual principle of the distribution of powers, according to which each of the branches of the single and indivisible state power performs only its own function, has its own sphere of implementation, its own competence. This division of state power is due to two main points, namely the necessity: first, to ensure the most effective functioning of state power in the interests of society; secondly, to create obstacles for abuse of power, its usurpation. The division of power into the specified branches also balances the activities of various structures of state power.

The judiciary occupies a special place in the system of state power. It is determined by the specificity of its legal nature, functions, tasks and means of its achievement [24 p. 25].

The judiciary is entrusted with the implementation of the function of justice. As stated in Art. 124 of the Constitution of Ukraine, justice in Ukraine is carried out exclusively by courts. Delegation of functions, as well as appropriation of these functions by other bodies or officials is not allowed.

Judicial power in Ukraine, in accordance with the constitutional principles of separation of powers, is exercised by independent and impartial courts established by law [23].

Based on the provisions of the Law of Ukraine "On the Judiciary", it can be established that by its legal nature it is an independent, independent sphere of public power and constitutes a set of powers to administer justice, interpret legal norms, with the corresponding control powers of special bodies - courts.

The court occupies a special position in the state mechanism due to the specifics of the functions it performs, the conditions and procedure of its activity. Courts are not part of any other system of state bodies, they are not subordinate to anyone.

A peculiarity of the judiciary is also the fact that court decisions are adopted by courts in the name of Ukraine and are binding on the entire territory of Ukraine. The judicial power in the system of state power is, so to speak, decisive, because it has the last word in the resolution of a dispute (social conflict), in the application of the law.

Judicial power in Ukraine is exercised through justice in the form of civil, economic, administrative, criminal, and constitutional justice. Judicial proceedings are carried out by the Constitutional Court and courts of general jurisdiction. The jurisdiction of courts extends to all legal relations arising in the state.

The tasks of criminal justice are to protect the rights and legitimate interests of individuals and legal entities participating in it, as well as to quickly and fully disclose crimes, expose the guilty and ensure the correct application of the law so that everyone who commits a crime is brought to justice and no the innocent was not punished.

The tasks of the civil judiciary are to protect the rights and legitimate interests of individuals, legal entities, and the state through comprehensive consideration and resolution of civil cases in accordance with current legislation.

Enterprises, organizations, other legal entities (including foreign) citizens who carry out business activities have the right to apply to the commercial court for the protection of their violated or disputed rights and interests protected by law in accordance with the established sub-department of economic affairs. Consideration and decision in court sessions of civil, criminal and other cases are based on constitutional principles (principles).

The main task of administrative proceedings is to promote the rights and legitimate interests of individuals, as well as to protect the violated rights and legitimate interests of individuals in the field of public-law administrative relations [25].

Instead, the exercise of judicial power is much broader in content than the administration of justice. Judicial power is also exercised in court actions that are not related to the consideration of cases. These are organizational and information-analytic actions (summarization of court practice, analysis of court statistics, resolution of complaints of plaintiffs, defendants, accused, lawyers, sending individual decisions to state bodies, institutions, organizations).

The organization of the judiciary and the administration of justice in Ukraine, which functions on the principles of the rule of law in accordance with European standards and ensures everyone's right to a fair trial, are determined by the provisions of the Law of Ukraine "On the Judicial System and the Status of Judges" (Vidomosti Verkhovna Rada (VVR), 2016, No. 31 , Article 545). Therefore, revealing the content of this topic, I will repeatedly refer to the legal norms set forth in the specified law.

As already mentioned, the courts of Ukraine create a single system, the creation of extraordinary and special courts is not allowed. Delegation of court functions, as well as appropriation of these functions by other bodies or officials, are not allowed. Persons who have appropriated the functions of the court bear the responsibility established by law. The people participate in the administration of justice through juries [23].

These norms are clear, comprehensive and not subject to extended interpretation.

Determining the principles of the organization of the judiciary in Ukraine, one cannot fail to note that while administering justice, the courts are independent from any illegal influence. Courts administer justice on the basis of the Constitution and laws of Ukraine and on the principles of the rule of law. The independence of the judiciary must be guaranteed by a special procedure for court financing, material and household support for judges, and their social protection. The internal level of independence of the judiciary determines, on the one hand, the actual activity of the court in the administration of justice, and on the other hand, the status guarantees of judges. Therefore, the entire organization of court activity should be aimed at ensuring the specified principle, maintaining a balance between other principles of the judiciary, such as the right to a fair trial, the right to a respectful trial, equality before the law and the court, publicity and openness of the judicial process, etc.) .

The judicial system consists of:

1) local courts;

2) appellate courts;

3) Supreme Court.

Higher specialized courts operate in the judicial system to consider certain categories of cases in accordance with this Law. The highest court in this system is the Supreme Court [23].

It is difficult to overestimate the importance of the unity of the principles of the organization and activity of the courts, since, in particular, the unity of the judicial system of Ukraine is ensured by the unity of the principles of the organization and activity of the courts.

The court is formed, reorganized and liquidated by law. The draft law on the formation, reorganization or liquidation of the court is submitted to the Verkhovna Rada of Ukraine by the President of Ukraine after consultations with the Supreme Council of Justice. The location, territorial jurisdiction and status of the court are determined taking into account the principles of territoriality, specialization and instance. The reasons for the creation, reorganization or liquidation of a court are a change in the judicial system defined by this Law, the need to ensure access to justice, optimization of state budget expenditures, or a change in the administrative-territorial system. The formation of a court can take place through the creation of a new court or reorganization (merger, division) of courts. The number of judges in the court (except the Supreme Court) is determined by the Supreme Council of Justice, taking into account the advisory opinion of the State Judicial Administration of Ukraine, the judicial workload and within the limits of the expenses specified in the State Budget of Ukraine for the maintenance of courts and the remuneration of judges. The Supreme Court consists of judges, the number of which is determined by the Supreme Council of Justice, taking into account the advisory opinion of the Plenum of the Supreme Court. The maximum number of judges of the Supreme Court cannot exceed two hundred judges. The court is a legal entity, unless otherwise determined by law. The procedure for taking appropriate measures related to the formation, reorganization or liquidation of a court is determined by the law on the formation, reorganization or liquidation of such a court [Art. 1. 19].

The local court is a court of first instance and administers justice in the manner established by the procedural law

The law defines the following types of local courts: local general courts are district courts that are formed in one or more districts or districts in cities, or in a city, or in a district (districts) and a city (cities); local commercial courts are district commercial courts; local administrative courts are district administrative courts, as well as other courts defined by procedural law.

The local court consists of local court judges, from among whom the head of the court and, in cases defined by law, the deputy or deputies of the head of the court are appointed.

Courts of appeal act as courts of appellate instance, and in cases defined by the procedural law - as courts of first instance, considering civil, criminal, economic, administrative cases, as well as cases of administrative offenses. Courts of appeal for consideration of civil and criminal cases, as well as cases of administrative offenses, are courts of appeal, which are formed in appellate districts. Appellate courts for consideration of economic cases, appellate courts for consideration of administrative cases are, respectively, appellate economic courts and appellate administrative courts, which are formed in the respective appellate districts. As part of the appellate court, court chambers may be formed to consider certain categories of cases. The judicial chamber is headed by the secretary of the judicial chamber, who is elected from among the judges of this court for a term of three years.

In the judicial system, higher specialized courts operate as courts of first instance and appellate instance for consideration of certain categories of cases.

The highest specialized courts are: 1) the Supreme Court on Intellectual Property (currently does not administer justice); 2) Higher anti-corruption court. Higher specialized courts consider cases assigned to their jurisdiction by procedural law. As part of the higher specialized court, trial chambers may be formed to consider certain categories of cases in the first instance, and an appeals chamber may also be formed to consider cases in the appellate instance. Apethe trial chamber of the higher specialized court acts as part of it on the basis of institutional, organizational, personnel and financial autonomy. The number of judges in the appellate chamber of the higher specialized court is determined within the total number of judges of the higher

specialized court by the Higher Council of Justice, taking into account the advisory opinion of the State Judicial Administration of Ukraine.

The Supreme Court is the highest court in the judicial system of Ukraine, which ensures stability and unity of judicial practice in the order and manner determined by the procedural law.

If we consider in more detail the actual composition of the court, as a body of justice, the following can be determined.

Administrative positions in the court are the positions of the chairman of the court and the deputy (deputies) of the chairman of the court.

The chairman of the local court, his deputy, as well as the chairman of the appeal court, his deputies, the chairman of the higher specialized court, his deputies are elected to their positions by the meeting of judges of the corresponding court from among the judges of this court.

In a court with more than ten judges, one deputy chairman of the court may be elected, and in a court with more than thirty judges, no more than two deputy chairman of the court may be elected.

The deputy head of the local court exercises administrative powers determined by the head of the court [Art. 1 25].

The stay of a judge in an administrative position in a court does not exempt him from exercising the powers of a judge of the corresponding court provided for by this Law [Art. 1. 20].

A judge of a local court, a judge of an appellate court, a judge of a higher specialized court administers justice in the manner established by the procedural law, as well as other powers defined by the law [Art. 1, 23, 28, 33]. A judge of the Supreme Court: 1) administers justice in the order established by the procedural law; 2) participates in consideration of issues brought to the meeting of the Plenum of the Supreme Court; 3) analyzes judicial practice, participates in its generalization; 4) participates in consideration of issues submitted to meetings of judges of the relevant court of cassation, and exercises other powers defined by law [Art. 1. 38].

Investigating judges (judges) are elected from among the judges of the local general court, who exercise powers of judicial control over the observance of the rights, freedoms and interests of persons in criminal proceedings in the manner determined by the procedural law. The number of investigating judges is determined separately for each court by the meeting of judges of that court and is unlimited. However, I believe that during the determination of investigating judges, the possibility of forming a panel to consider criminal cases in cases defined by the Criminal Procedure Code of Ukraine must be taken into account, and this should be determined by law. Yes, taking into account the provisions of Part 1 of Art. 76 of the Criminal Procedure Code of Ukraine to the extent that a judge who participated in criminal proceedings during a pre-trial investigation does not have the right to participate in the same proceedings in a court of first instance, in the event that all judges of the court (or the majority of them) are elected as investigating judges , it will be impossible for such a court to conduct a collegial review of criminal proceedings, which will lead to the need to transfer the case to another court and possible overburdening of another court, creating certain difficulties for the participants in the case related to appearing in court. The need to resolve this issue is especially urgent during the state of war in the country, when the transfer of proceedings can be complicated by the conduct of active hostilities, and sometimes even impossible.

Organizational maintenance of the court's work is carried out by its office, which is headed by the head of the office. The head of the court apparatus is personally responsible for the proper organizational support of the court, judges and the judicial process, the functioning of the Unified Judicial Information and Telecommunication System, and informs the meetings of judges about his activities. Meetings of judges can express no confidence in the head of the court's staff, which results in his dismissal from office. The head of the court apparatus appoints and dismisses employees of the court apparatus, applies incentives to them and imposes disciplinary sanctions. The selection of employees of the court apparatus is carried out on a competitive basis, except in cases of transfer of civil servants in accordance with the legislation on civil service.

The legal status of employees of the court apparatus is determined by the Law of Ukraine "On Civil Service" taking into account the specifics defined by this Law.

The structure and staffing of local court apparatuses are approved by the relevant territorial administration of the State Judicial Administration of Ukraine, apparatuses of appeal courts, higher specialized courts - by the State Judicial Administration of Ukraine in agreement with the court president, within the limits of expenses for the maintenance of the respective court. The temporary structure and temporary staffing of the apparatus of the newly formed court is approved by the acting head of the apparatus of this court in agreement with the Head of the State Judicial Administration of Ukraine.

Apparatuses of courts can be createddepartments, departments, sectors, performing their functions on the basis of provisions approved by the head of the relevant court.

In the apparatus of the higher specialized court, an independent structural unit is formed for the organizational support of the work of the appeals chamber of this court, whose activities are under the control and whose head is subordinate to the head of the appeals chamber of the higher specialized court. This subdivision on matters of ensuring the activities of the appeals chamber does not report to the head of the staff of the higher specialized court.

The court apparatus ensures the conduct of personal cases of judges in the order determined by the State Judicial Administration of Ukraine in agreement with the Council of Judges of Ukraine.

An office is established in the court apparatus, which ensures the acceptance and registration of documents submitted to the relevant court every day during the working hours of the court. The office also performs other tasks defined by the regulation approved by the head of the staff of the relevant court.

The court staff also includes secretaries of the court session, scientific consultants and court administrators. Scientific consultants must have a scientific degree.

The apparatus of the Supreme Court has certain peculiarities. Yes, the staff of the Supreme Court is headed by the chief of staff. The deputies of the head of the staff of the Supreme Court are the first deputy and deputies. Deputy heads of the staff of the

Supreme Court head the structural divisions of the staff of the Supreme Court, which provide organizational support for the activities of the courts of cassation (secretariats). Secretariats, departments, departments, divisions, and sectors may be created in the Supreme Court's staff, which perform their functions on the basis of regulations approved by the head of the Supreme Court's staff.

Each judge has an assistant(s), whose status and conditions of activity are determined by this Law and the Regulations on Assistant Judges, approved by the Council of Judges of Ukraine. Judges' assistants in matters of preparation of cases for consideration are accountable only to the respective judge.

Every court has a court bailiff service. Court bailiffs ensure compliance by persons present in court with established rules, their execution of the orders of the presiding judge at the court session.

Maintenance of public order in the court, cessation of acts of disrespect for the court, as well as protection of court premises, bodies and institutions of the justice system, performance of functions related to state provision of personal safety of judges and members of their families, court employees, ensuring the safety of participants in the court process are carried out by the Court Service protection This service is not part of the court apparatus, but is a state body in the justice system to ensure protection and maintenance of public order in courts. The Judicial Security Service is accountable to the Supreme Council of Justice and under the control of the State Judicial Administration of Ukraine.

2.2 Peculiarities and problematic issues of the administration of justice during martial law

Formally, the introduction of martial law does not affect the judicial process. In particular, in accordance with Art. 26 of the Law of Ukraine "On the Legal Regime of Martial Law", justice in the territory where martial law has been imposed is carried out only by courts. Courts established in accordance with the Constitution of Ukraine operate on this territory. Abbreviation or acceleration of any forms of judicial

proceedings is prohibited. In case of impossibility to administer justice by the courts operating in the territory where martial law has been imposed, the laws of Ukraine may change the territorial jurisdiction of court cases considered in these courts, or the location of the courts may be changed in accordance with the procedure established by law. The creation of extraordinary and special courts is not allowed [26].

At the same time, in practice, it is extremely difficult to ensure uninterrupted operation of the courts during the war.

To settle this issue, the Council of Judges of Ukraine (hereinafter referred to as the Council of Judges of Ukraine) made a number of important decisions.

Decision No. 9 dated February 24, 2022. It was decided: to draw the attention of all courts of Ukraine to the fact that even in conditions of war or a state of emergency, the work of the courts cannot be suspended, that is, the constitutional right of a person to judicial protection cannot be limited; to recommend meetings of judges, heads of courts, judges of courts of Ukraine in the event of a threat to the life, health and safety of court visitors, court staff, judges to promptly make a decision on the temporary suspension of judicial proceedings by a certain court until the circumstances that led to the termination of cases are eliminated; in order to ensure the stable functioning of the judiciary in Ukraine, to appeal to the subjects of the legislative initiative with a proposal to urgently introduce a draft law and adopt a law to provide that in the event that the Supreme Council of Justice is incompetent due to the lack of a sufficient number of its members, determined by Article 131 of the Constitution of Ukraine, its powers determined by this and other laws, with the exception of the powers provided for by the Constitution of Ukraine, are temporarily exercised by the Council of Judges of Ukraine and others.

Decision No. 10 dated March 14, 2022. Specific recommendations for the organization of the work of courts and judges in martial law conditions were determined. In particular, the concept of "remote work of the court" was mentioned and it was decided to recommend the management of the courts to find out the real reasons why judges leave their places of residence; in the event that the court did not pass a decision on the temporary suspension of court work (temporary suspension of

the administration of justice) or a decision on remote work, - to grant such judges paid or unpaid leave at their request with a simultaneous recommendation to arrive at the place of work as soon as possible; when making a decision on granting vacations, take into account the actual circumstances (presence/absence of hostilities in a specific settlement), the real possibility/necessity of the judge's return/arrival to the workplace, the possibility of remote work; remote work of a judge is possible only on the condition that he stays within the borders of Ukraine.

Decision No. 11 of 03/25/2022 recommended that the Courts of Ukraine, the State Judicial Administration of Ukraine, and other institutions of the justice system temporarily postpone until the end of the martial law in Ukraine the provision of answers to all requests for public information received since the introduction of martial law in Ukraine – February 24, 2022. In the case of receiving requests to provide any public information about the activities of courts and institutions of the justice system, a copy of the request should be immediately sent to the Security Service of Ukraine for a thorough check of the persons collecting such information and the purpose pursued by them.

Decision No. 26 dated August 5, 2022, it was decided to provide the courts with recommendations, in order to increase the level of use of electronic justice tools during the administration of justice in conditions of difficult financial provision of the courts to recommend to the courts, in particular,

- in cases where the lawyer, notary public, private executor, arbitration administrator, judicial expert, state body, local self-government body, economic entity of the state or communal sectors of the economy, participating in the case, does not have an official email address in the Unified Judicial Information - the telecommunications system – to require the registration of such an official email address for further sending of procedural documents by the court in electronic form;

- summonses and notices, exchange of procedural documents with participants in court proceedings should be carried out primarily by e-mail and/or using the mobile phones indicated by the participants in court proceedings (including using messengers

that allow you to receive information about the delivery of the relevant notice, procedural document, and get information about their reading);

- summonses and notifications, exchange of procedural documents with participants in court proceedings using traditional postal communication means should be carried out only in case of impossibility of communication by e-mail and/or using the mobile phones used by participants in court proceedings (including using messengers that allow you to receive information about the delivery of a relevant message, procedural document, and to receive information about their reading);

- in the event that the court does not have the opportunity to print out the documents received by the court in electronic form due to their considerable volume, appeal to the participants in the court proceedings with the proposal to additionally submit the relevant documents to the court in paper form;

- consider the possibility of posting on official websites information about mobile phones, through which participants in court proceedings will be able to communicate with the court (or the judge's office) using messengers that allow to receive information about the delivery of the relevant message, procedural document, and to receive information about their reading;

- to consider the possibility of creating and placing on the official websites of the court alternative postal addresses (registered on secure domain names) through which the participants of court proceedings will be able to communicate with the court (or the judge's office) in case of impossibility of using the official e-mail address of the court.

Call on all participants in court proceedings:

- to treat with understanding the existing problems of financing the judicial branch of government in the conditions of martial law;

- at a reasonable time interval, take an interest in the proceedings in their cases, exercise due process rights in good faith and consistently perform procedural duties;

- register an email address in the Unified Judicial Information and Telecommunication System;

- register in the "Electronic Cabinet" subsystem of the Unified Judicial Information and Telecommunication System;

- use the "Electronic Cabinet" functionality to review submitted documents in electronic form;

- when submitting procedural documents to the court, indicate the email address in the Unified Judicial Information and Telecommunication System or another email address through which the court can communicate;

- when submitting procedural documents to the court, indicate the mobile phone number and the most convenient messenger, through which the court can make calls and messages, or exchange electronic documents;

- if there is information on the official websites of the courts about mobile phones, alternative postal addresses through which the participants in court proceedings will be able to communicate with the court (or the judge's office) - use them for communication with the court;

- when submitting a significant amount of documents to the court in electronic form (more than 30 sheets) - additionally submit them to the court in paper form.

Decision No. 31 dated 06.10.2022 approved the draft of amendments to the provisions on ASDS. In particular, it is determined that the meeting of judges of the relevant court has the right to determine the specifics of the implementation of the automated distribution of court cases under certain circumstances: in the event of a power outage of the court's power grid, failure of equipment or computer programs, or the occurrence of other circumstances that make it impossible for the ongoing automated system to function more than five working days, in accordance with the requirements of subsection 2.3.55 of clause 2.3 of this Regulation; which, according to the legislation, are subject to registration and/or review on non-working days; which were subject to transfer to the presiding judge (rapporteur judge) previously determined in the court case in the absence of such a judge, if this would lead to the impossibility of considering these cases and materials within a reasonable time (subclause 2.3.47 of clause 2.3 of this Regulation); in cases of a return to the court of a higher instance of a court case in which court decisions were annulled with the transfer of the court case to a court of a lower instance for a new trial (except for cases in which there are circumstances that exclude the repeated participation of judges in the trial of the case,

including the review of the case by newly discovered circumstances, etc.); in case of repeated submission to the court of claims, appeals and cassation complaints, on the grounds provided by the procedural law; in other cases provided for by law, due to which a judge cannot administer justice or participate in the consideration of court cases (including in the case of the election of a preventive measure against the judge with duties imposed on him that make it impossible for him to administer justice or participate in the consideration of court cases cases, and/or in case the Supreme Council of Justice adopts a decision on the temporary suspension of a judge from the administration of justice), etc.

If we examine the norms of the Laws "On the Judiciary", "On the Legal Regime of Martial Law", the recommendations of the Council of Judges of Ukraine in their entirety, it can be understood that the main problems of the administration of justice under martial law, and in general, the organization of the work of the courts in the specified period are :

1. the need to provide judges, court staff, and court visitors with properly equipped premises for holding court sessions, carrying out the consideration of cases, performing current work of the court, storing proceedings materials. At the same time, the specified premises must meet safety requirements, including being equipped with appropriate shelters. In fact, implement what has been indicated into your lifeit is difficult, both financially and materially (finding premises to ensure the possibility of relocation, accommodation of judges, court employees and court apparatus);

2. the need to make changes to the current procedural legislation (Civil Procedural Code, Code of Administrative Procedure of Ukraine, Criminal Procedure Code of Ukraine, Code of Ukraine on Administrative Offenses), Instructions on record keeping in local and appellate courts of Ukraine, Instructions on the procedure for transfer to the archive of local and appellate courts court, storage in it, selection and transfer to state archival institutions and archival departments of city councils of court cases and administrative documentation of the court, etc.), including regarding the order of summons and notifications of the parties to the case in the specified period, providing

the opportunity to freely submit applications, petitions , requests, receive executive letters, procedural decisions, responses to requests;

3. the need to make appropriate changes to the court's automated document management system related to the above.

The specified issues are not procedurally regulated, which results in collision situations, application of different practices and approaches, and may violate the principles of the unity of the organization and activity of the courts.

At the same time, one should not forget that a person wants the justice system to constantly and reliably protect him from illegal encroachments, abuse of power, and guarantee him the effective restoration of violated legal rights and freedoms. At the same time, it is important that the court enjoys the trust of the people, and for the judge, as the bearer of judicial power, proper conditions have been created for the administration of fair justice based on law and morality [36].

2.3 Ways of ensuring the right to a fair trial during the administration of justice during martial law

Article 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention) guarantees the right to a fair and public trial within a reasonable time by an independent and impartial court established by law, when determining a person's civil rights and obligations or when considering any criminal case charges against a person.

The key principles of Article 6 are the rule of law and the proper administration of justice. These principles are also fundamental elements of the right to a fair trial.

The right to a trial covers an extremely wide field of various categories - it concerns both institutional and organizational aspects, as well as the specifics of individual court procedures. The practice of the European Court of Human Rights (hereinafter referred to as the Court), which it sets out in its decisions, is a unique mechanism that allows understanding, interpretation and application of the Convention.

Considering the fact that the right to a fair trial occupies a central place in the system of global values of a democratic society, the European Court in its practice offers a rather broad interpretation of it.

Thus, in the case of Delcourt v. Belgium The Court noted that "in a democratic society, in the light of the understanding of the Convention, the right to a fair trial occupies such a significant place that a restrictive interpretation of Article 6 would not correspond to the purpose and purpose of this provision".

In Bellet v. France The Court noted that "Article 6 § 1 of the Convention contains guarantees of a fair trial, one of the aspects of which is access to court. The level of access provided by national legislation must be sufficient to ensure the individual's right to a court, taking into account the principle of the rule of law in a democratic society. In order for access to be effective, a person must have a clear practical opportunity to challenge actions that constitute an interference with his rights."

As evidenced by the position of the Court in many cases, the main component of the right to a court is the right of access, in the sense that a person must be provided with the opportunity to go to court to resolve a certain issue, and that the state should not create legal or practical obstacles to this rights.

In its practice, the European Court has repeatedly emphasized that the right of access to court, enshrined in 6 § 1 of the Convention, is not absolute: it may be subject to permissible restrictions, as it requires state regulation by its very nature. Participating states enjoy a certain freedom of discretion in this matter. However, the Court must make a final decision on compliance with the requirements of the Convention; he must ensure that the right of access to the court is not restricted in such a way or to such an extent that the very essence of the right will be nullified. In addition, such a restriction will not comply with Art. 6 § 1, if it does not pursue a legitimate goal and there is no reasonable proportionality between the means used and the goal (see Prince Hans-Adam II of Liechtenstein v. Germany).

The practice of the European Court regarding Ukraine regarding the guarantees established by Article 6 § 1 was reflected in the cases concerning the right of access to court and a fair trial.

Thus, in the case of Tregubenko v. Ukraine, the applicant complained that the final and binding court decision rendered onin his favor, was canceled on supervision, and that the trial in his case was unfair. In addition, the applicant complained that he was denied access to a court to determine his civil rights.

Based on the above, in order to ensure unity in the organization of the work of the courts, to ensure the right to a fair trial during the administration of justice in the period of martial law, I propose the following ways of solving the issues decided in section [24].

First, I believe that the problem of providing courts with appropriate facilities during martial law will be fully resolved by the introduction of remote court work. Indeed, the above (regarding the court itself) is not provided for by any normative act of our State, but it is not prohibited by it either. There are opinions regarding the inadmissibility of the administration of justice in this form, while the main thesis is that justice should be administered in the court premises, the possibility of violating the secrecy of the consultation room. According to Part 4 of Art. 211 of the Civil Procedure Code of Ukraine, the court session is held in a specially equipped room - the courtroom [32]. Separate procedural actions, if necessary, can be performed outside the court premises. Part 4 of Art. contains similar norms. 194 of the Code of Administrative Procedure of Ukraine [33], Part 3 of Art. 318 of the Criminal Procedure Code of Ukraine [34]. The provisions of the Code of Ukraine on administrative offenses do not contain such requirements [35].

Thus, it can be said that currently the provisions of the Civil Procedure Code of Ukraine, the Criminal Code of Ukraine and the Code of Administrative Procedure provide for a general rule regarding the place of court hearings - the courtroom. Regarding the equipment of such a hall, based on the analysis of legal norms, it can be noted that the main such equipment is the equipment by means of video conferencing, recording the court session, the location of the persons for whom preventive measures in the form of detention have been chosen (Instructions on the organization of escorting and detention in the courts of the accused (defendants), convicted at the request of the courts from 05/26/2015) [37].

Now let's move on to the definition of the concept of "Location of the court" and the consequences of considering proceedings (execution of judicial proceedings) outside the legal location of the court.

If the above provisions of Art. 19 of the Law of Ukraine "On the Judiciary and the Status of Judges" in the current version, it can be determined that the legislator defines the concept of "Location, territorial jurisdiction and status of the court". That is, these concepts are considered separately.

In order to answer the main question of the topic, namely regarding the organization of court activities in wartime and ways of resolving disputed issues, we need to find out the meaning of the first term, namely the definition of the concept of "court location". It should be noted here that there is no official interpretation of this term. Given that the court is a legal entity, we have double standards for the interpretation of this concept. On the one hand, the location of the court can be defined as the place of registration of the court, as a legal entity, on the other hand, it can be defined as the location of the court composition, as the actual location of such a body.

In accordance with the practice of the European Court of Human Rights, a court will not be considered as having been formed on the basis of the law, if it acted outside the limits of its substantive, functional, subject or territorial jurisdiction. Violations of the specified principles may lead to recognition of court decisions as illegal. On the other hand, the consequences of a free interpretation of the concept of "location of the court" at the legislative level are not defined, there are no requirements regarding the holding of a court session at the location of a specific court, the norms of the current legislation do not contain any.

Thus, if active hostilities are taking place at the location of the court, it is possible to administer justice remotely (I mean the holding of court hearings, with the participation of the parties) in the premises of any court (courtroom), which can ensure the safety of judges, secretaries of court meetings and participants in the case (active persons of the court proceedings). At the same time, it is not prohibited for the participants of the proceedings to take part in the court sessions in the mode of video

conference, and the presence of the secretary of the court session is not foreseen in the court session hall. The main thing is to record court proceedings.

All other employees of the court and the court apparatus can perform their duties directly at their location (even at their place of residence) if it is technically possible. This possibility will be provided by the availability of equipment (computer, printer), Internet connection, appropriate software equipment (D3 system). The above is not only possible, but also real and is successfully applied in practice in some courts, about which a corresponding announcement is posted on the court's website, resource - Judicial Power (official site).

In defense of distance justice, I would like to add that justice should be accessible in a legal state. In other words, all citizens should have equal opportunities to use judicial protection of their rights and legally protected interests. In addition, the completeness of the judiciary assumes that all citizens without exception are recognized as equal before the law and the court, placed in the same conditions. This axiom is confirmed by socio-historical practice and enshrined in international legal documents on human rights. Yes, according to Art. 8 of the Universal Declaration of Human Rights, every person has the right to effective restoration of rights by competent national courts in case of violation of his fundamental rights granted to him by the constitution or law. It is the implementation of justice in this form that will ensure the restoration of the violated rights of citizens, a quick, effective and impartial solution to the tasks set before the court.

The Supreme Court and the Council of Judges recommended that in the event of the impossibility of the administration of justice by the court, the issue of changing the territorial jurisdiction of court cases should be resolved. Thus, the exercise of such powers by the Chairman of the Supreme Court became possible thanks to the legislative changes to the seventh part of Article 147 of the Law of Ukraine "On the Judicial System and the Status of Judges" adopted at the beginning of March. This article in its current version stipulates that in the event of the impossibility of justice by the court for objective reasons during a state of war or emergency, in connection with a natural disaster, military operations, measures to combat terrorism or other

extraordinary circumstances, to change the territorial jurisdiction of court cases considered in such a court, by a decision of the High Council of Justice, which is adopted at the request of the Chairman of the Supreme Court, by transferring it to the court that is closest territorially to the court that cannot administer justice, or to another specified court . In the event that the High Council of Justice is unable to exercise such authority, it is exercised by order of the Chairman of the Supreme Court. The corresponding decision is also the basis for the transfer of all cases pending before the court whose territorial jurisdiction is changing. and detention in courts of the accused (defendants), convicted at the request of the courts. But the algorithm of such actions is not provided for in the court's Document circulation system (D3). For this, additional configuration of the functions of this program is required.

I would like to draw your attention to the fact that it is precisely the impossibility of the court to administer justice, but if the court can administer justice remotely, it makes no sense to change the territorial jurisdiction of court cases. At the same time, an additional burden will not be placed on the courts of other courts to which the cases of such a court will be transferred, this will allow the judges to complete the consideration of the proceedings that they started, spending not only time, but also material resources of the state on it (starting a case (paper, ink for printing), recording of the court session (discs), summons of the parties (postage stamps, envelopes). Thanks to remote work of the court, timely consideration of the proceedings is ensured.

In addition, the European Commission for the Efficiency of Justice (CEPEJ) provided answers to the request of the Supreme Court regarding the possibility of introducing remote hearings in the judicial system of Ukraine. In conclusion, CEPEJ experts considered whether the proposals of the Supreme Court regarding the possibility of judges and the secretary participating in the court session remotely are compatible with the European Convention on Human Rights and Fundamental Freedoms, as well as with the CEPEJ Guidelines on the use of video conferencing during court proceedings, and commented on them positively. The experts recognized that if certain conditions are met, the changes to the Ukrainian legislation proposed by the Supreme Court will be compatible with the standards and principles in the field of

human rights, since in general these articles provide acceptable answers to the challenges faced by the judicial system of Ukraine under the current decision-making circumstances.

However, the main thing in the spread of remote justice is the observance of the rights of participants in court proceedings and the proper provision of citizens' access to justice. It is impossible not to agree with this.

By the way, at the international level, a number of European countries are successfully using the experience of conducting remote justice.

Thus, an online meeting of judges from Ukraine, Germany, and Poland was organized by the Administrative Court of Cassation as part of the Supreme Court together with the German Foundation for International Legal Cooperation (IRZ) on July 25, 2022.

"The head of the Supreme Administrative Court noted that the war in Ukraine added a lot of problems to the organization of the work of administrative courts, among which the lack of security is one of the main ones. Implementation of continuous and proper justice in force majeure conditions requires certain legislative changes and additions, primarily of a procedural nature. In particular, regulation of the remote form of work. The fact is that judges continue to consider cases and make court decisions, and the VRP has already received complaints about the remote form of work of judges with a request to bring them to disciplinary responsibility.

The head of the Supreme Administrative Court invited judges from Germany, who fromchats of administrative justice in Ukraine actively contributed to its development and formation, so that they could share the experience gained in connection with the challenges caused by the COVID-19 pandemic in the organization of the consideration of court cases in a remote mode.

Wolfram Hertig, senior project manager of the German Foundation for International Legal Cooperation (IRZ) in Ukraine, expressed his admiration for the fact that the courts of Ukraine, despite the difficult situation, continue to reform on the principles of the rule of law, and maintain the judiciary at the proper level. He also drew attention to the fact that the administrative judiciary, which is a particularly

important jurisdiction for building the rule of law, is functioning at the appropriate level, as far as possible in the current conditions of martial law.

The Chairman of the Constitutional Court and the Higher Administrative Court of Rhineland-Palatinate Dr. Lars Broecker said in his welcoming speech that Ukraine is fighting not only for itself, but for the whole of Europe, for a free and democratic life, for the rule of law. "I was deeply impressed that in such conditions you follow the legal support of all processes, which meets the requirements of the rule of law. After all, the observance of human rights is not suspended during the war," said Mr. Broker.

He devoted his report to the review of judicial decisions related to the COVID-19 pandemic, as well as to the judicial evaluation of the discretionary powers of administrations granted by the German administrative courts.

Accordingly, Lars Broker believes that in an extreme situation in Ukraine due to the state of war, in order to protect both the parties to the court case and the judges, special tools should also be created. For example, a judge can be in a safe place if he alone makes a court decision and it is possible to sign it with an electronic signature. In the case of consultations and meetings with colleagues, judges can be at home and connect to a video conference through secure communication systems. In the case of an oral hearing, according to the speaker, only one of the judges (perhaps the presiding judge) should be in the court to ensure publicity, openness and publicity of the judicial process, the speaker believes.

Presiding Judge of the Higher Administrative Court of Rhineland-Palatinate. Dr. Sabine Wabnitz mentioned that during her visits to Kramatorsk in 2019, she was deeply impressed by how skillfully the courts of Ukraine used technical equipment to consider the case remotely, when the party to the appeal participated in the court session online.

This format is also used in Germany. It is enshrined in procedural legislation long before the pandemic. The purpose was to save time and money for the participants in the case to go to court, as well as to speed up the trial process. The use of technology for video conferencing is one of the elements of the digitalization of justice, to which the courts of Germany strive.

According to the speaker, one of the main requirements is a properly equipped courtroom and access to appropriate equipment. Sound and video recording is mandatory. The court may allow witnesses, experts – participants in the oral proceedings of the case to participate in procedural actions while being in another place. These are, as a rule, premises of authorities, another court, a lawyer's office. However, the use of mobile equipment on the road is not considered as an opportunity for consideration of a court case. This is due to the fact that the protection of personal data is a special requirement.

Sabine Wabnitz said that in connection with the pandemic, judges were provided with the possibility of accessing the official computer from their home workplace. Meetings of judges are held in video conference mode. The main thing is that all judges agree to work like this.

Answering the questions of Ukrainian colleagues, Sabine Wabnitz confirmed that in Germany, judges have the opportunity to put an electronic signature on a court decision while staying at home. This only requires appropriate technical conditions."

Therefore, if we take into account the above, it is considered possible to determine the place of residence of the judge and his administration of justice during the period of martial law in the country, even any other safe place than the courtroom. The above is relevant and also deserves attention, but, of course, it requires appropriate changes in the legislation.

As for ensuring the confidentiality of the conference room, I would like to note that the remote administration of justice does not affect this. This applies only to the person of the judge who is considering the case and it is he who is entrusted with the specified duty. Although, in general, I consider the concept of "meeting room" somewhat debatable, but this is not the subject of this work.

Determining the ways of solving other problematic issues for the organization of the work of the court and ensuring the right to a fair trial during the administration of justice during the period of martial law, one cannot fail to say about the need to make changes to the current legislation, the provisions of the Instructions, and I believe it is possible to determine the following.

I propose to establish a comprehensive list of cases in connection with the occurrence of which remote work of the court is possible.

Regarding the determination of the range of cases that can be considered during the discourt dance work. Establish a category of cases that can be considered during the remote work of the court (for example, cases that are considered by an investigating judge, cases that are considered in written proceedings (both civil, administrative, and criminal, here we mean the consideration of which is legally possible without participation of the parties and in cases defined by the codes, the parties have submitted applications for consideration of the case in their absence), cases on administrative offenses (the Code of Ukraine on Administrative Offenses does not provide for the recording of the court process and the participation of the secretary in the court session at all). The possibility of consideration of other cases , including those related to court attendance, are left to the discretion of the court chairman.

The instruction on record keeping in local and appellate courts of Ukraine shall be supplemented with a new section, which will determine the procedure for sending to court, accepting and registering proceedings, as well as other statements and petitions. At the same time, to encourage citizens to register in the "electronic Court" subsystem on the website of the judicial authorities, in Internet resources, explaining the advantages of such actions and providing an opportunity for other legal entities to register in such a system, including internal affairs bodies, the prosecutor's office.

In such a section, it is advisable to note the following:

1. To allow keeping records for a special period of time in electronic form

send materials of civil, administrative, criminal proceedings (including petitions of investigators, prosecutors, criminal cases that are considered in a simplified procedure), other applications and petitions in electronic form through the "Electronic Court" subsystem. Provide the opportunity for the parties to the case to send relevant procedural statements (except for the statements indicated above) not only in the Electronic Court system, but also to the official e-mail address, while not requiring certification of the corresponding statement with a digital signature, in which case a scanned statement with a personal signature of the person is sufficient;

2. materials, cases, after they are received by the court and the corresponding automatic distribution, to be transferred to the judge for consideration in electronic form, do not print out the case;

3. to provide a technical possibility for the clerk of the court to sign the record of division of the case with a digital signature;

4. a copy of the decision is sent to the plaintiff/applicant/complainant or representative of the plaintiff/applicant/complainant after the decision to leave the claim/statement/complaint/petition without action is sent to the e-mail address indicated by them in the application, and in case of registration of such persons in the system " "Electronic Court", in addition, do not send this decision, consider the person notified of the receipt of such a decision from the day the decision is sent to his e-mail address or within (for example) two days from the day of sending such a decision to the "Electronic Court" system. The secretary of the court session makes appropriate notes about the dates of receipt of such documents in the court document circulation system (D3);

5. in the event that the judge issues a decision to return/refusal to open proceedings in the case, such a decision (without the materials attached to it) is sent to the applicant after its decision to the e-mail address indicated by him in the application, and in the case of registration of such persons in the "Electronic Court" system ", do not send this decision additionally;

6. provide the secretary of the court session with the opportunity to sign the journal of the court session or the protocol with a digital signature;

7. to print the court decision in written form only at the request of the relevant parties to the case (it is possible to send such a request to the official email address of the court and in the Electronic Court subsystem), after it has entered into force, until then send a copy of the court decision to the e-mail address of the parties, if they are not registered in the Electronic Court subsystem. If the parties (participants in the case) are registered in the electronic court, the court decision should not be sent electronically, as the system informs them of the date of the court decision and they can see its text on their own. In this case, for example, 7 days after the decision was

made can be considered as the date they received the decision (this time is enough to log in to the system and review the court decision). I mean not only the final decisions on the case, but also all other procedural decisions of the court in the form of decrees, resolutions, etc.;

8. executive letters. Today, they are printed in writing, signed by the judge and the secretary. The possibility of using an electronic signature in these documents is not provided. Printing of such letters, signing (taking into account the possibility of finding the secretary of the office, the secretary of the court session and the judge in other localities), sending to the parties, requires extra time, unjustified use of resources on paper, printing, mailing of the specified documents (at the same time, from one person to another, then to the applicant), I consider it expedient to resolve the issue of the possibility of signing the executive letter with the digital signature of the judge and the secretary in the DZ system, sending it to the appropriateicon service or delivery to a party in electronic form (signed with a digital signature) and cases), at the request of the party to be issued in writing (as it was before);

9. submit the case to the court office after its consideration by the court in electronic form;

10. transfer the case to the archive in electronic form and establish that after the end of the circumstances that led to the introduction of remote court work, this case must be printed and bound (by the archivist or court secretary, depending on where it is stored), for example, within six months;

11. it is possible to implement the Electronic court archive;

12. referral of a case outside the court, including to an appeal or cassation instance, to another local court, to expert institutions for examination, to investigative bodies, etc., as well as the return of a case to a local or appellate court is carried out on the basis of the relevant procedural document, in electronic form, if possible in the D3 system. That is, a copy of the case is sent in electronic form. To provide a technical possibility to the judge in whose proceedings the case is pending, to certify its correspondence to the original with a digital signature;

13. provide an opportunity and develop the procedure for using the "Electronic Court Seal";

14. to develop a functionality in the D3 system that will allow the decision of the judge (or the head of the court's office) to be imposed in electronic form on applications submitted in the electronic court or by e-mail;

15. to allow a court judge access to the main case (in electronic form in the D3 system), which is considered by another judge in the case of his consideration of the issue of securing a claim, evidence in civil cases;

16. provide the opportunity to use telephone records as proof of notification of the parties to the case about the date, time, and place of the case hearing. Determine that the sent telephone message is registered in the corresponding log by number and date;

17. to note that the parties can get acquainted with the materials of the case in electronic form, such a case is sent for inspection to the e-mail address indicated by them in the relevant application;

18. responses to requests should be sent in electronic form, certified by the digital signature of the person providing the response;

These proposed changes are related to the need to amend the relevant procedural codes, to supplement them with new sections, as well as to the need to amend the Law of Ukraine "On Executive Proceedings".

It is advisable to make the following changes to the Civil Procedure Code of Ukraine and the Code of Administrative Procedure:

1. challenge of the parties. It should be noted that during remote work of the court, the subject of the appeal to the court is obliged to familiarize himself with the date, time and place of consideration of his case. In this case, it should be noted that the case must be scheduled for consideration no earlier than (for example) 10 days from the date of publication of the relevant list of cases. This may slightly delay the process of consideration of the case, but it will allow to ensure the opportunity for the participant of the case to properly prepare for its consideration;

2. regarding the defendant (in civil, administrative cases). Provide a procedural opportunity to familiarize the participants in the case, including the defendant, with the

date, time and place of the case hearing at their phone number specified by the plaintiff or to the specified e-mail address;

3. consider the telephone message sent by the secretary of the court session as proper evidence of the notification of the person about the date, time and place of the case hearing.

Make the following changes to the Code of Ukraine on Administrative Offenses:

1. to oblige (this is already provided for in the relevant Instructions) the body that draws up the protocol on an administrative offense to indicate in the protocol the date and time of the hearing of the case in court (for example, not less than 14 days after drawing up the protocol), to oblige to indicate the mobile the telephone number of the offender, the victim and consider him/her duly notified of the date, time and place of the hearing of the case in case the offender and the victim sign the protocol on familiarization with the indicated, or from the time the secretary of the court session compiles the corresponding telephone log;

2. it is necessary in Article 256 of the Code of Ukraine on Administrative Offenses to additionally specify the requirements for the protocol on administrative offenses: the protocol must indicate that the offender and the victim are informed about the date, time and place of the case consideration, no earlier than 14 days after the date of drawing up protocol on an administrative offense; mobile phone numbers of the victim and the offender, the authenticity of which they must confirm with their signature;

3. to add a new article specifying the right of the court in case of violation of the provisions of Article 256 of the Code of Ukraine on Administrative Offenses to send this protocol on an administrative offense for revision.

Such changes should also be made for use in peacetime;

4. to expand the scope of articles of the Code of Ukraine on administrative offenses, which can be considered on the spot by the corresponding official oby myself

It is advisable to make the following changes to the Criminal Procedure Code of Ukraine:

1. the duty of notification of the date, time and place of consideration of motions during their consideration by the investigating judge shall be imposed on the subject of appeal to the court (prosecutor, investigator, inquirer);

2. to allow, during the period of remote work of the court, to hold court sessions by both the court composition and the investigating judge, in video conference mode with the suspect, the accused, the defendant and other participants in the case at the discretion of the court, without the presence of relevant motions. If a person is in custody, he takes part in the court session via video conference directly in the institution, at his place of stay.

CONCLUSIONS

The idea of the completeness of judicial power as a principle is enshrined in the current legislation. According to Art. 10 KAS justice in administrative cases is carried out on the basis of equality before the law and the court of all citizens, regardless of their origin, social and property status, race and nationality, gender, education, language, attitude to religion, type and nature of occupation, place of residence and other circumstances The completeness of the judicial power is enshrined in the Constitution of Ukraine, which proclaimed the right of citizens to judicial protection as a basic right of a citizen that meets international legal standards. In Art. 14 of the International Covenant on Civil and Political Rights stipulates that every citizen has the right to a fair and public hearing when considering any criminal charge against him or when determining his rights and obligations in any civil process by a competent, independent and impartial court established on the basis of law.

The main duty of the state is the affirmation of human rights and freedoms. Therefore, local courts should be territorially closer to people so that every citizen knows his court and is not forced to choose the one in which he has to protect his rights in a complex court system. This requirement is met by the existing network of courts according to the administrative-territorial division of the state.

Based on the constitutional principle of specialization at the local level of courts, specialized economic and administrative courts were established. The former ensure

the protection of the rights and interests of participants in economic relations, the latter - the protection of the rights of individuals and legal entities from violations by state bodies, local self-governments when the latter perform authoritative management functions. All other civil and criminal cases are considered by district and city courts, with the exception of certain categories of cases, the consideration of which is assigned to the competence of higher level courts.

As for the vertical construction of the judicial system, it corresponds to the procedure of consideration of cases in the first instance, in the appeal and cassation procedures. Checking the legality and reasonableness of court decisions of the court of first instance is an extremely important means of protecting the rights and legitimate interests of participants in all types of judicial proceedings.

I believe that, in general, the judiciary and the organization of its activities should correspond to such a feature as legitimacy. This sign indicates the degree of public trust in the judiciary, its consent to it, readiness to implement its decisions. Legitimacy is very closely related to legality, and legality is a necessary condition of legitimacy. But legitimacy implies not only the compliance of the judiciary with the requirements of the law, but also the informal, procedurally undefined attitude of society towards the judiciary and its decisions. The formation of its legitimacy is facilitated not only by the legality and fairness of the actions and decisions of the court, but also by the ability of judges, in particular the presiding judge in the trial, to properly build relations with the participants in the trial and other persons present in the courtroom, etc.

Citizens, state bodies and officials, legal entities, the state in the form of legislative and executive power must trust the judiciary and recognize it as legitimate. The state must clearly outline the subject area of judicial power, recognize the exclusivity of its powers in this area. Different subjects of legal relations must take into account her competence, independence and agree to her use of all the necessary powers to resolve the conflict, obey the orders of the judiciary regarding the voluntary and conscious performance of her acts.

Judicial power is a specific branch of the unified state power, which has its own exclusive competence to consider legally significant cases that have legal

consequences, and is exercised exclusively by constitutional bodies (courts) within the limits of the law and special (judicial) procedures.

The given definition is not exhaustive. The essence of the phenomenon of judicial power can be fully understood only by studying the forms of its implementation, functions, principles of organization and activity.

In this work, problematic issues of the organization of court activities during martial law were investigated and possible ways of solving them were proposed. The need to establish the number of investigating judges of the court by law, and regarding the organization of the court's work - the possibility of remote work of the court and its legislative support were emphasized. This will ensure proper access to justice for the citizens of our State, even in such a difficult time, and will fully comply with the provisions of Art. 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms.

Therefore, based on the normative acts that have been adopted today, the mode of operation of each specific court is determined separately. The work of the court depends on the situation in the region where the court is located.

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3. Administrative and legal ensuring the prevention of corruption under the conditions of martial state in Ukraine

Abstract

Modeling as a method of scientific research plays a particularly important role in the knowledge of social phenomena and processes and their essence. It is a universal method in terms of transforming the future: the impossibility of social transformation without a proper innovative project.

Modern Ukraine has become a training ground for various social experiments. Therefore, it is not difficult to find other types of models of fighting corruption in its history. Turning to the comprehensible historical period in modern Ukraine and the former USSR, several such conceptual models can be distinguished.

The totalitarian model of the fight against corruption involves comprehensive control by the state over the behavior of officials and a strict response to any deviations from accepted norms (written and unwritten) that they have allowed. Today's largest model was implemented in the era of Stalinism [44, p. 134].

With such an approach to fighting corruption in the conditions of martial law in Ukraine, human rights are violated, and after totalitarianism it is fundamentally incompatible with their maintenance.

However, this model also has positive aspects: it ensures a close correlation between the level of authority of an official and the degree of responsibility. The risk of being prosecuted and punished increases for individuals who are closer to the top of power – the closer to the top, the greater the risk. In other words, the principle of implementation of responsibility works: „from top to bottom", which is an ideal means of optimizing any social system.

The authoritarian model of combating corruption has its own fundamental feature – the realization of the responsibility of choice, in accordance with the setting of the „leading person". For a long time, such persons were representatives of the party elite. This model was typical during the reign of Khrushchev-Brezhnev [44, p. 258].

It is necessary to mention two features inherent in the authoritarian model: firstly, the entry of an official to a certain level of authority actually provides legal immunity and, secondly, money in this model replaces the second rank or has no importance at all [45, p. 156].

The considered model of combating corruption in the conditions of martial law in Ukraine motivates the desire to get into power structures for reasons of own security and impunity; therefore, processes of power degradation and its complex corruption are embedded in it.

The liberal model of fighting corruption means complete irresponsibility, impunity and permissiveness. Such a situation occurs in periods of revolutionary upheavals, when the new government has not yet mastered the functions of management or deliberately initiates destructive processes. The historical periods of the development of this model are the time of the Provisional Government, reforms are actively taking place.

The oligarchic model of combating corruption culminates in a clan approach – according to the principle of „one's own – another's". As the authorities are created by „teams", they protect their „own" from responsibility in all possible ways, but all „outsiders" collect compromising material and try to give it a legal course. We can observe the implementation of this model today [44, p. 258].

In the oligarchic model, money is extremely important, therefore, with its help, the most important problem is solved, including in the field of law enforcement. Hence, the modification of this model in the criminal procedure, then, as practice shows, bandits are bought off from responsibility, which allows them to engage in criminal business with impunity.

Since oligarchic clans do not support feedback from the population and management structures (including in the law enforcement sphere), the fight against corruption becomes instrumental in nature and is seen as a tool in inter-clan struggles for power. The lack of control gives rise to large-scale corruption in the lower power structures in the conditions of martial law in Ukraine [44, p. 345].

As a result of ignoring feedback, the social system is unstable, so this model can exist for a short time.

It is worth noting that these models of combating corruption are dynamic and tend to transform from one type to another: there is a high probability of modification of a liberal model into an authoritarian one, an authoritarian one into an oligarchic one, and an oligarchic one into a totalitarian one. All models are unstable (due to instability in the state and society), so it is advisable to define the main features of an ideal model in order to imagine how the anti-corruption strategy should be implemented in a civilized society.

Strictly speaking, this model exists and is mostly embodied in the concept of the legal Ukrainian state. Another thing is that this concept is abstract and requires content saturation that corresponds to the spiritual and cultural-historical traditions of our country. The realization of such ideas as the reconciliation of law and morality, the definition of a reasonable hierarchy of law enforcement values, the equality of all before the Law, the correspondence between the level of authority and the degree of responsibility, the maintenance of feedback, and the formation of priorities in the fight against crime are of great importance in this process.

In terms of combating corruption in the conditions of martial law in Ukraine, it is especially important to ensure the real implementation of the principle goal of the rule of law model, as the equality of all before the law, in particular, by minimizing the system of legal and factual immunities. This is possible only with a change of attitude towards law.

Currently, law is treated as a mechanism for regulating social relations, which can be „turned on" and „turned off" in appropriate situations, guided by one's own benefit. Ukrainian society, of course, expects the authorities to declare their intention to carry out fundamental reforms of the law enforcement system. During such changes, its security will be strengthened, first of all, the protection of people from any illegal encroachments, the entire law enforcement system will be democratized and humanized, and the efficiency of its activities will increase dramatically. From what will be the law enforcement agencies and the judicial system, what will be the criminal

justice as a whole and will depend on what our state will be: legal, democratic or totalitarian [46, p. 39].

The difficulty of solving this problem lies in how to find a balance between ensuring human rights and freedoms and the interests of the state. This requires a rethinking of the social purpose, first of all, of criminal justice. Modern Ukrainian society needs such a Criminal Procedure Code of Ukraine, which would „adequately ensure the balance of public and private interests, because criminal justice is carried out in the interests of the entire society as a whole and of an individual in particular" [47]. We believe that the adopted new Criminal Procedure Code of Ukraine will primarily serve the interests of society in general and an individual in particular.

Therefore, based on the analysis of the current administrative-legal mechanism and a retrospective analysis of typical models of combating corruption, we can offer our own model of administrative-legal support for the prevention of corruption in the conditions of martial law in Ukraine.

Proposing the reform of the authorized subjects in the field of anti-corruption under the conditions of martial law in Ukraine, including the prosecutor's office, in our opinion, the following factors should be taken into account: appointment and tasks of the prosecutor's office; determination of the role and place of the prosecutor's office among the branches of government; the state of law and order in the transitional Ukrainian society; requirements of the Venice Commission of the Council of Europe regarding the democratization of the activities of the prosecutor's office of Ukraine; experience of activities of prosecutor's offices in developed European countries; the circumstances in which state power functions today; the impoverishment of a significant part of the population against the background of the concentration of ever-increasing national wealth in the hands of an insignificant speculative-mafia stratum; a significant level of the „shadow" sector of the economy, corruption in the conditions of martial law in Ukraine, crime in the economic sphere; functioning of many spheres of social life outside the legal field; loss of control function of the state; growth of business and power; the corruption of officials and other negative trends that do not meet the necessary opposition from law enforcement agencies, and as a result – the

loss of moral guidelines by a significant part of the population; legal nihilism, mistrust of the authorities, extremism, growth of negative trends in the state as a whole.

Under such conditions, determining the role and place of the prosecutor's office in the system of state-legal institutions in modern Ukraine plays a leading role.

Regarding ways of reforming the prosecutor's office, we see that it is focused on as well as ensuring the independence of the prosecutor's office as a condition for its effective activity; places of the prosecutor's office in the system of branches of government; functions of the prosecutor's office in a state governed by the rule of law.

In the European sense, the prosecutor's office must be independent and obey only the Law. As for modern Ukraine, this principle is constantly tested. All the time, the prosecutor's office is actually in the center of political struggle. Each political force wants to have only „its" Prosecutor General of Ukraine (as well as the Chairman of the Supreme Court, the Minister of Internal Affairs) and use him exclusively to achieve their corporate interests and goals. As a result of such a permanent struggle, formal law has ceased to be general, but acts selectively.

That is why scientists and practitioners put the problem of real assurance of its independence at the forefront of reforming the prosecutor's office [48, p. 254].

The Law of Ukraine „On the Prosecutor's Office" adopted by the Verkhovna Rada of Ukraine defines the legal principles of the organization of the Prosecutor's Office of Ukraine, the system of the Prosecutor's Office, the status of prosecutors, the procedure for prosecutorial self-government, and also establishes the system and general procedure for ensuring the activities of the Prosecutor's Office [49]. Article 16 of the Law of Ukraine „On the Prosecutor's Office" declares that in performing the functions of the prosecutor's office, the prosecutor is independent from any illegal influence, pressure, interference and is guided in his activities only by the Constitution and Laws of Ukraine [49]. However, this provision of the Law did not actually apply. Each political force, each new Government, coming to power, wanted the prosecutor's office to follow only their line, defend only their interests. But this contradicted and contradicts the main legal principle, according to which the prosecutor, like the judge, is subject only to the Law. It is on this principle that the prosecutor's office in

developed European countries is built. This is a norm of the effective functioning of the legal state.

In Europe and the world as a whole, there is no single standard regarding the place and role of the prosecutor's office in the state power system. The recommendation of the Committee of Ministers of the Council of Europe envisages the existence of the prosecutor's office as part of the executive power and part of the judicial power.

In Ukraine, certain representatives of legal science believe that the inclusion of the prosecutor's office in the judicial branch of government solves a fundamental issue, since „the integration of the prosecutor's office into the judicial branch of government should pursue the gradual approximation of the legal status of the prosecutor to the legal status of the judge". Such intentions of Ukraine to include the prosecutor's office in the judicial branch of government are also approved by the Venice Commission. The experience of developed democracies also convinces that this is the best option, as it really brings the status of a prosecutor closer to the status of a judge. In Italy, for example, the status of a prosecutor is equated to the status of a judge, which ensures his real independence and allows him to bring charges even against high-ranking state officials [50, p. 15].

The independence of the prosecutor of the European model, like the judge, is an integral feature of the rule of law.

So, we can note that the strengthening of the independent status of the prosecutor's office will be facilitated by the adoption of the new version of the Law of Ukraine „On the Prosecutor's Office", where the status of a prosecutor will be equated to the status of a judge.

Along with the above, the judicial authorities of Ukraine also need reform.

According to the World Justice Index (World Justice Project – Rule of LawIndekx), Ukraine ranks 130th out of 180 analyzed countries in the field of „absence of corruption" in the judicial system [46, p. 40].

According to the judicial index determined by the European Business Association, the judiciary discredited itself also in the eyes of the business environment: according to all components of the Index, the evaluation of the judiciary in Ukraine is negative.

At the same time, according to the sociological research of the Razumkov Center, judicial bodies and the judicial system in general in terms of the level of corruption in them in the conditions of martial law in Ukraine, according to citizens, occupy the „leading" places [51, p. 519].

As noted in the Fundamentals of the state anti-corruption policy under martial law in Ukraine, one of the main reasons for the destruction of the judiciary is the unsuccessfully implemented judicial reform: the adoption of the Law of Ukraine „On the Judiciary and the Status of Judges" – they became completely dependent on the political power. The mechanism for selecting judges was characterized by abuses on the part of the bodies responsible for this procedure [52, p. 103].

According to the researchers, the main reasons for the spread of corruption in judicial bodies are: ineffectiveness and insufficient transparency of the procedure for the selection and appointment of judges; the uncertainty of the ethical standards of the judges' conduct, the incompleteness of the procedure for the settlement of the conflict of interests during the performance of professional duties by the judges; presence of non-procedural dependence of judges on judges of higher echelons; insufficient openness and transparency of the judicial process; imperfection of the procedure for appointing officials to administrative positions in the Courts; ineffectiveness of the mechanisms for bringing judges to justice and non-use of available means of combating corruption in the judicial corps; selective application of mechanisms for checking information on the commission of corruption offenses by judges; imperfection of the legal regulation of the inviolability of judges; insufficient level of material support for judges and financial support for court activities [53, p. 120].

Unfortunately, in the formation of the judicial branch of power, the means of corruption are quite wide in the conditions of martial law in Ukraine.

First, bribery of officials of state bodies, who select candidates for judges, prepare materials for the election of judges, form and fill administrative positions in the Courts. Among other means, one can single out forgery of documents, concealment of compromising materials regarding candidates for the positions of judges, presidents of the Court, etc.

Corruption of judicial authorities and judges makes them especially vulnerable to corruption in the conditions of martial law in Ukraine. A judge with regard to whom there are compromising materials that can at the right moment be used to hold him accountable for corrupt actions or inaction becomes obedient to the subjects of responsibility for corruption offenses in the conditions of martial law in Ukraine.

The most negative impact on the effectiveness of combating corruption is precisely the corruption of judicial authorities, as it not only helps the subjects of responsibility for corruption offenses to avoid responsibility, but also creates a sense of impunity, thereby stimulating corruption offenses in the conditions of martial law in Ukraine.

Without encroaching on the authority and powers of the judicial branch of government, it should be noted that the state in which the Courts find themselves today is threatening and significantly affects the effectiveness of combating corruption and crime in general in the conditions of martial law in Ukraine.

The analysis of the sanctions of the criminal law norms, which provide for responsibility for corruption offenses of a criminal nature, shows that the current criminal legislation provides for rather strict responsibility for such acts. When defining them, the legislator was guided by the fact that the stricter the sanction, the more effective it is in terms of crime prevention and in performing the function of punishment. However, judicial practice proves that this is not quite the case [54, p. 99].

The most obvious form of judicial corruption is a direct promise made by a judge or a person representing him, in exchange for material benefit, favors or other benefits, to render the necessary Decision, Resolution or Resolution on a case.

Judicial practice shows that the Courts apply a punishment lower than the lowest limit to a considerable number of convicted corrupt officials. It is an unfortunate fact that today a judge is not responsible for a mistake made or a deliberately unfounded act or court decision. If the judge did not take into account the inner conviction when making the Decision, the groundless return of the case for additional investigation, he is not responsible for this.

One of the reasons for corruption in the judicial corps in the conditions of martial law in Ukraine is the lack of control by society and lack of accountability to it. The

people of Ukraine do not elect judges, so they cannot even initiate the procedure for their recall or prosecution.

The level of spread of corruption requires further reform of the judicial power in the conditions of martial law in Ukraine. With an independent judicial system, under which a corrupt person who violated the Law is promptly and effectively found guilty of committing a corruption offense, the potential attractiveness of corruption in the conditions of martial law in Ukraine is therefore sharply reduced.

In the Law of Ukraine „On Prevention of Corruption", Courts are not classified as entities that carry out measures to prevent corruption in the conditions of martial law in Ukraine, this is correct. The appointment of judges is responsible for the administration of justice. At the same time, it remains obvious that the final results of anti-corruption actually depend on the position of the Court or the judge, since they are the ones who complete all the activities of specially defined entities in the field of anti-corruption, considering cases and making decisions regarding the legal responsibility of corrupt persons or releasing them from such responsibility in the conditions of martial law in Ukraine.

In Ukraine, during the years of independence, certain steps were taken regarding the formation of an independent judicial branch of government. The Constitutional Court of Ukraine, the Higher Economic and Administrative Courts, and at the end of 2017 the Supreme Court were created. The relevant decision was adopted by the Plenum of the Supreme Court on November 30, 2017. The Supreme Council of Justice functions. Reformed civil, economic, criminal and criminal procedural legislation.

Today in Ukraine, the formation of a truly independent, independent judicial branch of government remains an acute and urgent problem. The current state of the judiciary, with a high level of politicization and corruption, has become a gap in the way of Ukraine becoming a legal state. That is why the importance of its urgent reform is growing significantly today precisely in the legal aspect.

First of all, anti-corruption measures must be associated with the development of effective anti-corruption mechanisms, which include unified administrative and legal measures aimed at preventing corruption in the conditions of martial law in Ukraine,

since corruption in the vast majority of cases is related to the authorities, officials authority and official position to claim property and other benefits of a property and non-property nature. The creation of effective anti-corruption mechanisms depends on the formation of an effective legislative and organizational legal framework.

Therefore, taking into account the conclusions made above, it is appropriate to add:

firstly, the task of combating corruption is largely reduced to the task of forming an honest and incorruptible top of the bureaucracy, which is not guided by its personal interests, but works for the good of the state and society.

Secondly, the most successful states in history, and especially the most successful and stable democratic states, applied a set of principles for the formation of their top officials, which include:

1) a single altruistic ideology, the commitment to which serves as one of the criteria for the selection of the ruling layer;

2) voluntary-forced refusal of the ruling body to own large personal property and receive significant personal income;

3) frequent and forced rotation of officials, especially in the higher echelon, limiting the official's stay in one place to a few years at most;

4) severe punishment for violation of the established rules – dismissal from the state apparatus, confiscation of property – and severe punishment for discovering facts that expose the official to bribery and theft.

These measures prove to be the most effective in the fight against corruption, if their introduction prevents those who aspire to wealth and power as such from coming to power, and also counteracts the formation of stable corrupt groups. Accordingly, the implementation of the specified system of measures will open the way to power for those who are ready to serve society for a decent, but not excessive reward, without pursuing powerful ambitions and enrichment goals.

Thirdly, modern foreign experience in the fight against corruption proves that the above-mentioned principles are not enough, since Western anti-corruption measures have proven to be insufficiently effective and have not been able to prevent the growth of corruption in the West under the conditions of martial law in Ukraine, neither in the

past nor today. Among such measures that it is advisable to adopt from the Western arsenal, it is possible to note:

– a ban on officials and their family members conducting personal business that competes with the official's activities („conflict of interests");

– prohibition of ownership of offshore campaigns and contacts with them;

– declaration of income and expenses of officials;

– publicity and openness of all procedures carried out by the authorities;

– election campaign financing rules: prohibition of financing by campaigns working under state contracts; establishing the total amount of contributions for each politician and funds from each of his supporters.

As for the Western practice of universal election of officials, it cannot be recognized as a satisfactory, successful means of fighting corruption. History shows that elections very often became an arena of corruption: candidates were bribed, and seats in the Parliaments were bought.

Fourthly, it is necessary to learn the developed experience of fighting against corrupt groups formed on the basis of secret societies and national minorities. If we discard the negative experience associated with the repression of these groups and minorities and the oppression of their civil rights and be guided only by the positive experience, it consists of the following:

– all officials must be prohibited from participating in any secret societies, be they Masonic lodges, religious sects or other closed societies;

– all high and middle-level officials must belong to the native nationality of the given state (state entity) or, if the definition of nationality causes a problem, among the officials of a given level there should be no persons who belong to national diasporas or have contacts with the latter.

It should be borne in mind that these restrictions imposed on members of secret societies, national minorities, cannot be considered as any significant restrictions on their civil rights, since they leave open for them all existing professions, types of entrepreneurial activity and other occupations and spheres of activity , existing in this country, except for this area, where very few people are employed in relation to the

total number of employed. But these restrictions are designed to protect society from potential channels of corruption; just as they are called to protect the representatives of national minorities themselves from unfounded accusations against them by the population and mass media, which can be found in various countries even today, and which led to mass repressions against representatives of national minorities.

Thus, our proposed model of corruption prevention in the conditions of martial law in Ukraine will include such methods and measures, which can be divided into two general groups.

The first group includes measures to combat external manifestations of corruption (bribes to specific officials), with already existing corruption, with specific corruptors, to the second – measures to combat the institutional prerequisites that cause corruption to be potential corruption, with the impersonal corruptor who can, according to certain conditions, to become an official.

We can also single out compensatory measures – measures to eliminate the consequences of corruption in the conditions of martial law in Ukraine.

The first group of measures will be punitive with increased state control.

Some researchers explain the problem of corruption through the following measures, which indicate the reasons for the flourishing of corruption in developing countries, with the following disadvantages in the conditions of martial law in Ukraine:

– punitive measures contribute to the gap between the profit of the official and the level of punishment of the potential corruptor, which leads to the growth of corruption;

– the object of such measures is the corruptor himself, not corruption;

– finally, within the framework of these anti-corruption measures, only representatives of this apparatus fight among the state apparatus, which often turns into a fight against competitors in the market of corruption services.

The second group is preventive measures that are preventive, not punitive in nature, aimed at eliminating the causes, not the external manifestations of corruption, and therefore are devoid of many shortcomings.

Measures of a preventive nature should include ensuring the independence and efficiency of the judiciary; transparency in party financing; transparency of the voting

procedure for voters; duty of civil servants to declare property; rules governing conflict of interest issues; guaranteeing freedom of information; reduction of market entry barriers associated with the need to obtain various permits; decent pay for civil servants; decentralization of power; increasing the transparency of the budget process for controlling bodies; increasing transparency in the fiscal service, depriving tax officials of the opportunity to arbitrarily grant tax benefits, simplifying the fiscal service system.

For modern Ukraine, among the mentioned measures, it is worth turning to the improvement of legislation and the legislative process, in the following directions:

– investigation of contradictions and explanation of „interpretations" in the current legislation, as this creates an opportunity for arbitrariness and corruption of officials;

– „simplification" of numerous referring norms in the current Laws;

– revision of the scale of punishments for corruption actions, taking into account the fact that often excessive punishments hinder the proof of crimes;

– differentiation of corruption actions;

– revision of the duty scale, fines, etc.;

– strengthening control over departmental regulation;

– establishment of anti-corruption examination of draft normative acts.

The above list of measures to prevent corruption in the conditions of martial law in Ukraine is not exhaustive. It is obvious that the limitation of corruption should be carried out comprehensively and comprehensively, and since the anti-corruption policy will meet resistance at various levels of the power hierarchy, a necessary measure will be the constant review of measures to prevent corruption in order to identify and abandon ineffective measures and replace them with more effective ones in the conditions of martial law in Ukraine.

Unfortunately, there are still more failures than successes in the field of combating this negative phenomenon, but there is an opportunity to contain it within certain limits, and the positive experience of foreign countries serves as an example.

Political and economic cooperation, which has been expanding in recent years, adds an international color to corruption manifestations [55, p. 278]. The mysterious

disappearance of funds received in the form of aid from international organizations, the creation of fictitious enterprises, illegal foreign economic operations, the combination of public service with activities in commercial structures – constitute the main threat to the existence of not only the state, but also society as a whole.

New trends in combating corruption in the conditions of martial law in Ukraine consist in transferring this problem from the domestic to the international level. Our state often took the initiative in this matter, worrying about the state of corruption in „capitalist countries" and forgetting about its officials. Now the priorities are changing, but corruption is increasingly showing itself as a universal human problem that must be solved in interstate cooperation. This once again proves that isolation is unacceptable in this matter.

It should be recognized that recently in various spheres of Ukrainian society, the awareness of the real danger of corruption in the conditions of martial law in Ukraine and the need for a qualitatively new attitude to countering it is gradually maturing. This is a decisive factor in concentrating the necessary political will here. As experts rightly point out, „in the absence of political will, the most perfect anti-corruption legislation is doomed to a declarative existence, and the activities of elite special law enforcement structures – to an imitation of the fight against corruption".

Reforming state systems, procedures, orders, restructuring the order of functioning of state institutions is only part of the methods of reducing the level of corruption manifestations. Most of the above measures are carried out within the framework of administrative reform in Ukraine at both the national and local levels.

Unfortunately, the first steps on the way to administrative reform in Ukraine deserve serious criticism, the goals and objectives put forward by it were limited to half-measures and stopped halfway, and its results did not have a significant impact on the corruption situation in the conditions of martial law in Ukraine. This further confirms the conclusion that the interested environment does not accept reforms, and half-hearted measures cannot defeat bureaucracy and corruption. It is impossible to limit yourself to partial measures. Radical reform is necessary.

Radical transformations in Ukrainian society in the context of the transition to a new system of social relations necessitate the development, approval and acceptance by citizens of Ukraine of a new paradigm of social values, which should be based on the idea of the self-sufficient value of the human personality, which, according to the Constitution of Ukraine, is defined as the highest social value in society.

Analysis of anti-corruption measures under martial law in Ukraine indicates a large gap between the declared principles of equality of all citizens before the Law and the actual practice of criminal prosecution. But most importantly, corruption is a catalyst for organized crime, one of its necessary components. Existing in symbiosis, these two phenomena represent the most serious danger for the state and society, especially in the conditions of a nascent democracy. All this determines the need for the fastest possible legislative regulation of combating corruption in the conditions of martial law in Ukraine, the adoption of relevant laws and regulations.

Summarizing what has been said, it should be noted that the growth of crime and the spread of corruption is becoming a real threat to international democracy and international security. The United Nations and other international organizations organize symposiums, congresses and conferences of specialists on these issues, heads of states and parliaments are looking for common ways to overcome this evil.

At the same time, the analysis of combating corruption in individual countries makes it possible to draw some practical conclusions. The main one is the fact that efforts in this direction should be based on an understanding of the specific problems of the country and take into account the stage of its political development. At the same time, the experience of these countries shows that there are universal lessons for the world community, without which it is practically impossible to achieve success in overcoming corruption.

First of all, it is the political will of the Government. No legislative or administrative measures can be effective if there is no political will.

The second is the real, guaranteed independence of the judicial and investigative system of the country.

The third is that legal reforms only partially solve the problem. In order to be effective, they must be closely combined with other forms of combating corruption in the conditions of martial law in Ukraine, economic, financial, social, organizational and even cultural.

And fourth, recognition of the role of the public, especially its formal and informal associations. Their constant awareness is a key element. A knowledgeable public organization can be the most effective driver of any anti-corruption campaign.

The experience of foreign countries in preventing corruption is diverse and depends on various interdependent factors. They include legal, social, political conditions, level of economic development, improvement of public administration.

It is thanks to the joint actions of all the countries of the world that we can hope for a real limitation of the influence of organized crime and corruption in the conditions of martial law in Ukraine on the democratic principles of the world community.

Therefore, the study of the practice of combating corruption in our country shows that for the last fifteen years the search for an optimal model of such combating has been unsystematic, therefore, the urgent need to develop a model for preventing corruption in the conditions of martial law in Ukraine is actualized.

Today, the Laws in the field of anti-corruption work without proper effect, and individual provisions of such conceptual documents as the National Program and the Concept of Combating Corruption are declarative and general in nature, therefore they remain largely unimplemented. The measures that are constantly being implemented in Ukraine show that the state does not remain indifferent to the problem of overcoming corruption and is aware of the negative consequences associated with it.

Therefore, in view of the above, it is proposed to speed up the formation of the legal anti-corruption system of the state and government bodies as a whole, since the current system of these bodies enables managers of different levels to manage organizational, economic and other processes related to the exercise of power in their own way and to their advantage .

All organizational measures should be carried out by coordinating the work of state, law enforcement and control bodies. At the same time, it is necessary to clearly define the range of issues, the solution of which is subject to mandatory coordination.

The issue of protecting the participants in the judicial process (victims, witnesses, judges, and others) and creating appropriate power structures to provide citizens with the opportunity to participate in the judicial process, feeling psychologically protected from the influence of criminals, requires an urgent solution.

Thus, a change in the situation for the better in solving the mentioned problems requires the executive and legislative authorities to take extraordinary measures to establish legality and restore order, primarily in the economy and, in particular, to strengthen control, financial and power functions.

We believe that political responsibility is more than a corporate type of responsibility, because its consequences are resignation from a state (not a party or some other corporate) position. Therefore, giving a definition, we consider it appropriate to point out that the political responsibility of civil servants is a special type of social responsibility that has clearly defined legal consequences and consists in the need to apply the procedure for dismissal from office to persons who have committed violations of political, moral, ideological norms .

For this purpose, we propose to add to the Law of Ukraine „On Civil Service" the following: „Positions of the President of Ukraine, the Chairman of the Verkhovna Rada of Ukraine, the Prime Minister of Ukraine, members of the Cabinet of Ministers of Ukraine, the Chairman of the Constitutional Court of Ukraine, the Chairman of the Supreme Court of Ukraine, the Heads of Higher Specialized Courts of Ukraine, the Prosecutor General belong to state political positions, and the persons who hold them are political figures by their legal status. Peculiarities of the legal status of a political figure are determined by the Law". This version of the legislative consolidation will allow to relieve some tension that manifests itself in the issues of the legal status of political figures, to optimize their activities in the service of the state and to make the procedure of recruitment, completion of service and dismissal from office (resignation) more transparent.

We noted that according to the Law of Ukraine „On Civil Service" a range of positions is listed, the legal status of which is determined by separate laws. Taking into account that the terminological positions of political figures are defined in a number of by-laws, we consider it expedient to supplement Article 6 of this Law with a corresponding part, which would list political positions in the state. It would be expedient to bring the categories „politician" and „patronage service" into line with each other. In other words, only political figures should have a patronage service.

As a result, a certain category of political figures under the current legislation does not have the right to create a patronage service, and, on the other hand, some categories of civil servants, not being political figures, have the right to a patronage service. In order to improve this situation, we propose to make changes to the current Law of Ukraine „On State Service", the wording of which will be given below, after substantiating the controversial points of the institute of patronage service.

In turn, it is worth supplementing the Law of Ukraine „On Civil Service" in the following version: „A civil servant is obliged to: perform official duties conscientiously, at a high professional level; proceed from the fact that the recognition, observance and protection of human and citizen rights and freedoms determine the meaning and content of his professional official activity; to carry out professional official activities within the framework of the competence of the state body established by law; not to give preference to any public or religious associations, professional or social groups, organizations and citizens; not to take actions related to the influence of any personal, property (financial) and other interests that prevent the conscientious performance of official duties; comply with the restrictions established by the Law for civil servants; to observe neutrality, which excludes the possibility of influencing one's professional official activity, decisions of political parties, other public associations, religious associations and other organizations; not to commit acts that encroach on his honor and dignity; to show correctness in dealing with citizens; show respect for the moral customs and traditions of peoples; to take into account cultural and other features of various ethnic and social groups, as well as confessions; promote international and interreligious harmony; to prevent conflict situations capable of harming his reputation

or the authority of the state body; to observe the established rules of public speaking and providing official information".

We consider it expedient to provide a definition of the legal responsibility of civil servants, which, as it seems, in addition to the methodological benefit, will also allow us to systematize the characteristic features of this phenomenon. Thus, the legal responsibility of a civil servant is a tort-legal relationship that arises between the state and a civil servant due to the violation of the latest norms of the current legislation, which make it necessary for the civil servant to take into account restrictions of a personal, organizational or property nature.

In order to optimize their activities, public authorities need public support, effective feedback between the state and society. The analysis of foreign experience in preventing corruption shows that corruption in Ukraine differs from European corruption in that in the West it is limited mainly to the sphere of illegal business, which does not affect the everyday life and daily life of the general population. Ukrainian corruption has in a short time affected all spheres of social life and, in fact, puts pressure on all its layers and is oriented towards the maximum use of opportunities for personal enrichment at the expense of mistakes made during the reformation of society.

One of the reasons for the crisis of state power is the ineffectiveness of the control function by the authorized bodies. The control function must be performed at all levels of state administration. Constitutional control acquires a conceptual meaning.

To this end, in order to effectively combat corruption in the conditions of martial law in Ukraine, it is necessary to develop and improve the following areas of reform: anti-corruption education of Ukrainian society, transparency of the judicial system and state administration, creation of a national Anti-Corruption Coalition. As shown by the study of the effectiveness of organizational and management measures to combat corruption in a number of Ministries and other central agencies of Ukraine, such an atmosphere of combating corruption has not yet been created.

The existing system of special anti-corruption bodies cannot significantly affect the improvement of the situation. As the actions of corrupt individuals become more

sophisticated, conventional legal authorities become less and less capable of detecting and investigating complex cases of corruption.

The situation is further complicated by the fact that the National Agency for the Prevention of Corruption has been established in the state, for which the fight against corruption is the main and determining factor, however, the National Anti-Corruption Agency does not perform the three functions provided: prevention, disclosure and investigation of corruption. According to the Constitution of Ukraine, the NAKC is entrusted with a preventive role in the prevention of corruption. The national agency should analyze statistical data on bribery in Ukraine, develop an anti-corruption strategy, coordinate anti-corruption programs of state bodies, etc. The National Anti-Corruption Bureau of Ukraine (NABU) is responsible for combating criminal corruption crimes that threaten national security. Operational and investigative activities of NABU are supervised by SAP (Specialized Anti-Corruption Prosecutor's Office). All of them are simultaneously controlled by the Parliamentary Committee on Prevention of Corruption.

In our opinion, it is worth taking advantage of foreign experience, it is necessary to form a single anti-corruption structure, independent of the branches of government, empowered to prevent, disclose, investigate and punish corruption crimes in the conditions of martial law in Ukraine.

It can also be argued that for effective countermeasures against corruption in the conditions of martial law in Ukraine, the entire set of legal means should be used. Among the administrative and legal means of combating corruption can be attributed: administrative prohibitions related to the state service regime; means of conflict of interest settlement in the civil service; clear job regulations of civil servants; competitive replacement of civil service positions; establishment and mandatory use of the personnel reserve in the civil service system; mandatory establishment of an alternative when selecting candidates for a position; test upon entering the civil service; the mechanism of coordination with units of own security of candidates for admission to responsible positions of the state law enforcement service; determining the status of a civil service position related to corruption threats; social guarantees related to the

regime and status of a civil servant; certification of civil servants; determination of exemplary stages of career growth of a civil servant; removal from the civil service position, in cases of „conflict of interests"; administrative control over official activities of civil servants; tax control over the property status of a civil servant and his family members; disciplinary and administrative responsibility of civil servants; the mechanism for providing information on the income, property and property obligations of a civil servant; personnel rotation in the civil service system.

For the further development of the mechanisms for the prevention of corruption in the conditions of martial law in Ukraine, we consider it necessary to supplement the Law of Ukraine „On the Prevention of Corruption" with provisions on the protection of civil servants who have informed the relevant state authorities about the facts of corruption.

Thus, at present, it is necessary to optimize the interaction between various law enforcement agencies involved in the anti-corruption mechanism in the conditions of martial law in Ukraine. In this regard, it would be quite logical to develop and adopt the Law on ensuring the safety of law enforcement and control bodies. Such a legislative act would make it possible to create a legal basis for ensuring the own security of law enforcement and control bodies.

Therefore, based on the analysis of the current administrative-legal mechanism and a retrospective analysis of typical models of combating corruption, we can offer our own model of administrative-legal support for the prevention of corruption in the conditions of martial law in Ukraine.

When proposing the reform of authorized entities in the field of anti-corruption, including prosecutor's offices, in our opinion, the following factors should be taken into account: appointment and tasks of prosecutor's offices; determination of the role and place of the prosecutor's office among the branches of government; the state of law and order in the transitional Ukrainian society; requirements of the Venice Commission of the Council of Europe regarding the democratization of the activities of the prosecutor's office of Ukraine; experience of activities of prosecutor's offices in developed European countries; the circumstances in which state power functions today;

the impoverishment of a significant part of the population against the background of the concentration of ever-increasing national wealth in the hands of an insignificant speculative-mafia stratum; a significant level of the „shadow" sector of the economy, corruption, crime in the economic sphere; functioning of many spheres of social life outside the legal field; loss of control function of the state; growth of business and power; the corruption of officials and other negative trends that do not meet the necessary opposition from law enforcement agencies, and as a result – the loss of moral guidelines by a significant part of the population; legal nihilism, mistrust of the authorities, extremism, growth of negative trends in the state as a whole.

Under such conditions, determining the role and place of the prosecutor's office in the system of state-legal institutions in modern Ukraine plays a leading role.

Regarding the ways of reforming the prosecutor's office, we see that it is focused on ensuring the independence of the prosecutor's office as a condition for its effective activity; places of the prosecutor's office in the system of branches of government; functions of the prosecutor's office in a state governed by the rule of law.

Modern foreign experience in the fight against corruption proves that the above-mentioned principles are not enough, as Western anti-corruption measures have proven to be insufficiently effective and have not been able to prevent the growth of corruption in the West either in the past or today. Among such measures that should be adopted from the Western arsenal, it is possible to note: a ban on officials and their family members conducting personal business that competes with the activities of the official („conflict of interests"); ban on ownership of offshore campaigns and contacts with them; declaration of income and expenses of officials; publicity and openness of all procedures carried out by the authorities; election campaign financing rules: prohibition of financing by campaigns working under government contracts; establishing the total amount of contributions for each politician and funds from each of his supporters.

Thus, our proposed model of corruption prevention in the conditions of martial law in Ukraine will include such methods and measures, which can be divided into two general groups.

The first group includes measures to combat external manifestations of corruption (bribes to specific officials), with already existing corruption, with specific corruptors, to the second – measures to combat the institutional prerequisites that cause corruption to be potential corruption, with the impersonal corruptor who can, according to certain conditions, to become an official.

We can also single out compensatory measures – measures to eliminate the consequences of corruption in the conditions of martial law in Ukraine.

The first group of measures will be punitive with increased state control.

Some researchers explain the problems of corruption through such measures, which indicate the reasons for the flourishing of corruption in developing countries, with the following disadvantages: punitive measures contribute to the gap between the income of an official and the level of punishment of a potential corruptor, which leads to the growth of corruption; the object of such measures is the corruptor himself, not corruption; finally, within the framework of these anti-corruption measures, only representatives of this apparatus fight among the state apparatus, which often turns into a fight against competitors in the market of corruption services in the conditions of martial law in Ukraine.

The second group is preventive measures that are preventive, not punitive in nature, aimed at eliminating the causes, not the external manifestations of corruption, and therefore are devoid of many shortcomings.

The above list of corruption prevention measures is not exhaustive. It is obvious that the limitation of corruption in the conditions of martial law in Ukraine should be carried out comprehensively and comprehensively, and since the anti-corruption policy will meet resistance at various levels of the power hierarchy, a necessary measure will be a constant review of measures to prevent corruption in order to identify and abandon ineffective measures and replace them with more effective in the conditions of martial law in Ukraine.

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4. Protection of property rights in the practice of the European Court of human rights and national courts of Ukraine

Abstract

The legal positions of the European Court of human rights (hereinafter referred to as the court) are considered. In particular, the court's decision on cases concerning the lawfulness of interference with property rights has been examined, taking into account the provisions of Protocol No. 1 to the convention for the protection of human rights and fundamental freedoms (hereinafter Protocol No. 1 to the convention). Also, the principles that, in the court's opinion, the state should adhere to when interfering with property rights are specified.

In addition, it is established that the concept of "property" in the sense of Part 1 of Article 1 of Protocol No. 1 to the convention has an independent meaning. That is, the specified concept cannot depend on its legal classification in national legislation and cannot be limited to ownership of things.

Also, we have investigated a broad understanding in the court's practice of the "interests of society" when applying measures of deprivation of property rights and ensuring a proportional relationship between the goal set and the means used.

The author analyzes the current civil legislation and judicial practice of the Civil Court of Cassation, the Economic Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court in relation to certain categories of credit disputes and land cases, including the solution of jurisdictional problems in the consideration of land disputes.

Proposals are made to amend the current civil legislation in order to expand the guarantees of the rights of consumers of credit services provided by financial institutions and changes to the economic procedural legislation in order to resolve jurisdictional conflicts that arise when considering land disputes..

4.1 Protection of property rights by national courts in land disputes

As judicial practice shows, land disputes are common types of disputes in economic jurisdiction. And the problem of delineating the jurisdiction of disputes in the field of land relations is one of the most relevant in judicial practice. Such a jurisdictional problem is associated with a wide range of land relations and a wide variety of land disputes that may arise from these relations.

Therefore, in order to create a stable system of judicial regulation of land relations, it is necessary to deepen the legal positions of Cassation courts on controversial issues that arise in this area.

At the same time, the law of Ukraine "on amendments to certain legislative acts of Ukraine concerning the turnover of agricultural land" No. 552-IX introduces the land market in Ukraine from July 01, 2021. Without a doubt, the introduction of the land market from July 01, 2021 will be the basis for increasing the number of land disputes, and therefore the research of the article is becoming particularly relevant.

Among scientists, the issue of protection of land rights was considered by scientists-lawyers, practitioners, among them: V. Averyanov, O. Andriyko, D. Bakhrakh, O. Nedbailo, V. Kurilo, A. Selivanov and others. at the same time, the judicial practice in resolving land disputes in economic jurisdiction has not been sufficiently studied.

The current legislation of Ukraine, in particular the Civil Code of Ukraine [56] and the Land Code of Ukraine [57] define the grounds for protecting the violated right to land.

Part 1 of Article 16 of the Civil Code of Ukraine defines that everyone has the right to apply to the court for protection of their personal non-property or property right and interest [56, ark. 16].

According to paragraph 10 of Part 2 of Article 16 of the Civil Code of Ukraine, one of the ways to protect civil rights and interests is to recognize illegal decisions, actions or omissions of a state authority, an authority of the Autonomous Republic of Crimea or a local self-government body, their officials and officials [56, ark. 16].

According to Part 1 of Article 393 of the Civil Code of Ukraine, a legal act of a state authority, an authority of the Autonomous Republic of Crimea or a local self-government body that does not comply with the law and violates the rights of the owner, at the request of the property owner, is recognized by the court as illegal and canceled [56, ark. 16].

Part 2 of Article 152 of the Land Code of Ukraine provides that the owner of a land plot or a land user can demand the elimination of any violations of his rights to land, even if these violations are not related to the deprivation of the right to own a land plot, and compensation for losses caused [57, ark. 152].

According to Paragraph "D" of Part 3 of Article 152 of the Land Code of Ukraine, the protection of the rights of citizens and legal entities to land plots is carried out by invalidating decisions of executive authorities or local self-government bodies [57, ark. 152].

Consequently, the prerequisites for judicial protection of the right of ownership or use of a land plot are the existence of a person's right of ownership or use to a land plot confirmed by proper and admissible evidence, as well as the fact of violation, non-recognition or challenge of this right confirmed by proper evidence.

Thus, to ensure the unity of judicial practice in protecting the violated right of a person to use a land plot, there are a number of legal positions of the Supreme Court as part of the Cassation economic Court. One of these categories of cases is disputes about the transfer of the right to lease a land plot to a person who has become the owner of real estate located on the leased land plot.

After all, according to part three of Article 334 of the Civil Code of Ukraine, the right of ownership of property under a contract that is subject to notarization arises from the acquirer from the moment of such certification or from the moment of entry into force of a court decision on the recognition of a contract that is not notarized as valid. Rights to immovable property that are subject to state registration arise from the date of such registration in accordance with the law [56, ark. 334].

Part one of Article 377 of the Civil Code of Ukraine defines that a person who has acquired the right of ownership of a residential building (except for an apartment

building), a building or structure, passes the right of ownership, the right to use the land plot on which they are located, without changing its intended purpose to the extent and under the conditions established for the previous landowner (land user) [56, ark. 377].

According to the first part of Article 120 of the Civil Code of Ukraine, in case of acquisition of ownership of a residential building, building or structure that is owned or used by another person, the right of ownership, the right to use the land plot on which these objects are located is terminated. A person who has acquired the right of ownership of a residential building, building or structure located on a land plot owned by another person, passes the right of ownership of the land plot or part of it on which they are located, without changing its intended purpose [57, ark. 120].

According to the provisions of the third part of the Statute 7 of the Law of Ukraine "About the order of the land" to the individual, the right of ownership to the life of the house, building or structure located, which is located to the order of the land of the activity, so to transfer the right of the order to the land of the plot. By the contract,I will transfer the right of ownership to the living room, I will give you a job, I will remember the contract of the order of the land plot in the private order of the order of the land plot, to the which is located such a living booth, I will give you a job [58,ark. 7].

Also, an analysis of the position of the above norms is based on those who, when transferring the right of ownership to a non-farm mine, should be on the land of the mine, which is in the order, the right of the right of ownership of the land of the mine to the which indicates of the mine of the placed to move to the new own of the mine, on the same minds, which were at the front own.

From the moment the right to wear on the real estate person, became the new owner of such a main, overnight I acquired the rights of the order of the land of the lane, on the which is placed it is property from the connections with displacement the rightto wear on the new one, in accordance, termination the rights of the use previous owner of the land of the lane, on which it is placed, according to the part other articles 120 CC of Ukraine. That person, which acquired rights property onthe main fact of the old order of the land of the village, on the which it is placed

that same volumes ta on the minds, yak i previous owner. At the end of the Contract, the order of the cie of the land deal is made for the middle of the user (the middle of the unruly main) to be remembered with a new contract, on the basis ofa new owner, the right to be held on the located on the cie of the land deal is signed, and the contract is not signed ruptured. Prior to such a legal conclusions came ccassation economic court at affairs No. 908/27/18 vid 15 January 2019 year [59].

Simultaneously, part 1 of the statute 93 of the statute 125 of the Land Code of Ukraine transferred, what the right to order a land deal - it based on on the contract term paid possession i use land deal, necessary to the tenant for proceeding entrepreneurial that another active. The right of the order of the land placed is vindicated by the moment of the sovereign restoration of the right. Scavengers obliged pay rent fee (item "in" part 1 of the Statute 96 of the Code) [57, Article 93, 96, 125].

Acquisition another special rights owner on residential house, buildings abo attempts,which are located on land active, the right of use land at the previous land user (item "e" of part 1 of the Statute 141of the CC of Ukraine) [57, ark. 141].

Therefore, for the sake of the serpent, the position of the occurrence of the right of the hair on the house, house, I will not create a right for the occurrence of theright of the order of the land, on the yak stink of the rosemary, that yak was not broughtinto the order of the middle hair. The right of the order of the land deal is vindicated on the basis of the agreement signed by the moment of the sovereign restoration of theright. I will look back at the inscriptions of the part 2 of the statute 120 of the CC of Ukraine, not to be introduced to the lawbreakers, to be able to get a house, house, to get a pre-registered right of an order for a land plot, yak may another owner I on whishsituated it real estate. Such is the legal position of the laid out at the decree of the cassation economic court at the certificate No. 922/595/18 of the 29thday of 2019 of the year [60].

In a row, yak testifies the ship's practice is great, the number of ship's disputes is great, the price is not broken, the mine is not paid, the order is not paid for the use which land deal on the anchor to know the given mine, without diligent registration of the right.

So, according to paragraph 2 of the other part of Article 22 of the Civil Code of Ukraine, the person could have really won for the best, the right was not destroyed (the benefit was missed) [56, ark. 22].

Part one of Article 1166 of the Civil Code of Ukraine establishes that damage caused to the property of an individual or legal entity is compensated in full by the person who caused it [56, ark. 1166].

According to Paragraph "D" of part one of Article 156 of the Land Code of Ukraine, land owners are compensated for losses caused as a result of non-receipt of income during the temporary non-use of the land plot [57, ark. 152].

So, within the meaning of the above-mentioned norms of the current legislation, compensation for damage is liability for violation of the rights of the land owner.

At the same time, according to Article 206 of the Land Code of Ukraine, land use in Ukraine is paid. The object of payment for land is a land plot. Payment for land is charged in accordance with the law [57, ark. 206].

Land payment is a national tax that is levied in the form of land tax and rent for land plots of state and municipal ownership (subparagraph 14.1.147 of paragraph 14.1 of Article 14 of the tax code of Ukraine) [61, ark. 14].

Land tax is a mandatory payment that is levied on owners of land plots and Land shares (units), as well as permanent land users, and rent for land plots of state and municipal ownership is a mandatory payment that the lessee makes to the lessor for the use of the land plot (subclauses 14.1.72, 14.1.136 of paragraph 14.1 of Article 14 of the tax code of Ukraine) [61, ark. 14].

According to the provisions of chapters 82 and 83 of the Civil Code of Ukraine, tort obligations arising from causing damage to property are characterized, in particular, by a decrease in the victim's property, and for condiction obligations - by an increase in the acquirer's property without sufficient legal grounds. The fault of the

causer of harm is a mandatory element of the occurrence of liability in tort obligations. But for condiction obligations, guilt does not matter, but the fact of illegal acquisition (preservation) of property by one person at the expense of another is important [56, ark. 1172].

According to Paragraph 3 of part one of Article 13 of the law of Ukraine "on land valuation", the normative monetary assessment of land plots is carried out in the case of determining the amount of rent for land plots, in particular, communal property [62, ark. 13].

In addition, according to Paragraph 1 of paragraph 289.1 of the tax code of Ukraine, the standard for monetary valuation of land plots is used to determine the amount of rent [61, ark. 289].

Data on the normative monetary assessment of an individual land plot are drawn up as an extract from the technical documentation on the normative monetary assessment of a land plot (part two of Article 20 of the law of Ukraine "on land assessment") [62, ark. 20].

Taking into account these instructions, the Cassation economic Court in its decision of February 14, 2019 in case No. 922/1019/18 concluded that the determination of the amount of rent for land plots is carried out on the basis of a normative monetary assessment, including when collecting unreasonably stored funds in the amount of rent [63].

So, if there is a dispute about the recovery of the amount of rent as unreasonably stored funds, the specified amount of funds is determined according to the standard monetary assessment.

Another problem that arises when considering land disputes in courts is jurisdictional conflicts, which also relate to land disputes that arise in economic proceedings. We believe that determining the correct jurisdiction of any dispute is important.

The European Court of human rights (hereinafter referred to as the ECHR), in its decision of 29 April 1988 in the case of Belilos v. Switzerland, drew attention to the fact that everyone has the right to a court established by law, that is, the relevant body

should have the authority to decide issues within its competence on the basis of the rule of Law [65].

After analyzing the legal conclusions of the Grand Chamber of the Supreme Court, it can be concluded that there are a large number of land disputes with jurisdictional conflicts concerning the recognition of invalid or cancellation of decisions of state and local government bodies.

Thus, according to Part 6 of Article 302 of the economic Procedure Code of Ukraine, a case is subject to transfer to the Grand Chamber of the Supreme Court, when a participant in the case appeals against a court decision on the grounds of violation of the rules of subject or subject jurisdiction, except in cases where:

1) a participant in a case challenging a court decision participated in the consideration of the case in the courts of first or appellate instance and did not declare a violation of the rules of subject or subject jurisdiction;

2) a participant in a case challenging a court decision has not justified the court's violation of the rules of subject or subject jurisdiction by the presence of court decisions of the Supreme Court as part of a panel of judges (chamber, Joint Chamber) of another court of Cassation in a case with a similar basis and the subject of a claim in similar legal relations;

3) The Grand Chamber of the Supreme Court has already set out in its resolution an opinion on the subject or subject jurisdiction of a dispute in such legal relations [64, ark. 302].

According to parts 1, 2 of Article 45 of the law of Ukraine "on the judicial system and status of judges", the Grand Chamber of the Supreme Court is a permanent collegial body of the Supreme Court, which includes twenty-one judges of the Supreme Court. Grand Chamber Of The Supreme Court:

1) in cases determined by law, review Court decisions in Cassation in order to ensure the uniform application of legal norms by courts;

2) acts as a court of Appeal in cases examined by the Supreme Court as a court of First Instance;

3) analyzes judicial statistics and studies judicial practice, summarizes judicial practice;

4) Exercise other powers defined by law [66, ark. 45].

We believe that it is necessary to analyze several legal positions of the Grand Chamber of the Supreme Court concerning land disputes with jurisdictional conflicts in terms of declaring invalid or canceling decisions of state and local government bodies.

Thus, ark. 12 of the Civil Code of Ukraine provides that the powers of city councils in the field of land relations on the territory of settlements include: the disposal of land of territorial communities; the transfer of land plots of communal property to the ownership of citizens and legal entities in accordance with this code; the provision of land plots for use from land of communal property in accordance with this code; the withdrawal of land plots from land of communal property in accordance with this code; the purchase of land plots for the public needs of the relevant territorial communities of cities; the organization of Land Management; solving other issues in the field of land relations in accordance with the law [57, ark. 12].

Part one of Article 122 of the Civil Code of Ukraine stipulates that rural, settlement, and city councils transfer land plots to ownership or use from communal property lands of the relevant territorial communities for all needs [57, ark. 122].

According to the rules of the first part of Article 123 of the Civil Code of Ukraine, the provision of land plots of communal property for use is carried out, in particular, by local self-government bodies on the basis of land management projects on the allotment of land plots in cases stipulated by law, or on the basis of technical documentation on Land Management on the establishment of land plot boundaries in kind (on the ground). At the same time, the development of such documentation is carried out on the basis of a permit granted by a local self-government body, in accordance with the powers provided for in Article 122 of this Code [57, ark. 123].

A person interested in obtaining for use a land plot from state or municipal property under a Land Management Project for its allotment applies for permission to develop it to the relevant executive authority or local self-government body, which, in

accordance with the powers defined in Article 122 of this code, transfer ownership or use of such land plots (part two of Article 123 of the Civil Code of Ukraine) [57, ark. 123].

The relevant executive authority or local self-government body, within the limits of their powers, considers the application within one month and gives permission for the development of a Land Management Project for the allotment of a land plot or provides a reasoned refusal to grant it (part three of Article 123 of the Civil Code of Ukraine) [57, ark. 123].

Within two weeks from the date of receipt of the Land Management Project on the allotment of a land plot, and if it is necessary to carry out mandatory state expertise of land management documentation in accordance with the law - after receiving a positive conclusion of such expertise, the relevant executive authority or local self-government body decides to grant the land plot for use (part six of Article 123 of the Civil Code of Ukraine) [57, ark. 123].

Provision for use of a land plot registered in the state land cadastre in accordance with the law of Ukraine "on the state land cadastre", the ownership of which is registered in the State Register of real rights to immovable property, without changing its borders and purpose is carried out without drawing up documentation on Land Management (part one of Article 123 of the Civil Code of Ukraine) [57, ark. 123].

In other cases, the provision of a land plot for use is carried out on the basis of technical documentation on land management regarding the establishment of land plot boundaries in kind (on the ground). The development of such documentation is carried out on the basis of a permit granted, in particular, by an executive authority or a local self-government body, in accordance with the powers defined in Article 122 of this code, except in cases when a person interested in obtaining a land plot for use acquires the right to order the development of such documentation without granting such permission (paragraphs 3-5 of part one of Article 123 of the Civil Code of Ukraine) [57, ark. 123].

According to paragraph 12 of Article 186 of the Civil Code of Ukraine, technical documentation on land management regarding the division and unification of land plots

is agreed: if the division, unification of land plots is carried out by its user - the owner of land plots, and in relation to land plots of state or municipal ownership - by the executive authority, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, the local self-government body authorized to dispose of land plots in accordance with the powers defined in Article 122 of this code; in the case of Division, Association of a land plot that is pledged - by the pledgee; in the case of Division, Association by the owner of a land plot that is in use - by the land user. Technical documentation on land management regarding the division and unification of land plots is approved by the customer [57, ark. 186].

According to paragraph 14 of the above-mentioned article, technical documentation on land management regarding the establishment (restoration) of the boundaries of a land plot in kind (on the ground) is not subject to approval and is approved by: the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, executive authorities or local self-government bodies in accordance with the powers defined by Article 122 of this code, if the land plot is in state or municipal ownership; the owner of the land plot, if the land plot is in private ownership [57, ark. 186].

So, according to the provisions of the above-mentioned legislation, the Association of land plots is the process of creating a land plot as a single object from existing land plots that are already objects of civil law.

According to Paragraph 1 of the second part of Article 17 of the code of Administrative Procedure of Ukraine, the competence of administrative courts extends to disputes between individuals or legal entities with the subject of power regarding the appeal of its decisions (normative legal acts or legal acts of individual action), actions or omissions. The term "subject of power" used in this procedural norm refers to a state authority, a local self-government body, their official or official person, or another subject in the exercise of their power management functions on the basis of legislation, including the performance of delegated powers (paragraph 7 of part one of

Article 3 of Article 17 of the Code of Administrative Procedure of Ukraine) [67, ark. 17].

Thus, in the decision of June 19, 2018 in case No. 922/2383/16, the Grand Chamber of the Supreme Court noted that when determining the jurisdiction of a dispute, the courts must find out whether the dispute is private-law or public-law; whether the dispute arose from Relations regulated by the norms of civil law, whether these relations are related to the exercise by the parties of civil or other property rights to land plots on the basis of equality; whether there was a dispute regarding the appeal of decisions, actions or omissions of a subject of power in the exercise of managerial functions in the field of land relations [68].

In the above-mentioned resolution, a large fee of the Supreme Court came to the following conclusion: "based on the circumstances of the case established by the courts of previous instances, disputed legal relations between Atmos LLC and the Kharkiv City Council arose in relation to land plots formed as objects of civil law in accordance with article 79-1 of the Civil Code of Ukraine and provided for use, within the framework of their registration and provision for use as a single object. In these legal relations, the Kharkiv City Council performs the functions of the owner of land plots, who implements his will to change the qualitative and quantitative features of its objects and transfer the right to them to other subjects, if there is a corresponding counter-will. Taking into account the above, disputed legal relations are private-law, and the conclusion of the Supreme economic Court of Ukraine on their public-legal nature in the case under consideration is erroneous.» [68].

Based on the legal opinion in case No. 922/2383/16 made by the Grand Chamber of the Supreme Court, it can be argued that land disputes concerning the appeal of decisions of a local self-government body belong to economic jurisdiction, if when making the relevant appealed decision, the subject of power performs the functions of the owner of the land plot.

We also consider it necessary to analyze some legal positions of the Cassation courts regarding land disputes involving farms and their founders.

According to the first part of Article 1 of the law of Ukraine "on farming", farming is a form of entrepreneurial activity of citizens who have expressed a desire to produce commercial agricultural products, carry out its processing and sale in order to make a profit on land plots granted to them in ownership and/or use, including for rent, for farming, commercial agricultural production, personal peasant farming, in accordance with the law [69, ark. 1].

According to the first part of Article 7 of the law of Ukraine "on farming", the provision of land plots of state and municipal property for ownership or use for farming is carried out in accordance with the procedure provided for by the Land Code of Ukraine [69, ark. 7].

A farm is subject to state registration in accordance with the procedure established by law for state registration of legal entities and individual entrepreneurs, provided that a citizen of Ukraine or several citizens of Ukraine who have expressed a desire to create a farm, acquires the right to own or use a land plot (Article 8 of the law of Ukraine "on farming") [69, ark. 8].

Consequently, a citizen has the right to create a farm after registration of the right of use or ownership of a land plot with the intended purpose for farming.

Checking the courts ' compliance with the norms of procedural law in relation to subject jurisdiction, the Grand Chamber of the Supreme Court in its decision of June 20, 2018 Case No. 317/2520/15-C drew attention to the fact that the land plot leased to the defendant in accordance with orders No. 1697 and No. 174 for farming was actually transferred to them for use by his own farm "swam". That is, the tenant of the land plot was replaced: the rights and obligations of the tenant under the land lease agreement were transferred to the farm, and therefore the parties to the dispute are legal entities. Within the meaning of Articles 1, 5, 7, 8 and 12 of the law of Ukraine" on farming " after the conclusion of a lease agreement for a land plot for farming and state registration of such a farm, the duties of the tenant of this land plot are performed by the farm, and not by the citizen to whom it was granted [70].

With this in mind, the Grand Chamber of the Supreme Court, in its decision of June 20, 2018, Case No. 317/2520/15-C, concluded that in this case the dispute is related to

the provision of a land plot for lease to an existing farm without holding land auctions by leasing an additional land plot for farming to its founder and then transferring this plot to the use of FG "swam". Consequently, disputes between legal entities, in particular state and local government bodies, and farms registered in accordance with the established procedure should be considered according to the rules of economic proceedings [70].

We consider it necessary to investigate another legal opinion of the Grand Chamber of the Supreme Court in case No. 368/54/17, the subject of which is the right of lifelong inherited ownership of a land plot of the founder of a farm on the basis of a state act.

Thus, according to Article 84 of the Civil Code of Ukraine, all land of Ukraine is in state ownership, except for land of communal and private property [57, ark. 84].

According to Article 22 of the Civil Code of Ukraine, agricultural land is recognized as land provided for the production of agricultural products, the implementation of agricultural research and training activities, the placement of appropriate production infrastructure, including the infrastructure of wholesale markets for agricultural products, or intended for these purposes [57, ark. 22].

According to Paragraph "A" of Part 3 of Article 22 of the Civil Code of Ukraine, agricultural land is transferred to ownership and provided for use by Citizens - for personal farming, gardening, gardening, haymaking and grazing, commercial agricultural production, farming [57, ark. 22].

Article 31 of the Civil Code of Ukraine provides that the land of a farm may consist of: a land plot owned by a farm as a legal entity; land plots owned by citizens - members of a farm on the right of private ownership; a land plot used by a farm on lease terms [57, ark. 31].

Article 23 of the law of Ukraine "on farming" provides that the inheritance of a farm (an integral property complex or part of it) is carried out in accordance with the law [69, ark. 23].

At the same time, the law of Ukraine "on farming" and the Land Code of Ukraine do not contain such a definition or right as lifelong inherited possession.

According to Part 1 of Article 92 of the Civil Code of Ukraine, the right of permanent use of a land plot was defined as the right to own and use a land plot that is in state or municipal ownership, without a fixed term [57, ark. 92].

According to Part 2 of Article 407 of the Civil Code of Ukraine, the right to use someone else's land plot for agricultural needs (emphyteusis) can be alienated and transferred by inheritance [56, ark. 407].

According to Article 1225 of the Civil Code of Ukraine, the right of ownership of a land plot passes to heirs according to the general rules of inheritance [56, ark. 1225].

Along with this, in accordance with Articles 6, 50 of the Civil Code of Ukraine on December 18, 1990 No. 561-XII (as amended at the time of its adoption), land is granted to citizens of the Ukrainian SSR for lifelong inherited possession for peasant (farm) farming. Citizens of the Ukrainian SSR who have expressed a desire to conduct a peasant (farm) farm, based mainly on personal labor and the work of their family members, are granted at their request in lifelong inherited possession or lease of land plots, including household plots [71, Article 6, 50].

Also, paragraph 6 of the Land Code of Ukraine stipulates that citizens and legal entities who have land plots in permanent use, but according to this code cannot have them on such a right, must re-register the ownership or lease right to them in accordance with the established procedure by January 01, 2008 [57, ark. 6].

The decision of the Constitutional Court of Ukraine of September 22, 2005 No. 5-RP (case on permanent use of land plots) states that the Land Code of the Ukrainian SSR of December 18, 1990 regulated such a form of land ownership as lifelong inherited possession. The Civil Code of Ukraine, as amended on March 13, 1992, established the right of collective and private ownership of land (in particular, the right of citizens to receive free ownership of land plots for farming, personal subsidiary farming, etc. (Article 6)). This indicates that along with the introduction of private ownership of land to citizens, their choice was provided with the opportunity to continue using land plots on the right of permanent (indefinite) use, lease, lifelong hereditary possession or temporary use. At the same time, in any case, both automatic

changes in the titles of land rights and any restriction of the right to use the land plot due to non-registration of the title were excluded [72].

The Constitutional Court of Ukraine considered that the establishment of the obligation of citizens to re-register land plots that are in permanent use for the right of ownership or lease before January 01, 2008, requires regulation by a clear mechanism of the procedure for exercising this right in accordance with the requirements of Part 2 of Article 14, Part 2 of Article 41 of the Constitution of Ukraine. Due to the absence of a corresponding mechanism for re-registration defined in the legislation, citizens are not able to fulfill the requirements of paragraph 6 of the transitional provisions of the code within the established time limit, as evidenced by the repeated extension of this period by the Verkhovna Rada of Ukraine. The basis for the emergence of the right to a land plot is the corresponding legal fact [72].

The Constitutional Court of Ukraine has declared that the provisions of the Constitution of Ukraine (are unconstitutional) do not comply with the Constitution of Ukraine:

- paragraph 6 of Section X "transitional provisions" of the Civil Code of Ukraine regarding the obligation to reissue the right of permanent use of a land plot to the right of ownership or lease without appropriate legislative ,organizational and financial support;

- paragraph 6 of the resolution of the Verkhovna Rada of Ukraine "on land reform" of December 18, 1990 No. 563-XII with subsequent changes in the part regarding the loss of citizens, enterprises, institutions and organizations after the expiration of the term of registration of the right of ownership or the right to use land previously granted to them the right to use a land plot [72].

The ECtHR, in its decision of 28 October 1999 in the case of Brumarescu V. Romania, noted that one of the fundamental aspects of the rule of law is the principle of legal certainty, which, among other things, requires that when the case is finally decided by the courts, their decisions do not cause doubts [73].

Also, the ECHR, in its decision of April 11, 2013 in the case "Verentsov V. Ukraine", noted that the wording of laws is not always clear. Therefore, their

interpretation and application depends on practice. And the role of considering cases in courts is precisely to get rid of such interpretative doubts, taking into account changes in everyday practice [74].

According to Article 1218 of the Civil Code of Ukraine, the inheritance includes all rights and obligations that belonged to the testator at the time of opening the inheritance and did not cease as a result of his death, except for the rights and obligations that are inextricably linked with the person of the testator, in particular: 1) personal non-property rights; 2) the right to participate in societies and the right to membership in associations of citizens, unless otherwise established by law or their constituent documents; 3) the right to compensation for damage caused by injury or other damage to health; 4) rights to alimony, pension, assistance or other payments established by law; 5) rights and obligations of a person as a creditor or debtor provided for in Article 608 of the Civil Code of Ukraine [56, ark. 1218].

At the same time, according to Part 2 of Article 395 of the Civil Code of Ukraine, other real rights to someone else's property may be established by law [56, ark. 395].

In addition, according to Article 396 of the Civil Code of Ukraine, a person who has a real right to someone else's property has the right to protect this right, including from the owner of the property, in accordance with the provisions of Chapter 29 of the Civil Code [56, ark. 396].

Taking into account the above-mentioned rules of law, the Grand Chamber of the Supreme Court, in its decision of 20 November 2019 in case no.368/54/17, concluded that the right of lifelong use of a land plot can be recognized as inherited, since the right of lifelong inherited possession of a land plot belongs to those rights that can be inherited [75].

So, the Cassation economic Court of the Supreme Court and the Grand Chamber of the Supreme Court consider a large number of land disputes in economic jurisdiction and introduce such legal positions that will help reduce the total number of appeals to the court.

We believe that when forming legal positions, Cassation courts proceed from certain general criteria formed in the process of resolving land disputes and adhere to

the rule according to which the court's decision must finally resolve the dispute on its merits and protect the violated right or interest.

As judicial practice shows, a large number of land disputes are based on gaps in legislation and the possibility of ambiguous interpretation of legal norms. Currently, it can be argued that the practice of the court of Cassation will certainly reduce the number of new land disputes, since the legal positions of the courts of Cassation in most cases solve an exclusive legal problem, ensure the development of law and form a single law enforcement practice.

Along with this, it should be noted that the jurisdictional war in legal disputes arising from land relations can be resolved by introducing legislative changes to the procedural codes.

Taking into account the above, we propose to amend the CPC of Ukraine and provide that economic courts are subject to disputes, in particular, on the protection of property rights or other real rights to land plots, appeals against actions or omissions, invalidation and cancellation of decisions of local self-government and state authorities that violate land rights.

4.2 Protection of property rights by national courts in credit disputes

Over the past few years, household incomes and corporate incomes have significantly decreased, which has led to an increase in legal disputes in the field of credit relations. As judicial practice shows, one of the decisive factors for maintaining economic stability in the country is the effective judicial protection of the rights of participants in credit relations.

Therefore, in order to create a stable system of judicial regulation of credit relations, it is necessary to deepen the legal positions of Cassation courts on controversial issues that arise in this area.

At the same time, we believe that there is a need to clarify the essence of the nature of court cases in the field of credit relations, as well as to analyze the procedural

problems that arise when courts consider this category of cases. Research on the above-mentioned issues will help reduce the number of disputes in this area.

Among scientists, the issues of legal regulation of credit relations, the grounds for the emergence and problems of solving credit relations were considered by such scientists: O. S. Kizlova, L. O. Esipova, V. V. Lutz and others. At the same time, the judicial practice in resolving credit disputes has not been sufficiently studied.

The current legislation of Ukraine, in particular the Civil Code of Ukraine [56] and the law of Ukraine "on mortgage" [76] defines the procedure for concluding loan agreements, ensuring the implementation of the loan agreement and liability for violation of its terms.

According to Article 1054 of the Civil Code of Ukraine, under a loan agreement, a bank or other financial institution (lender) undertakes to provide a loan to the borrower in the amount and on the terms established by the agreement, and the borrower undertakes to repay the loan and pay interest [56, ark. 1054].

According to Article 526 of the Civil Code of Ukraine, the obligation must be fulfilled properly in accordance with the terms of the contract [56, ark. 526].

In accordance with article 610 of the Civil Code of Ukraine, a violation of an obligation is its non-fulfillment or fulfillment in violation of the conditions defined by the content of the obligation (improper fulfillment) [56, ark. 610].

According to the first part of Article 612 of the Civil Code of Ukraine, a debtor is considered overdue if he did not start fulfilling the obligation or did not fulfill it within the time period established by the contract or law [56, ark. 612].

So, we believe that in order to properly fulfill the obligation under the loan agreement, the borrower must comply with the terms specified in the loan agreement for payment of interest. Accordingly, failure to pay interest is considered a violation of the terms of the loan agreement.

In accordance with article 599 of the Civil Code of Ukraine, the obligation is terminated by a properly performed performance [56, ark. 599].

According to the first part of Article 267 of the Civil Code of Ukraine, a person who has fulfilled an obligation after the expiration of the statute of limitations has no

right to demand the return of what has been fulfilled, even if she did not know about the expiration of the statute of limitations at the time of execution [56, ark. 267].

In the event of the expiration of the statute of limitations, the application for protection of a civil right or interest is accepted by the court for consideration, but the expiration of the statute of limitations, the application of which is declared by the party to the dispute, is the basis for refusal of the claim (parts two and four of Article 267 of the Civil Code of Ukraine) [56, ark. 267].

Taking into account the above-mentioned legal norms, it can be argued that after the end of the loan term, the borrower's obligations do not cease. At the same time, under the loan agreement, the borrower's monetary obligation may be fulfilled after the statute of limitations expires.

In accordance with the second part of Article 1054 of the Civil Code of Ukraine, the provisions of Paragraph 1 ("loan") of Chapter 71 ("loan. Credit. Bank deposit"), unless otherwise established by this paragraph and follows from the essence of the loan agreement [56, ark. 1054].

According to the second part of Article 1050 of the Civil Code of Ukraine, if the contract establishes the borrower's obligation to repay the loan in installments (with installments), then in case of late repayment of the next part, the lender has the right to demand early repayment of the remaining part of the loan and payment of interest due to him in accordance with article 1048 of this code [56, ark. 1050].

According to part one of Article 1048 of the Civil Code of Ukraine, the lender has the right to receive interest from the borrower on the loan amount, unless otherwise established by the contract or law. The amount and procedure for receiving interest are established by the agreement. In the absence of another agreement between the parties, interest is paid monthly until the day of repayment of the loan [56, ark. 1048].

So, until the day of repayment of the loan, in the absence of another agreement between the parties to the agreement, the monthly interest payment can be applied only within the loan term.

Thus, the Grand Chamber of the Supreme Court in its decision of March 28, 2018 in case No. 444/9519/12 concluded that the lender's right to charge interest on a loan

stipulated by the agreement is terminated after the expiration of the loan term specified in the agreement or in the event of a claim against the borrower in accordance with part two of Article 1050 of the Civil Code of Ukraine. In protective legal relations, the rights and interests of the plaintiff are secured by Part Two of Article 625 of the Civil Code of Ukraine, which regulates the consequences of late fulfillment of a monetary obligation [77].

At the same time, we consider it necessary to analyze the practice of the Supreme Court regarding the termination of sureties. After all, as judicial practice shows, there is a problem of termination of the institution of surety and liability of the guarantor in credit obligations.

Fulfillment of an obligation can be secured by a guarantee (part one of Article 546 of the Civil Code of Ukraine) [56, ark. 546].

Part two of Article 548 of the Civil Code of Ukraine stipulates that an invalid obligation is not subject to security. The invalidity of the main obligation (claim) entails the invalidity of the transaction regarding its security, unless otherwise established by this Code [56, ark. 548].

That is, with the exception of the guarantee (article 562 of the Civil Code of Ukraine), only valid requirements can be met [56, ark. 562].

Parts One and two of Article 553 of the Civil Code of Ukraine define that under a surety agreement, the surety is charged to the debtor's creditor for the performance of his duty. The surety is liable to the creditor for violation of the obligation by the debtor. A guarantee can ensure the fulfillment of the obligation in part or in full [56, ark. 553].

Violation of an obligation is its non-fulfillment or fulfillment in violation of the conditions defined by the content of the obligation (improper fulfillment) (Article 610 of the Civil Code of the Russian Federation) [56, ark. 610].

In case of violation of the obligation, there are legal consequences established by the contract or law, in particular: change in the terms of the obligation; payment of a penalty; compensation for losses and moral damage (Article 611 of the Civil Code of the Russian Federation) [56, ark. 611].

According to part one and two of Article 554 of the Civil Code of Ukraine, in case of violation by the debtor of an obligation secured by a surety, the debtor and the surety are liable to the creditor as joint and several debtors, unless the surety agreement establishes additional (subsidiary) liability of the surety. The surety is liable to the creditor in the same amount as the debtor, including payment of the principal debt, interest, penalty, compensation for losses, unless otherwise established by the surety agreement [56, ark. 554].

Taking into account the above-mentioned norms of civil legislation, we believe that suretyship is an additional way to ensure the fulfillment of credit obligations, and therefore suretyship will have legal significance as long as the main obligations are legally binding.

Along with this, Parts One and three of Article 549 of the Civil Code of Ukraine define that a penalty (fine, penalty fee) is a sum of money or other property that the debtor must transfer to the creditor in case of violation of the obligation by the debtor. A penalty fee is a penalty calculated as a percentage of the amount of an untimely monetary obligation for each day of late fulfillment [56, ark. 549].

Within the meaning of articles 550, 551 of the Civil Code of Ukraine, the right to a penalty arises regardless of whether the creditor has losses caused by non-performance or improper performance of the obligation. The subject of the penalty may be a sum of money, movable and immovable property. If the subject of the penalty is a sum of money, its amount is established by a contract or an act of civil legislation [56, Article 550, 551].

Taking into account the legal nature of the Guarantee established by the legislator as an additional (accessory) obligation to the main contract and direct dependence on its terms, the Grand Chamber of the Supreme Court in its decision of October 31, 2018 in case No. 202/4494/16-C, deviated from the legal conclusions set out in the decisions of the Supreme Court of Ukraine of November 26, 2014 (Case No. 6-75tss14), from February 03, 2016 (Case No. 6-2017tss15) and from July 06, 2016 (Case No. 6-1199tss16) on the presumption of validity of a guarantee and the impossibility of its termination on the basis of Part Four of Article 559 of the Civil Code of Ukraine, taking

into account the existence of a court decision on the recovery of credit debt, since such a decision in itself indicates the expiration of the contract. Therefore, the guarantee does not apply to legal relations that arise after making a decision on debt collection, unless otherwise established by the guarantee agreement [78].

At the same time, due to the financial crisis and low incomes of citizens, an increasing number of individuals are becoming consumers of credit services of financial institutions, including credit cards of banks. At the same time, not everyone has the opportunity to pay the loan funds used in a timely manner and pay interest for their use. Therefore, judicial practice regarding the recovery of funds for the use of credit cards is relevant.

In such cases, contractual legal relations arise between the bank and an individual consumer of banking services (part one of Article 11 of the law of Ukraine of May 12, 1991 No. 1023 - XII "on consumer rights protection" (hereinafter-Law No. 1023 - XII) [79, ark. 11].

According to Paragraph 22 of the first part of Article 1 of Law No. 1023-XII, a consumer is an individual who purchases, orders, uses or intends to purchase or order products for personal needs that are not directly related to business activities or the performance of duties of an employee [79, ark. 1].

Paragraph 19 of the UN General Assembly resolution "guidelines for consumer protection", adopted on April 09, 1985 No. 39/248 at the 106th plenary session of the UN General Assembly, states that consumers should be protected from such contractual abuses as unilateral model contracts, exclusion of fundamental rights in contracts and illegal terms of lending by sellers [80, paragraph 19].

The Constitutional Court of Ukraine in the decision on the case on the constitutional appeal of Citizen Dmitry Kozlov regarding the official interpretation of the provisions of the second sentence of the preamble of the law of Ukraine of November 22, 1996 No. 543/96-B "on liability for late fulfillment of monetary obligations" of July 11, 2013 in the case No. 1-12/2013 noted that taking into account the requirements of Part Four of Article 42 of the Constitution of Ukraine, participation in the contract of the consumer as a weaker party, subject to special legal protection in

the relevant legal relations, narrows the effect of the principle of equality of participants civil- legal relations and freedom of contract, in particular in agreements on the provision of consumer credit [81].

The principle of the rule of law is recognized and operates in Ukraine. The Constitution of Ukraine has the highest legal force; laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it, which is expressly provided for in Article 8 of the Constitution of Ukraine [82, ark. 8].

According to part four of Article 42 of the Constitution of Ukraine, the state protects the rights of consumers [82, ark. 42].

According to the first part of Article 1 of the Civil Code of Ukraine, civil relations are based on the principles of legal equality, free expression of Will and property independence of their participants [56, ark. 1].

The basic principles of civil legislation are defined in Article 3 of the Civil Code of Ukraine [56, ark. 3].

Freedom of contract is one of the general principles of civil legislation, which is provided for in paragraph 3 of part one of Article 3 of the Civil Code of Ukraine [56, ark. 3].

One of the fundamental principles of civil proceedings is fairness, good faith and reasonableness, which is provided for in paragraph 6 of part one of Article 3 of the Civil Code of Ukraine [56, ark. 3].

In other words, we believe that any actions of participants in civil legal relations should be characterized by honesty, openness and respect for the interests of another participant in legal relations.

The European Court of human rights ("ECtHR"), in its decision of 28 October 1999 in the case of Brumarescu V. Romania, noted that one of the fundamental aspects of the rule of law is the principle of legal certainty, which, among other things, requires that when the case is finally decided by the courts, their decisions do not raise doubts [83].

The ECHR has repeatedly noted that the wording of laws is not always clear. Therefore, their interpretation and application depends on practice. And the role of

hearing cases before the courts is precisely to get rid of such interpretative doubts, taking into account changes in everyday practice (decision of 11 November 1996 in Cantoni v. France, application no.17862/91) [84].

Thus, the Grand Chamber of the Supreme Court in case No. 342/180/17 (resolution of July 03, 2019) on the claim of JSC CB "PrivatBank" to an individual for debt collection under the agreement on the provision of banking services by signing an application form for joining the terms and Conditions of providing banking services, concluded that the extract from the tariffs for servicing credit cards "Universal ""Universal, 30 days grace period" and an extract from the terms and conditions for providing banking services in Privat Bank resource: archive of the terms and conditions for providing banking services are posted on the website: https://privatbank.ua/terms/, which are contained in the materials of this case are not recognized as the defendant and do not contain her signature, so they cannot be regarded as part of the loan agreement concluded between the parties on February 18, 2011 by signing an application form. So, there are no grounds to believe that the parties agreed in writingthe price of the contract, which is set in the form of payment of interest for the use of credit funds, as well as liability in the form of penalties (penalties, fines) for violating the terms of performance of contractual obligations [85].

We believe that the majority of consumers of banking services, taking into account the lack of legal awareness, cannot effectively exercise and protect their rights, so this legal position is relevant for all consumers of credit services, since it protects their rights from illegal recovery of funds by banks.

It should be noted that in credit disputes, as in other categories of disputes, an important circumstance for the satisfaction of claims by the courts is the correctly chosen method of protection and the timeliness of applying to the court.

The provisions of Article 611 of the Civil Code of Ukraine provide that in case of violation of an obligation, there are legal consequences established by the contract or law [56, ark. 611].

In particular, ark. 625 of the Civil Code of Ukraine regulates the legal consequences of violation of a monetary obligation, which have special features. Thus, in accordance

with the above norm, the debtor is not released from liability for the inability to fulfill a monetary obligation. A debtor who is late in fulfilling a monetary obligation, at the request of the creditor, is obliged to pay the amount of the debt, taking into account the established inflation index for the entire period of delay, as well as 3% per annum of the overdue amount, unless another amount of interest is established by the contract or law [56, ark. 625].

We believe that article 625 of the Civil Code of Ukraine gives interest per annum not a penalty, but a compensatory character.

At the same time, Chapter 19 of the Civil Code of Ukraine defines the period within which a person can apply to the court with a claim for protection of their civil right or interest, that is, the statute of limitations [56, ark. 19].

Analysis of the content of the above norms of substantive law in their totality gives grounds for concluding that the legal consequences of violation of a monetary obligation provided for in Article 625 of the Civil Code of Ukraine are subject to a general limitation period of three years (article 257 of this Code) [56, ark. 257].

The expiration of the statute of limitations, the application of which is declared by the party to the dispute, is the basis for refusal of the claim (Article 267 of the Civil Code of the Russian Federation) [56, ark. 267].

The procedure for counting the statute of limitations is given in Article 261 of the Civil Code of Ukraine. In particular, according to the first part of this article, the limitation period begins from the day when a person learned or could have learned about the violation of his right or about the person who violated it [56, ark. 261].

Thus, the Grand Chamber of the Supreme Court, in its decision of November 8, 2019 in case No. 127/15672/16-C, came to the following conclusion:

"Since, as a result of the debtor's failure to fulfill a monetary obligation, the creditor has the right to receive the amounts provided for in Article 625 of this code for the entire period of delay, that is, such delay is a continuing offense, the right to claim for recovery of inflationary losses and 3% per annum arises for each month from the moment of violation of the monetary obligation until its elimination.

The legislator determines the debtor's obligation to pay the amount of the debt, taking into account the level of inflation and 3% per annum for the entire period of delay, and therefore such an obligation is continuing.

Taking into account the above, the Grand Chamber of the Supreme Court, in its decision of February 13, 2019 (Case No. 924/312/18), agrees with the conclusions of the Cassation economic Court as part of the Supreme Court, set out in the decisions of April 10 and 27, 2018 in cases No. 910/16945/14 and No. 908/1394/17, of November 16, 2018 in case No. 918/117/18, of January 30 2019 in cases no. 905/2324/17 and no. 922/175/18, that the debtor's failure to fulfill a monetary obligation is a continuing offence, therefore, the right to a claim for recovery of funds on the basis of Article 625 of the Civil Code of Ukraine arises from the creditor from the moment of violation of the monetary obligation until its elimination and is limited to the last three years that preceded the filing of such a claim.» [86].

As for the effective method of protection, the Supreme Court as part of the Joint Chamber of the Civil Court of Cassation in its decision of October 10, 2019 in case No. 320/8618/15-C concluded that the interpretation of Articles 14, 16 of the Civil Code of Ukraine allows us to conclude that it is not an effective way to protect the recognition of illegal actions in terms of not crediting regular payments, the obligation to set off the listed monthly payments, cancellation and write-off of bad debts, the obligation to cancel the amount of penalties, prohibition to carry out further accrual of penalties and/or fines on the principal amount of debt under the obligations under the loan agreement, the obligation to perform actions to cancel the accrual of interest for the use of the loan and penalties, the obligation to cancel illegally accrued penalties for late payment, since they do not provide for the corresponding obligation of another subject of civil legal relations and do not ensure the restoration of the rights of the person making such claims [87].

Also, we propose to analyze the issue of double recovery of credit debt from the debtor under the main agreement and the mortgage agreement, which is widely practiced by financial institutions.

Thus, according to the requirements of Article 598 of the Civil Code of Ukraine, the obligation is terminated partially or in full on the grounds established by the contract or law; the current legislation (part one of Article 598, ark.s 599 - 601, 604 - 609 of the Civil Code of Ukraine) does not link the termination of the obligation with the adoption of a court decision [56, ark. 598].

Also, according to Article 1 of the law of Ukraine of June 5, 2003 No. 898-IV "on mortgage" (hereinafter referred to as the law on mortgage), a mortgage is a type of security for the performance of an obligation with real estate that remains in the possession and use of the mortgagor, according to which the mortgagee has the right, if the debtor fails to fulfill the obligation secured by a mortgage, to obtain satisfaction of its claims at the expense of the subject of the mortgage mainly to other creditors of this debtor in accordance with the procedure established by this Law [76, ark. 1].

The mortgage is derived from the main obligation and is valid until the termination of the main obligation or until the expiration of the mortgage agreement (part five of Article 3 of the Mortgage Law) [76, ark. 3].

The mortgage is terminated in the following cases: termination of the main obligation or expiration of the mortgage agreement; sale of the subject of the mortgage in accordance with this law; acquisition by the mortgagee of ownership of the subject of the mortgage; recognition of the mortgage agreement as invalid; destruction (loss) of the building (structure) transferred to the mortgage, if the mortgagor has not restored it. If the subject of a mortgage agreement is a land plot and a building (structure) located on it, in case of destruction (loss) of the building (structure), the mortgage of the land plot is not terminated; on other grounds provided for by this law. Subsequent mortgages are terminated as a result of foreclosure on the previous mortgage. Information on the termination of a mortgage is subject to state registration in accordance with the procedure established by law (Article 17 of the Mortgage Law) [76, ark. 17].

The corresponding regulation is also given in Article 593 of the Civil Code of Ukraine [56, ark. 593].

According to the first part of Article 7 of the law on mortgages, at the expense of the subject of the mortgage, the mortgagee has the right to satisfy his claim for the main

obligation in full or in the part established by the mortgage agreement, which is determined at the time of fulfillment of this claim, including payment of interest, penalty, principal amount of debt and any increase in this amount, which was directly provided for by the terms of the agreement, which determines the main obligation [76, ark. 7].

In accordance with Article 33 of the mortgage law, in the event of non-performance or improper performance by the debtor of the main obligation, the mortgagee has the right to satisfy its claims under the main obligation by foreclosing on the subject of the mortgage. Foreclosure on the subject of a mortgage is carried out on the basis of a court decision, an executive inscription of a notary, or in accordance with an agreement on satisfaction of the mortgage holder's claims [76, ark. 33].

Thus, in the legal relations concerning the recovery by the creditor of debt under a loan agreement by foreclosure on the subject of mortgage, in connection with the failure of the debtor to fulfill the main obligation, the Grand Chamber of the Supreme Court in its decision of September 18, 2018 in case No. 921/107/15-G/16 made the following conclusion:

"The creditor's use of another legal remedy to protect its right violated and not properly restored by the debtor does not constitute double debt collection.

The issue of execution of an enforcement document issued to the creditor in the event that such an obligation of the debtor under such an enforcement document is absent in whole or in part due to its termination (due to execution by the debtor, another person, etc.) is subject to resolution in accordance with the procedure provided for in part two of Article 328 of the code of civil procedure of Ukraine.

Taking into account the lack of evidence of the debtors fulfillment of obligations under loan agreements, the existence of court decisions on debt collection, installment due to the impossibility of their immediate execution, the conclusion of the economic courts of previous instances on the absence of grounds for satisfying the claim of the mortgagee for foreclosure on the subject of mortgage is incorrect and made without taking into account the actual circumstances of the case and the provisions of current legislation.» [88].

With regard to litigation on termination of suretyship in economic proceedings, it should be noted that proceedings in economic courts are conducted on the principle of adversarial parties, and therefore each party must prove with proper evidence the circumstances to which it refers.

Guided by these principles, the Cassation economic Court of the Supreme Court, in its decision of January 29, 2019 in the case 916/436/18, concluded that when filing a claim for recognition of a terminated mortgage under a mortgage agreement, the plaintiff was burdened with the burden of proving the circumstances of the complete termination of obligations under the loan agreement in connection with their implementation. The circumstance of complete termination of obligations under the loan agreement must be proved in the context of each obligation of the borrower, including the principal amount of the loan, interest for the use of credit funds and other mandatory payments provided for by the loan agreement concluded between the parties and additional agreements thereto. The plaintiff, applying for such claims, must provide the court, in addition to supporting documents, with a calculation of their obligations, so that the court can establish the chronology of issuing and paying off each type of obligation [89].

The above analysis of the legal nature of credit relations and the legal positions set out in the decisions of the Cassation courts allowed us to formulate such conclusions.

Based on the conducted research, we summarize that the Civil Court of Cassation, the Economic Court of Cassation of the Supreme Court and the Grand Chamber of the Supreme Court consider a large number of disputes in credit relations and introduce such legal positions that will help reduce the total number of appeals to the court.

We believe that when forming legal positions, Cassation courts proceed from certain general criteria formed in the process of resolving credit disputes and adhere to the rule according to which the court's decision must finally resolve the dispute on its merits and protect the violated right or interest.

As judicial practice shows, a large number of credit disputes are based on gaps in legislation and the possibility of ambiguous interpretation of legal norms. Currently, it can be argued that the practice of Cassation courts will certainly reduce the number of

new credit disputes, since the legal positions of Cassation courts in most cases solve an exclusive legal problem, ensure the development of law and form a single law enforcement practice.

Along with this, it should be noted that the problems of a large number of credit disputes can be resolved by making legislative changes to civil legislation.

With this in mind, we propose to amend the current civil legislation to expand the guarantees of the rights of consumers of credit services provided by financial institutions.

4.3 Features of protection of property rights by the European Court of human rights

Taking into account the European integration of our state, it is of great importance to study the experience and legal doctrine that are most implemented in court decisions and bring national legislation in line with the norms of international law.

The main goal of improving national legislation is to achieve European standards of living and a worthy place of Ukraine in the world, as well as to unite society around understanding the value of human rights and Freedoms, which are protected on the basis of the principle of equality and non-discrimination, solving the main systemic problems in the field of protection of human rights and freedoms.

In this regard, of course, the relevance of scientific research in the field of human rights as a fundamental value of civil society, their implementation, legal activity of carriers of rights, and state activities to ensure human rights increases. A special, important place in this is occupied by the protection of property rights, especially given the political, economic and social problems in Ukraine in recent years.

After Ukraine ratified the convention, it became necessary to implement the Convention and court decisions in national legislation. But to what extent does this correspond to the modern realities of Ukrainian judicial practice and Ukrainian legislation? Let's try to figure it out.

Since the convention is an international treaty, and therefore the process of interpretation and application of its provisions complies with international legal rules. At the same time, we believe that at the court level there is an independent interpretation of the concept of property, and therefore the research of the article becomes particularly relevant.

The most thorough problems of protecting property rights in the court's practice are described in the works of such lawyers: I. M. Artsibasov, Yu. m. Antonyan, I. P. Blishchenko, Yu. Y. Berestneva, I. V. Bobrovsky, N. T. Blatova and others.

According to Article 53 of the convention, it is generally accepted that the protection mechanism provided for in the convention is subsidiary to the mechanism that a state party to the convention is obliged to provide at the national level, since nothing in the convention can be interpreted as restricting or negating any human rights and fundamental freedoms that may be recognized on the basis of the laws of any High Contracting Party or any other agreement to which it is a party [90].

In the court's practice, it has also been repeatedly noted that the convention is not a frozen legal act, it is open to interpretation, taking into account the needs of the present. The subject and purpose of the convention as a legal act that ensures the protection of human rights requires that its norms are interpreted and applied in such a way as to make its guarantees effective and real [91, p. 90-91].

In the context of the protection of property rights, such guarantees, in our opinion, are primarily Article 1 of the First Protocol "protection of property".

Note that the right of property was not singled out in the convention as a separate right, but Article 1 of the first protocol provided: "every natural or legal person has the right to possess his property peacefully. No one may be deprived of his property except in the public interest and under the conditions provided for by law and the general principles of international law. However, the previous provisions do not in any way restrict the right of the state to enact such laws as it considers necessary in order to exercise control over the use of property in accordance with the general interest" [92].

An analysis of the court's practice shows that the court considers the protection of property rights precisely through the interpretation of the concept of "property".

Thus, the court in the case" Kechko V. Ukraine "of 8 November 2005 (Application No. 63134/00) noted that the concept of" property", which is contained in Part 1 of Article 1 of Protocol No. 1, has an autonomous meaning, which is not limited to the ownership of physical things and does not depend on the formal classification in national legislation: some other rights and interests, for example, debts constituting property, can also be considered as" property rights", and thus as" property " for the purposes of this provision. The question that needs to be determined is whether, in accordance with the circumstances of the case, taken as a whole, the applicant had the right to a substantive interest protected by Article 1 of Protocol No. 1 [94].

It is worth noting that the applicant's complaint concerned salary surcharges. In the context of Article 1 of Protocol No. 1, the court added: "The State may introduce, suspend or terminate the payment of such allowances by making appropriate changes to the legislation. However, if the current legal provision provides for the payment of certain allowances and all the requirements necessary for this are met, the public authorities may not knowingly refuse these payments as long as the relevant provisions are in force. Accordingly, ark. 1 of Protocol 1 to the convention was violated.» [94].

However, in the case of Balan V. Moldova of 29 January 2008 (Application No. 19247/03), the court interpreted the concept of" property "more broadly, noting the following:" property "may be either" available property "or property, including claims in respect of which the applicant may claim that he or she has at least a" legitimate expectation "to obtain effective enjoyment of the right of property. In contrast, the hope of recognition of a right of ownership which could not be exercised effectively cannot be considered "possession" within the meaning of art. 1 of Protocol No. 1, as well as a conditional claim that does not follow as a result of non-fulfillment of this condition [95].

Since the case of Balan V. Moldova concerned the unlawful use by the Ministry of the interior of Moldova of a photograph taken by the applicant, the court, in the context of Article 1 of Protocol No. 1, recalled that Article 1 of Protocol No. 1 to the convention for the protection of human rights and fundamental freedoms applied to intellectual property.

Along with this, it is worth noting that there are also judgments in the court's practice in which the court has concluded that a property interest is by its nature a requirement which can only be regarded as "property" if it has a sufficient basis in domestic law.

In particular, in the case of Volovik V. Ukraine of 6 December 2007 (application no. 15123/03), the court considered that the concept of "property", which is provided for in Part 1 of Article 1 of Protocol No. 1 to the convention for the protection of human rights and fundamental freedoms, has an autonomous meaning, which is not limited to the right of ownership of tangible things and does not depend on a formal classification in national law, certain other rights and interests that constitute property (for example, debt), can also be considered as a "right to property" and, accordingly, as "property" for the purposes of this article. Where a proprietary interest is by its nature a requirement, it may be regarded as "property" only when it has a sufficient basis in national law or where such an interest has been established by a final judicial decision that can be enforced. The court considers that the applicant's claims under Ukrainian law regarding insurance payment and monetary compensation cannot be considered as "property" within the meaning of Article 1 of Protocol No. 1, since they were not recognized and fixed in the court decision that entered into legal force. Ukrainian law also does not provide for provisions that could allow it to be concluded that the applicant at least had legitimate expectations regarding the receipt of the amounts he claimed [96].

In Fabry v. France of 7 February 2013 (application no.16574/08), the court reached a similar conclusion as to the existence of a right to acquire property. In particular, the court pointed out that Article 1 of Protocol No. 1 did not guarantee the right to acquire property, inter alia, by inheritance by law or donation. However, the concept of" property "may include both" actual property "and property values, including the right of claim, on the basis of which the applicant may claim that he has at least a" legitimate expectation " to gain actual possession of the right of ownership. A legitimate expectation must have a "sufficient national legal basis". Also, the concept of "property" may apply to the receipt of certain services that interested persons were

deprived of due to discriminatory conditions of provision. At the same time, the expectation of recognition of the right of ownership under the statute of limitations, which for a sufficiently long time cannot be effectively exercised, cannot be considered "property" within the meaning of Article 1 of Protocol No. 1; the same applies to the provision of a service under a condition that was not carried out due to non-fulfillment of the condition. While the predominantly declarative nature of the court's decisions leaves states with a choice of means to remedy the consequences of a violation, it should be recalled at the same time that the adoption of general measures imposes a duty on the state to prevent new violations in good faith, such as those stated in the court's decisions. This imposes an obligation on the domestic courts to ensure, in accordance with the constitutional order and with respect for the principle of legal certainty, the full operation of the convention norms interpreted by the court [98, p. 43-52].

Analyzing the court's decisions concerning tax disputes, it can be concluded that the court also applies Article 1 of Protocol No. 1 to the convention to this category of cases. The court considers illegal collection of taxes as interference by the state in a person's possession of their property or funds.

Thus, in the case of Intersplav V. Ukraine dated January 09, 2007 (Application No. 803/02), the taxpayer, the Intersplav joint venture, carried out activities for the production of products using processed metal purchased in Ukraine, the purchase of which was subject to VAT at the rate of 20 %. Most of the applicant's products were exported from Ukraine at a zero VAT rate, so the applicant, in his opinion, was entitled to VAT refund. The applicant alleged a violation by the state, represented by the tax authorities, of the first protocol to the European Convention for the protection of human rights and fundamental freedoms of 04/11/1950 (Convention) on account of the systematic delay in VAT refund. In the present case, the court found a violation of Article 1 of the first protocol, as in fact the persistent delays in reparation and compensation, coupled with the lack of effective means to prevent or put an end to such administrative practices, as well as the state of uncertainty as to the timing of the

return of the applicant's funds, had upset the "fair balance" between the demands of the public interest and the protection of the right to peaceful enjoyment of possessions [97].

So, in this case, the court concluded that if there are abuses in the tax system of a certain organization, state bodies should apply appropriate measures of influence to the guilty entity, and not extend negative consequences to other persons.

Analyzing the court's decisions concerning the protection of property rights, it can be concluded that the court pays great attention to the principles that the state must adhere to when interfering with property rights.

In particular, in Zelenchuk and Tsitsyura V. Ukraine of 22 May 2018 (applications nos.846/16 and Nos. 1075/16), the court observed that any interference with the exercise of a convention right must pursue a legitimate aim. Similarly, in cases involving a positive duty, there must be a legitimate justification for the state's inaction. The principle of" fair balance " inherent in Article 1 of Protocol No. 1 to the convention itself presupposes the existence of a general public interest. In addition, it should be recalled that the various norms set out in art. 1 of Protocol No. 1 to the convention are not separate, that is, unrelated, and that the second and third rules relate only to specific cases of interference with the right to peaceful possession of property. One consequence of this is that the existence of the public interest required under the second sentence, or the general interest referred to in the second paragraph, follows from the principle established in the first sentence, and therefore an interference with the exercise of the right to peaceful possession of property within the meaning of the first sentence of art. 1 of Protocol No. 1 to the convention must also pursue an aim in the public interest (see the judgment in Alisic and others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and The Former Yugoslav Republic of Macedonia, application no. 60642/08, paragraph 105) [93].

Analyzing the decision in the case "Zelenchuk and Tsitsyura V. Ukraine", it is possible to distinguish in the case – law of the court the following principles that the state must adhere to when interfering with property rights: the principle of peaceful possession of property, the principle of a democratic society, the principle of legality and the principle of"fair balance". At the same time, the court in the case "Zelenchuk

and Tsitsyura V. Ukraine" made an important conclusion about the legality of the moratorium on land sales in Ukraine.

In particular, the court noted "the assessment of compliance with Article 1 of Protocol No. 1 to the convention may concern not only the conditions for individuals to receive land rent and the degree of state interference with freedom of contract and contractual relations in the rental market, but also the existence of procedural and other guarantees that ensure that the functioning of the system and its impact on the property rights of the landlord are not arbitrary and unpredictable (see Amato Gauci V. Malta, application no. 47045/06, paragraph 58) [93].

Article 1 of Protocol 1 does not provide for an obligation on the state to pay compensation for the loss of a person's property, but the requirement to strike a fair balance between the person's interest and the public interest in itself means the payment of such compensation.

In the context of the above, the court, in its judgment in Holy monasteries V. Greece, noted that Article 1 of the First Protocol does not guarantee the right to compensation in all circumstances, since legitimate aims in the public interest may make redress less than the market value necessary. Special circumstances justifying less compensation or no compensation at all may be the conditions under which the property was acquired [103].

Ensuring the principle of a fair balance should be regarded as the principle that interference with the right to property is permissible only if it presupposes a legitimate aim in the public interest. At the same time, interference with the right to use property must maintain a "fair balance" between the public interest and the need to respect human rights.

Thus, in the judgment Immobiliare Saffy V. Italy of 28 July 1999 (application no.22774/93), the court emphasised that interference, particularly when it was to be seen in the context of Article 1, paragraph two, of Protocol No. 1, must strike a" fair balance" between the requirements of the general interest and the requirements of the protection of fundamental human rights. The importance of ensuring this balance is reflected in the structure of Article 1 as a whole, and therefore in part two. There must be a reasonable correlation between the means used and the goal set. In ascertaining whether this

requirement has been met, the court accepts that the state has the right to enjoy wide margin of appreciation both in choosing the means of enforcing orders and in ascertaining the justification for the consequences of such enforcement of orders in the light of the general interest – execution aimed at achieving the aim set by the act in question. In areas such as housing, which plays a central role in welfare and economic policy in modern society, the court will respect legislative decisions as long as they are in the general interest and based on clearly formulated reasonable motives (see Mellacher and Others v. Austria, applications nos. 10522/83; 11011/84; 11070/84, judgment of 19 December 1989, paragraph 48, and in the case of chassagnou and others v. France [GC], 29 April 1999, applications nos. 25088/94, 28331/95 and 28443/95, P. 75) [100].

It is also necessary to draw attention to the fact that discriminatory measures to restrict the right to peacefully own property cannot correspond to the general (public) interest. In particular, in the context of this, the position of the court in the case of Marx v. Belgium of 13 June 1979 is of interest. In the present case, the court examined the application of Belgian inheritance law. It distinguished between the right to inherit children born in marriage and illegitimate children. According to the Belgian government's arguments, the right to peaceful possession of property was legitimately restricted for reasons of general interest. Rejecting the arguments of the Belgian government, the court noted the discriminatory nature of the restriction and pointed out that the discriminatory restriction is not reasonable, and therefore cannot be considered legitimate [102].

The court made an important conclusion on the principle of "good governance" in the case of Rysovskiy V. Ukraine of 20 October 2011 (application no.29979/04). Thus, the court found a number of violations of Article 6 § 1 of the Convention, ark. 1 of the first protocol to the Convention and Article 13 of the convention in a case related to land relations; it also sets out certain standards for the activities of subjects of power, in particular, disclosed elements of the content of the principles of "good governance". Thus, the court noted that the principle of "good governance" should generally not prevent public authorities from correcting random errors, even those caused by their own

negligence (see Moskal V. Poland, cited above, paragraph 73). Any other position would amount, inter alia, to authorising the improper allocation of limited public resources, which would in itself be contrary to the general interest (see ibid. On the other hand, the need to remedy a former "mistake" should not disproportionately interfere with a new right acquired by a person who relied on the legitimacy of the good-faith actions of a public authority (see, mutatis mutandis, judgment in Pincova and Pink V. The Czech Republic, application no. 36548/97, paragraph 58, ECHR 2002-VIII). In other words, public authorities that do not implement or follow their own procedures should not be able to benefit from their unlawful actions or avoid performing their duties (see the above-mentioned judgment in Lelas v. Croatia, paragraph 74). The risk of any error of a public authority must rely on the state itself, and errors cannot be corrected at the expense of the persons concerned (see, among other sources, mutatis mutandis, the above-mentioned judgment in Pincova and Pinc v. The Czech Republic, paragraph 58, as well as the judgment in Gashi v. Croatia, application no. 32457/05, paragraph 40, of on 13 December 2007, and in trgo v. Croatia, application no. 35298/04, para. 67, dated 11 June 2009). In the context of revoking a wrongly granted right to property, the principle of "good governance" may not only impose on the public authorities an obligation to act without delay, correcting their error (see, 137 for example, Moskal V. Poland, paragraph 69), but also require the payment of appropriate compensation or other kind of appropriate redress to the former bona fide owner (see, above-mentioned, pincova and Pinc v. The Czech Republic, P. 53, and Toscuta and others v. Romania, P. 38) [101].

Thus, according to the court's decisions, the line between the general and public interest is conditional. There is no clear indication in the court's practice that in order to determine the lawfulness of an interference with possession of property, it is necessary to use the general or public interest.

Analysing the judgment, it can be concluded that the court pays particular attention to the reasonable proportionality between the means employed and the aim pursued in the interference with property. It is from the point of view of reasonable proportionality between the means used and the purpose pursued in interference with property that the court in the case "Mir razvitie, Tov and others v. Ukraine" dated June 27, 2019.

(applications nos.13290/11 and two others) noted that, in any event, the interpretation of national law by the domestic courts meant that the discretion of the executive was not limited to any rule that would specify with sufficient clarity the scope and conditions for its exercise. Therefore, it did not provide a significant degree of protection against arbitrariness. These considerations are sufficient to enable the court to conclude that the domestic legal provisions did not comply with the quality requirement of the "law" and thus that the suspension of the licence was not lawful. The established principle of the court's case-law is that since the Legislature's margin of appreciation in implementing social and economic policies is broad, the court will respect the Legislature's decision as to what is a matter of public interest, unless that decision is manifestly baseless. The court accepts the conclusion of the domestic authorities that the ban pursued the general interest and served the legitimate aim of preventing crime, including juvenile delinquency, tax evasion and contributed to the fight against gambling addiction. However, the court reiterates that Article 1 of Protocol No. 1 to the convention for the protection of human rights and fundamental freedoms ("the convention") requires that, for all interventions, there be a reasonable proportionality between the means employed and the aim pursued. This fair balance will be disturbed if the person concerned has to bear an individual and separate burden [99].

Along with this, there is a relationship between Article 1 of Protocol No. 1 and other articles of the convention, because issues arising from the use of one's "possessions" may also relate to other articles of the convention.

Analyzing the decisions of the ECHR, it is worth noting that a number of cases considered by the ECHR relate to both Article 8 of the Convention and Article 1 of Protocol No. 1 related to housing. In particular, in the case of Surugiu V. Romania, the ECtHR concluded that there may be duplication of the concepts of "property" and the concept of "Housing" and according to Article 1 of Protocol No. 1, but the presence of "housing" does not depend on the existence of a right or interests in relation to real estate.

Also, the court's decisions observe the relationship between Article 1 of Protocol 1 and other articles of the Convention: Article 2 - right to life, ark. 3 - Prohibition of torture, ark. 4 - Prohibition of slavery and forced labor, ark. 6 - right to a fair trial, ark. 7 - no

punishment without Law, ark. 8 - right to respect for private and family life, ark. 10 - freedom of expression, ark. 11 - freedom of Assembly and association, ark. 13 - right to an effective remedy, ark. 14 - Prohibition of discrimination.

Ukraine, recognizing the norms of the Convention and the practice of the court as a source of law, assumed the obligations of observing convention guarantees in the field of protection of human rights and fundamental freedoms.

However, the lack of understanding of guarantees of human rights and freedoms takes place in national law enforcement activities, since the finality of court decisions and the obligation to comply with them should be considered as the most important general condition for guaranteeing human rights and freedoms.

Based on the conducted research, we summarize that:

The court operates on the principle of autonomy of interpretation of concepts and in its practice independently establishes the definition of the issues studied;

The court has its own understanding of the concept of ownership;

The court considers the category of" property " as one that can constitute both existing property and assets and claims in respect of which a person can claim that he has hopes for the exercise of a property right.

Indeed, in our view, the court has significantly expanded the understanding of property and "possessions" within the meaning of Article 1 of the first protocol, but there is no human right or freedom that the court would establish with regard to the development of the provisions of the convention.

In addition, analyzing the practice of the European Court of justice, in the context of the European Convention, we can draw another conclusion that the understanding of property, property, is constantly expanding. This is certainly facilitated by the position of the European Court of justice, which constantly repeats that "property, in the sense of the Convention and its protocol, is an independent phenomenon that is in no way connected with its national understanding and has an interpretation independent of the national one.

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5. Place and appointment of a lawyer in society and the state

Abstract

The article analyzes the role and importance of the legal profession in public and state life. It is provided that the profession of a lawyer is important for the Ukrainian society at the present stage, because the rule of law in Ukraine is being formed: development and formation of modern legislation , rule of law, introduction of social guarantees, improvement of legal culture and legal knowledge of Ukrainian citizens .

It is noted that social changes in society and increasing demand for legal professionals lead that the fact that there is a need in the legal services market only for professionals with a high level of professionalism and competence.

It is provided that lawyers at the present stage not only participate in the implementation of law, but also contribute that the improvement of legal regulation of public relations. Lawyers develop proposals for improving the legislation and send them that the competent authorities, participate in the work of law-making bodies, prepare draft laws and other legal acts, gives conclusions and responses that draft regulations.

It is emphasized that one of the bridge important characteristics of the legal profession is its qualification. After all, only a qualified lawyer understands the essence and social significance of his profession, understands the essence, nature and interaction of legal phenomena, knows the main problems in particular field of law, realizes their relationship in a holistic system of knowledge and importance for law in professional activities. Specific features of a lawyer's professional activity are publicity, public control, public opinion. The following definition of the term " lawyer " is proposed - a specialist who has special education, has special theoretical legal knowledge and current legislation, is able that apply them in practice, protecting the rights and freedoms of man and citizen.

Growth the role of a lawyer in modern times society objectively due to complication social infrastructure (democratization public relations, liberalization economic life, growth private initiatives), development of the legal status of an individual, expansion individual rights and freedoms. The role of various forms is growing social and legal regulation that causes appearance specific social intermediaries in relations between people and them groups, as well as the state. Today, any event, deed of a private person, the activity of a state body or him official who are outside the framework of household relations, they cannot do without examination or consultations from a lawyer or personal lawyer. The need to review the role of a lawyer in modern times society, his places in the formation legal state, requires modern scientific new approaches research and needs thorough study.

Problems place and role of a lawyer in society highlighted in their works such scientists like O. Havrilov, V. Hapotii, R. Kotsovets, O. Minkova, S. Slyvka, O. Petryshen, O. Uvarova, S. Pogrebnyak, etc. However strengthening the role of a lawyer in modern times stage development Ukrainian society, necessity confirmation international standards in the qualification professional requirements causes the need for detailed scientific research specified problems.

Analyze features profession of lawyer and to determine the place and appointment of a lawyer in society and the state.

Presentation of the main material. A lawyer is that a professional who has special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name protection of rights and legal interests citizens [107].

In society lawyers play back important role because from advices or the decision of a lawyer is in many respects depends on the fate of a person, well-being family, her property status, economic development society.

Conflict legal activity very often occurs at the junction of opposites interests in the conditions opposition or open struggle: plaintiff - respondent, accused-victim, offender-employee law enforcement agency, etc. Availability similar contradictions in the professional activity lawyers due to opposite individual needs and interests.

Therefore, in the majority cases legal activity is based on compromise from society and his representatives.

Trace separately to note intellectual attractiveness specified profession _ Any skilled work requires from his own performer availability certain equal intelligence (professional knowledge, evaluation criteria, feelings, professional label). However, regarding the work of a lawyer is possible assert that it is in the majority cases intellectual work. In progress solution legal the lawyer has to apply cases general requirements legal norms to a specific one vital situation by acceptance corresponding decision. It provides necessity prognostication further development events, modeling possible situations, definitions means for them warning that indicates intellectual tension legal work. At the same time, should note that separate legally significant actions in the professional activity of a lawyer is required from not only him intelligence, and also significant physical preparation [108].

Along with the principles of independence, individual responsibility, procedural independence of the work of lawyers in many ways has collective character. Significant number solutions are accepted not from in the name of a specific performer, and from on behalf of the state body or the whole states that indicates collectivity him production, acceptance and provision implementation. For example, the court 's decision is based on the results of the collective labor many participants process (nvestigation, lawyers, prosecutor's office, operational services, witnesses, experts). Trace say about the system unity legal institutions as a whole, which they can perform your functions only in tight contacts and interactions.

The work of a lawyer is related to various legal aspects vital situations, with protection of rights and legal interests individuals, society and the state. A lawyer has to adapt according to the type of work specific vital case under a specific norm, that is under the general rule that offers kind and measure possible or proper behavior _ For what not only is required from a lawyer high professional competence, but also civil vital position [108].

Civic the position of a lawyer is of great importance in social assessment facts, events, that have legal value, when choosing a type and measure forced impact on the

offender, when choosing and applying to the guilty punishment established by the law. For example, an excessively strict attitude of a lawyer can lead to expansion them spheres actions of the criminal law, before application more strict measures punishment. Moderate installation can to express in limitation spheres actions criminal law and in mitigation punishment. A liberal attitude of a lawyer can lead to unreasonable manifestation of "humanism" in relation to crime and unjust, inhumane in relation to the victim, to society as a whole [106].

The activity of a lawyer is of a state nature. It is related to questions compliance state disciplines, provision legality, strengthening of law and order, etc. Many lawyers hold positions in the state apparatus, are in the state service and assigned powerful powers. The work of a lawyer is characterized tall exact compliance requirements decisions made by him to the current legislation He must actively implement politics of the state, responsibly treats the entrusted affairs, to be ready to protect rights, freedoms and legal interests personality, interests society and the state from illegal encroachment [106].

Considering essence legal profession, it is necessary to consider modern her interpretations. Profession or as sometimes more called specialty is _ a separate set of actions and corresponding ones knowledge that requires special education. Higher legal education is certain educational level obtained as a result consistent, systematic and purposeful process assimilation systems legal knowledge, views, beliefs, abilities and skills, formation personality as a citizen capable of professional and legal activities. Under acquisition legal education necessary understand achievement educational level certified by the document. System of institutions higher legal education consists of broadly profiled and specialized institutions different types: universities, academies, institutes, colleges.

Legal the term " legal profession " is complex the concept that covers different aspects legal activities. So, you can to say that in general in the form legal the profession is represented by lawyers and lawyers. In the textbook " legal deontology » edited by O.F. Skakun and N.I. Ovcharenko, authors note that the profession of a lawyer is revealed through the concept of: a) activity taken as certain reality; b)

professionalism as a quality activities; c) legal character as a special field of activity in contrast from economic, managerial and other.

The profession of a lawyer is a broad area of work activities that requires legal knowledge and skills necessary for performance certain work in legal sphere social services. It is determined specific conditions activity given sphere and is expressed in high legal culture legal employee this one areas [107].

In his work " History ". of Roman law" I. A. Pokrovsky notes that the first lawyers can to name Roman priests - pontiffs. It was they who laid the foundations of legal regulation social life, created a large base of precedents. Only a few centuries later jurisprudence was formed as a science. Now the concept of "lawyer" unites all people who are engaged in diverse professional legal activities judges, investigators, prosecutors, notaries, legal advisers, lawyers.

Now legal science is multifaceted, that is why it is unique generally accepted definition such there is no profession as "lawyer". Therefore, in our opinion, it will be appropriate to consider pluralism modern interpretations of this definition [107].

The term lawyer comes from (from Latin Jus - law) - a specialist in jurisprudence, legal sciences; practical an activist in the field of law.

As noted by S. D. Husarev and O. D. Tikhomirov, a lawyer is this a professional who has fundamental and special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name of protection of rights and legal interests citizens.

According to I. V. Bryzgalov, a lawyer is this a specialist who uses your knowledge in practice, that is has skills of drafting legal documents, execution everyone actions and operations from application necessary means and methods in the process solution legal matters that belong to him professional competencies [108].

Also, on one of sites lawyers of Kyiv contains the following interpretation this one profession: lawyer - this a professional who has fundamental and special legal knowledge, deep convinced of the exceptional purpose of law and legality for society, qualified uses legal tools for solving legal problems in the name protection of rights and legal interests citizens.

Spheres application legal profession: legal compliance supervision and control implementation and compliance under control objects legal prescriptions, legal services, legal consulting issues , legal support , legal representation , legal audit, justice and resolution disputes in the process judicial proceedings : criminal , administrative , civil , and others .

In Ukraine lawyers subject to qualification attestation. Certification of a lawyer is process definition qualifications, assessment of growth and quality knowledge, characteristics of professionalism. To conduct attestation are created qualification Commission. In 1982 by the Ministry higher education of the USSR was approved Qualification characteristics of a lawyer, where the system of requirements for knowledge and skills of a lawyer was determined.

The purpose of the qualification certification - improvement high - quality staff legal spheres.

Task qualification certification of a specialist lawyer:

1) definition equal professional qualifications;

2) definition compliance of the lawyer with the occupation positions.

In the attestation documents should be contained the following characteristics:

1) assessment practical activities and professional qualities of the person being certified;

2) evaluation a person's attitude towards work colleagues;

3) evaluation colleagues contribution of the certified person to the professional activity team and creation favorable climate in it;

4) self-esteem of the person being certified.

The main ones conditions professional compliance practicing lawyers:

1. Availability necessary the minimum knowledge, abilities, skills obtained as a result training and experience.

2. Emotional and volitional readiness to perform professional activities. Reveal it maybe with help study motives professional choice, vital goals of a person, ways their achievements, features worldview that reflect understanding general social and professional problems, content work and service aspiration.

3. Ability to concrete professional activities. It is revealed through intelligence, professional thinking. The main ones are: skills analytically and logically to think, to have professional observation, operational and long-term memory, creative search engine activity and intelligence.

In process certification for assessment business qualification and professional skills are applied such methods : a) study results activities for a certain time (eg number investigated cases entered protests presented and satisfied due to reasonableness lawsuits); b) generalization oral characteristics of a person who certified by managers , colleagues and others persons with whom is carried out cooperation ; c) study composed managers written characteristics in which are contained information about successes or disadvantages their subordinates for a certain time; d) biographical method that provides assessment data labor biography of a person who certified (applied during transition employees in the prosecutor's office, court and others law enforcement agencies and others state structures).

Upon completion attestation concludes that, corresponds does not respond certified busy position, or deserves to be included to the reserve for promotion, etc. To the conclusions attestation importantly comprise suggestions that the employee must do independently to eliminate discovered commission disadvantages [105].

In the attestation document should be contained such elements of the characteristic: assessment practical activities and professional qualities of a person that certified; rating attitude of the person that certified, to work colleagues; assessment colleagues the contribution of the person who certified, in professional activity team and creation favorable climate in it; self-esteem of a person that is certified.

A person who has a law degree education (master's degree or bachelor's) can work in the field legal services: consult, compose legal documents, to present clients in court.

Individual services in the field of law can give an individual entrepreneur. For such legal practice does not require a license (not to be confused with attorney status). By order from legal or of an individual, a lawyer can carry out different legal actions. For example, representation in court, but here it is important take into account growth restrictions attorney's office monopolies

The competence of a lawyer, especially corporate (inhouse), is not necessary yields attorney's office, and those more if he specializes in areas of law far from criminal process. For example, an in- house lawyer can work in the field international private law, economic, contractual, patent, tax, banking and corporate law.

Conclusions

Thus we can reach conclusion that the only one comprehensive definition concept there is no profession of a lawyer. Having analyzed features legal profession, the role of a lawyer in society and the state, it is possible determine what a lawyer is specialist who has special education, has special theoretical legal knowledge and current legislation, knows how their apply in practice, protecting rights and freedoms a person and a citizen. Considering insufficient quantity in ours the country qualified legal specialists, constantly the growing role of law and legal procedures, taking into account the prestige of legal work and legal study, you can assert the elite nature of the legal profession profession.

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6. Political and legal development of ethnic minorities of right bank Ukraine during the Ukrainian revolution

Annotation

The regional peculiarities of the process of politicization of social and legal development of ethnic minorities in Right Bank Ukraine are analyzed. Forms, methods and means of implementation of the programs of political parties and public organizations of ethnic minorities in the territory of the Right Bank provinces on the eve and during the Ukrainian revolution are traced. The author considered the legal approaches of the political forces of the ethnic minorities of the Right Bank in solving the issue of international relations during the years of the struggle for Ukrainian statehood, the influence of foreign policy factors on the formation of national demands of political parties and public organizations.

It is proved that the politicization of public life in the processes of inter-ethnic relations, the adoption of the law on national-personal autonomy by the Ukrainian Central Rada received a positive assessment from ethnic minorities and active support from their national political parties and organizations.

6.1 Parties and public organizations of ethnic minorities of the Right Bank of Ukraine in the conditions of the crisis of the russian autocracy

Complex social and political events caused by the First World War and the policy of the Russian autocracy became the reason for the intensification of the public activity of the national minorities of the Right Bank.

On the eve of the Ukrainian Revolution of 1917, Russians on the Right Bank took an active part in the formation of national political parties, public organizations, educational centers, etc. Instead, the democratic freedoms proclaimed by the revolution gave the Russian movement new qualitative indicators.

At the beginning of 1917, the political views of Russians in Ukraine split into two directions. One part actively supported the policy of the Provisional Government, and the other - the Bolsheviks. At the All-Ukrainian National Congress, lawyer and public figure D. Hryhorovych-Barsky spoke on behalf of the party of Russian constitutional democrats in such a way that his party has a clear understanding that the Russian state is waiting for such a reorganization that would meet all the political demands of individual nationalities [110, pp. 47–48]. The Russian Party of Cadets noted that the democratic republican governance reform that was taking shape in Russia cannot be based on those forms of local life that have developed in Russia over the past decades. The cadet program envisaged two ways out of the existing situation, but both were unacceptable for the cadets. The first is the path of immediate federalization, which "required such a strain of forces that it is unlikely to be able to withstand in this terrible time. The second - a return to the old forms of state power - looked no less possible." The real course of life spoke about this. Cadets believed that the All-Russian Congress would have to solve two issues at once: "on the one hand, to preserve the unity and strength of the Russian state, on the other hand, to ensure the national free life of Russians who are part of our democracy and their broad identity" [111, p. 74–75].

The best way out of the situation was considered by national newspapers to be introduced by the Constituent Assembly of local provincial, that is, territorial autonomy, and the expansion of local self-government rights. Actually, it was about replacing national autonomy with local self-government. In his closing speech at the congress, the speaker absolutely frankly stated that the issue of the federation should not be confused with the national issue. The expansion of local self-government is already a huge concession to nationalities.

A similar formulation of the question caused a discussion at the cadet congress. In particular, the delegates who came from Ukraine tried to convince the Congress of the inadequacy of the proposed solutions. Thus, M. Mohylyanskyi believed that the rights of Russians can be adequately ensured only by turning the Russian Empire into a federal republic. He noted that when the People's Freedom Party does not include the demands of national-territorial autonomy in its program, "it will become impossible

for Ukrainians to support this party." M. Mohylyanskyi's speech was echoed by the speeches of Kyiv delegate Butenko and Poltava H. Inshanetskyi. However, these speakers failed to influence the position of the congress. The Cadets were never able to abandon the idea of preserving a unitary Russia [111, pp. 84–85].

On the brink of the collapse of the Russian Empire, the leader of the Cadet Party, P. Milyukov, noted: "The preservation of the state unity of Russia is the limit by which the ultimate decision of the party is dictated. The breakdown of the state into sovereign independent units is absolutely impossible for her. Such a statement of the question may not entirely coincide with the aspirations of some Russian nationalities. We know very well that some of the Russian nationalities seem to be going further, striving for the creation of a national-territorial association, the competences of which they imagine to be broader than the Central Committee of the Party imagines them" [111, pp. 93-94].

The Russian Mensheviks in Right Bank Ukraine found themselves in a difficult situation that they created for themselves. Understanding the scope of the Ukrainian movement on the eve of the Ukrainian revolution, on the one hand, being Marxists on the other, and being a Russian political party on the other, it was difficult for them to stick to a single political course. The resolution of the Kyiv regional congress of the RSDLP(m)* (at the beginning of 1917) recognized that it was impossible to maintain Russian centralism and proposed a democratic republic, but not a federal one, but with "recognition of regions that differ in ethnographic and cultural and economic features, rights to autonomy with its own representative assembly, preserving the unity of Russia as a state-economic mechanism." Such a state system, where there is both autonomy and a united Russia, the Mensheviks believed, "will fully ensure the adaptation of state forms to individual regions to their peculiarities and guarantee their population the possibility of the widest possible cultural and national development" [112, pp. 62–64].

Among the Mensheviks on the Right Bank on the eve of the Ukrainian Revolution, everything also came down to satisfying national and cultural requirements. But in the

* The Russian Social Democratic Labor Party (RSDLP) was formed in March 1898. In Ukraine, the RSDLP was represented mainly by Mensheviks (RSDLP(m)), whose ideas were close to Western social democrats.

same resolution we find another warning against bourgeois-nationalist aspirations, which complicate the tasks of the revolution, darken the class consciousness of the proletariat and threaten its unity. Proletarian internationalism and the need to identify class contradictions within each nation are also mentioned here. Any national autonomy not related to Russia was considered an anarchic manifestation.

Similar principles were professed by the party of the Russian Socialist-Revolutionaries[**]. She recognized that the interests of the nation are best served by a federal republic, but this idea did not develop further, because continuous reservations began: "national-territorial autonomy is appropriate only if there is a sufficient internal organization of a given nation and if the working people (the proletariat and the working peasantry) are fundamentally satisfied. This last circumstance is decisive in the question of a federal republic, since the party fights only for a democratic federal republic and points to the danger of the birth of small bourgeois republics, which is possible due to the weak organization of the working class and the expected increased activity of the bourgeoisie" [113, pp. 13-14].

Russian political parties on the Right Bank have made maximum efforts, agitating and promoting the preservation of the unity of Russia. Such political positions of Russians are usual, because, living in Ukraine, they never associated themselves with national minorities and even had a prejudiced attitude towards the problems of the latter. As the historian D. Doroshenko emphasizes, these were all elements that got along with Russian culture, grew up in it, cherished it, were adopted by all-Russian patriotism, and shared all-Russian ideological aspirations. Accordingly, by the Russian minority, the researcher understood "the population of most cities, which consisted of mixed Ukrainians with an admixture of real Russians who were in Ukraine as government officials, soldiers, merchants, and workers" [114, pp. 144–145]. Based on data from the newspaper "Volyn", on the eve of the Ukrainian revolution, Russian

[**] The Party of Socialist Revolutionaries, Socialist Revolutionaries (S.R. - hence SRs) is a Russian political party, formed in 1901 and originating from the public movement of populism, a direction that expressed the interests of peasant democracy, combining radical-bourgeois-democratic and anti-serfism programs with the ideas of utopian socialism.

political parties of a wide ideological and political spectrum operated in the territory of the Volyn province [115].

In the State Archives of the Zhytomyr region, you can find information that most of the names of Russian organizations have names such as "Volyn Committee of the Party of Socialist Revolutionaries" or "Volyn Department of the Party of People's Freedom" or "Zhytomyr Group of the RSDLP." [116, ark. 130]. Thus indicating, so to speak, its subsidiary status and dependence in actions from the main party branch in Petrograd or Kyiv. This status played its role in the preparation and speed of reactions of party cells in Volyn on the eve of the dynamic events of the Ukrainian Revolution of 1917–1921.

In general, none of the Russian democratic parties was able to openly recognize the Ukrainian people's right to independent life, at least in the form of national-territorial autonomy as part of federal-democratic Russia. This was especially evident on the Right Bank, where the positions of the Ukrainian movement were the strongest. Each of the parties put forward their own reasons, which, in their opinion, did not allow Ukraine to self-determine: this is the state of war in which Russia was, and the need for a decision of the Constituent Assembly, and the fear of covering up class problems with national problems. In general, behind the political views of the Russian minority was a very real interest - not to lose Ukraine and such a strategically important region as the Right Bank, under no circumstances to allow Ukrainians to become full owners of their land.

Unlike the Russian one, the Jewish socio-political movement on the eve of the Ukrainian Revolution was illegal. The public life of the Jewish ethnic minority of the Right Bank was closely related to the limited freedom of movement of Jews on the territory of Ukraine and to constant national oppression in everyday life.

This restriction, which usually applied only to criminals, was applied by current law to the Jewish nation of more than five million (within the borders of Russia). Jews were allowed to live in the following provinces: Kingdom of Poland, Bessarabian Province, Vilna, Vitebsk, Volyn, Grodno, Katerynoslav, Kyiv (except Kyiv City), Kovno, Minsk, Mogilev, Podil, Poltava, Tavria (except Sevastopol and Yalta),

Kherson, Chernihivska, i.e. in the so-called "settlement strip"*. According to the researcher V. Orlyanskyi, the "settlement strip" in the form in which it existed at the beginning of the 20th century had the appearance of a special ghetto for Jews who were concentrated in cities and towns [117, pp. 117–118].

The tsarist government also added an economic motive to the religious considerations regarding the "strip of settlement" and the Jewish question in general - the "exploitation" of the indigenous population by the Jews, and from the beginning of the 20th century. - the motive is political: the active participation of Jews in the revolutionary movement. The Jewish population, in addition to restrictions in the territory of the settlement, also used "special rules" in other spheres of life, included in almost every volume of the Code of Laws of the Russian Empire. These rules were constantly changing depending on one or another political course, the personal attitude of the emperor [118, pp. 19–20].

Despite all the oppression from the Russian administration, Jewish parties on the eve of the Ukrainian revolution were a powerful political force and showed the greatest activity compared to other national minorities of Right Bank Ukraine.

One of the most influential Jewish parties in Ukraine was the Bund**, whose numbers grew significantly in the winter of 1917. The program of the Bund on the national issue established the following requirements: a united and indivisible Russia, for each nationality the right to free development, i.e. the equality of the languages of national minorities, the autonomy of territories that differ in their economic, national and everyday features. Arkady Kremer is considered the ideologist of this political force. The central printed organ became the newspaper "Arbaiter Shtimme", which at the beginning of the 20th century. replaced "Der Bund" [119, pp. 104–105].

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* The settlement strip (existed in 1791–1917 with changes in 1829 and 1835) is an area of compact Jewish settlement in the Russian Empire, designated by the tsarist government in order to prevent their penetration into the Great Russian provinces and protect Russian entrepreneurship from Jewish competition.

** The Bund is a Jewish socialist organization formed in October 1897 in Vilnius. After the February Revolution, the Bund supported the Provisional Government and the autonomy of Ukraine. In March 1921, the Bund self-liquidated in Soviet Russia and the USSR, but continued its activities in Poland, and later in the United States.

At the initial stages, the Bund did not put forward demands for the achievement of national rights, it was believed that all class problems would disappear after the victory of the proletariat in the class struggle. Over time, the party leadership developed a program of national and cultural autonomy. This caused a sharp negative reaction from the Bolsheviks led by V. Lenin. Their position was based on the denial of the existence of the Jewish nation, since the Jews, who were scattered throughout the world, did not have a common language and territory. Therefore, in accordance with the outlined logic, the only way out for the Jews was assimilation [120, pp. 27–28].

On the eve of the Ukrainian Revolution, the Socialist Jewish Labor Party held a party conference at which the main current tasks were formulated. Among these, the conference included: the guarantee of the rights of national minorities, the recognition of minorities' right to national-personal autonomy, which, among other things, the party recognized as one of the necessary conditions for the successful class struggle of the Jewish proletariat [121, ark. 48].

In addition to political parties, public urban communities, religious organizations, and cultural and educational societies were active in the Jewish environment.

In 1914, the Jewish Committee for Aid to Victims of War (ECJV) was established, the main role in which was played by the Kyiv Department of Aid to Jews (KVDE). The committee helped not only the victims of the war itself, but also Jewish refugees and those evicted "for security reasons." Thanks to extensive connections, the ECJV received help from the Society of Handicrafts, the Jewish Colonization Society, Jewish communities of various countries, etc. EKZHV helped refugees settle on the Right Bank, provided them with food and clothing, provided medical assistance, helped them find work, and undergo retraining [122, pp. 44–45]. The TRP was created in 1880 to encourage Jews to work in skilled crafts and agriculture. In 1906, it received legal status. After the First World War, the TRP became a worldwide organization.

Also in 1905, the Union for the Equality of Russian Jews, most of whom lived on the Right Bank, was founded. The leaders of the union considered their main task to be the organization of purposeful influence on the public opinion of the country. After

the pogroms, the Union decided to convene the All-Russian Jewish National Assembly, which would lead the struggle for Jewish equality in the Russian Empire.

However, the Russian government continued to persecute Jewish parties and public organizations until 1917. The police paid the greatest attention to the Bund, which was banned for its social democratic views, and various currents of political Zionism. The police administration was well versed in the affairs of the Jewish political parties, which had the most extensive structure in the right-bank provinces. The Russian government hoped to use the Zionist movement to divert Jewish youth from participating in revolutionary organizations and transform their dissatisfaction with social discrimination into activities outside the empire.

The next largest on the Right Bank was the Polish ethnic minority. Accordingly, in the political arena, it was inferior to the Russians, Jews and Ukrainians, but significantly ahead of the Czechs and Germans, who almost did not participate in the social and political movement in Right-Bank Ukraine on the eve of the Ukrainian Revolution. Even at the beginning of the 20th century. the policy of police repression and oppression reduced the activity of the Polish community, led to the absence of legal active organizations and movements. The result of adaptation to new conditions was the spread of ideas of positivism in society and the implementation of the slogans of "organic work". They envisaged painstaking work for the creation of material goods, the struggle for the survival of the Polish nation, for the rise of Polish culture, and the development of all branches of the economy. These ideas were picked up, first of all, by the landowners, the bourgeoisie, and the intelligentsia. This is how the conservative direction of the Polish socio-political movement was formed [123, pp. 179–181].

Also, in contrast to the conservative one, a radical direction of the Polish social movement is emerging, represented by populist, socialist and social democratic currents. Proponents of this trend on the Right Bank were mostly Poles in Volyn - people from the middle and small nobility, who had an influence on the workers.

Legal, semi-legal or illegal branches of many political parties and organizations of various directions operated in it for a more or less long time - from the People's

Democrats (Endeks)* to the Polish Military Organization (POW) founded by Józef Piłsudski and two socialist parties - the "Polish Socialist Party" (PPS)** and "Social Democracy of the Kingdom of Poland and Lithuania" (SDKPL)*** (the latter took more radical positions) [124, pp. 93–98]. On the eve of the Ukrainian revolution on the Right Bank, the strongest positions among the Polish national minority were held by Polish nationalist organizations - the People's League, the Union of Polish Youth and the Polish National Democratic Party [125, ark. 162–164].

Sometimes political cells with a conspiratorial purpose called themselves local (that is, political parties or associations formed and operating in Ukraine), although there were indeed local ones among them, which set themselves the goal of protecting the interests of the Polish national minority in Right-Bank Ukraine. The activities of 37 Polish deputies, who were united in a faction called "Polish Circle", during the work of the First State Duma, testifies to their other political intentions. This faction joined the Union of Autonomists, which dealt with the affairs of the oppressed peoples of the Russian Empire. It was headed by the Pole R. Lednytskyi. The "Polish Circle" submitted a declaration on the autonomy of Poland to the State Duma [126, pp. 49–52].

The "Polish circle" of the Second State Duma included 32 deputies. It was not possible to create the Union of Autonomists in this Duma because of the position of some Polish deputies who advocated the autonomy of Poland not in ethnographic, but in historical borders, i.e. from the Black Sea to the Baltic Sea, i.e. including Right Bank Ukraine. After the defeat of the revolution of 1905–1907, researchers note, when on June 3, 1907, a new election law was issued that limited the representation of Poles in

* Endeky (abbr. from the initials Narodowa Demokracja - national democracy (ND)) is the everyday name of ideologically related Polish nationalist organizations - the Polish League (1887–1893), the People's League (1893–1928), the Union of Polish Youth (ZET) , 1887–1918, with interruptions), the National Democratic Party (1897–1945), certain immigrant groups (after 1945).

** The Polish Socialist Party or the Polish Party of Socialists (PPS) (Polish: Polska Partia Socjalistyczna (PPS)) is a Polish party that existed in 1892–1948 and aimed to create an independent Polish republic. In November 1906, the party split into two parts: the PPS-Left adopted an internationalist platform, and the PPS-Revolutionary led by Józef Piłsudski began to adhere to nationalist ideas.

*** Social Democracy of the Kingdom of Poland and Lithuania (SDKPL) (Polish: Socjaldemokracja Królestwa Polskiego i Litwy) is a social democratic, Marxist Polish party that was founded in July 1893.

the Duma, therefore only 14, and not 37 Polish deputies were elected to the Third State Duma [126, pp. 58–61].

The programs of the vast majority of political associations were imbued with the Polish national liberation and statist idea, and had a pan-Polish focus [127, ark. 5–7].

The revolutionary events in Warsaw, the armed uprising in Łódź on June 21–25, 1905 had a powerful impact on the public position of the Poles of Right Bank Ukraine. Under such conditions, tsarism was forced to make certain concessions. In April 1905, the law "On strengthening the foundations of religious tolerance" was approved, which formally proclaimed freedom of religion and restored some rights to Roman Catholic priests. The authorities allowed the collection of funds for the construction of the second church in Kyiv, named in honor of the emperor Mykolaivsky, according to the project of V. Horodetskyi [128, pp. 37–38].

In the fall of 1905, Poles took part in an all-Russian political strike, advocating an amnesty for political prisoners, an 8-hour workday, and democratic freedoms. They perceived the Manifesto of October 17 in different ways: some believed that the goals had been achieved, while others, in particular the Endeks, called for the continuation of the struggle for autonomy. Taking advantage of certain concessions, Polish communities created the "Polish House" in Lutsk (1906), the "Brotherly Help" society in Uman (1906), dozens of Roman Catholic circles throughout the Right Bank and especially in Volyn. However, these institutions, societies, and associations did not last long, as anti-Polish forces became more active in the conditions of the offensive of the reaction and new prohibitions arose [129, pp. 165–167].

Note that Right Bank Ukraine, among other regions of the empire, did without elected local authorities - zemstvos - for the longest time. Only in 1911 did these institutions begin to be established on the Right Bank. This is explained by the specificity of the ethnopolitics of the Russian Empire in this region - the Russian autocracy feared the influx of Poles into the zemstvo institutions, believing that this would contribute to the spread of separatist ideas among the local population [130, pp. 106].

Therefore, it can be argued that in the national policy of the Russian authorities at the beginning of the 20th century. both the anti-Ukrainian and the anti-Polish vector, which became especially pronounced with the beginning of the First World War, were clearly visible. Despite the fact that a significant part of conscripted Ukrainians and Poles were in the active Russian army, including in command positions, the authorities treated the vast majority of the Ukrainian and Polish population with suspicion and distrust, resorted to harsh persecution and repression, accusing them of anti-Russian and separatist sentiments.

The socio-political movement of the German and Czech ethnic minorities was significantly different from the Jewish, Polish and Russian, not having a clearly formed direction and position. Social and political organizations have not yet been formed among the German minority. In particular, the reason for the intensification of the religious movement was the fact that during the First World War the German colonies were completely destroyed.

Taking into account the traditionally high degree of religiosity of Germans and the fact that all public life was initiated and supported by church communities, it can be argued that the church plays a significant role in their life. The Germans who arrived on the Right Bank of Ukraine were characterized by a heterogeneous religious composition and belonged to different directions of Christianity. Among them were Catholics and representatives of various Protestant denominations - mostly Lutherans. There were also Mennonites and a small number of Stundists and Baptists. Therefore, the issue of the religious composition of the German colonists also needs a separate coverage [131, p. 12].

On the eve of 1917, in the three right-bank Ukrainian provinces, the overwhelming majority of the German population professed Lutheranism: about 180,000 people, or 94%. Among the three provinces, the largest share of Lutherans was in Volyn, where other denominations had a small number of adherents. In Kyiv province, out of 14,707 people, 87% of Germans belonged to Lutherans, 6.5% to Catholics, 4% to Baptists, 2.5% to representatives of other denominations [132, pp. 187]. The public views of the German minority strongly depended on the religious environment of the colonies.

Let us casually note one of the peculiarities of the attitude towards the German ethnic group on the part of the Russian government on the eve of the Ukrainian revolution. The policy regarding public associations, unions of national minorities depended on their nationality and especially on the goals of such associations. Any national societies whose goal was national, political education were prohibited. German societies, in contrast to Ukrainian, Jewish, and Polish societies, set themselves the goal of public, educational, and charitable activities, so they did not experience significant obstacles. Unlike most Polish and Jewish societies, only persons of German origin could be members of German societies.

However, with the beginning of the First World War, the situation changed. The deportation of German colonists in 1915–1916 dealt a severe blow to the social movement of Germans on the Right Bank. On June 30, 1916, 7,500 separate German landholdings in the Volyn province with a total area of about 100,000 dehiscents were transferred to the Ministry of Agriculture. Thus, the German national minority of Right Bank Ukraine was deprived of the positions in society that it occupied at the beginning of the 20th century. The Russian government understood the danger of the political activity of the German minority, so it took all possible measures to prevent it [133, p. 275].

The socio-political life of the Czech colonists of Right Bank Ukraine on the eve of the Ukrainian Revolution was more active than the German one. The civil movement of the Czechs was formed on the basis of the liberalization of the Russian government's policy towards the Czech minority, the strengthening of the influence of Slavophiles, the desire of tsarism to create a force in the western region of the empire that would oppose the Poles, as well as the Ukrainians, whose national aspirations were suppressed in every way.

Thanks to the Czechs, the government of that time also wanted to speed up the economic development of one of the most remote western regions. Therefore, developing on the eve of the Ukrainian revolution mainly under the influence of economic factors, Czech emigration in Volyn grew intensively as a result of support and encouragement from the government.

A significant role in the Czech public life of Right-Bank Ukraine on the eve of the Ukrainian Revolution was played by the Czech People's Council (hereafter NCR) - a free supra-party association of Czech patriotic forces whose task was to resist German influence on the Czech lands. The activities of the foreign department of the National People's Republic of Ukraine were directed, in particular, to communication with Kraiyans* and Kraiyan circles abroad, as well as theoretical and practical solutions to the problems of immigrants. The National People's Republic Fund (in the Czech Republic) contains numerous materials for the study of the problems of immigrants, the life and activities of Czechs abroad [134, pp. 33-35].

In particular, at the beginning of the First World War, at a meeting of the most authoritative public organization of the Czechs of Kyiv - the society named after Jan Amos Comenius, it was decided to convene a large meeting of the Czechs of the Volyn, Kyiv, and Podil provinces to accept a petition to Tsar Nicholas II expressing their support in the war and requesting the transition to Russian citizenship. At the same time, in August 1914, the Moscow "Czech Committee" turned to the Russian Ministry of Defense with a project to organize Czech legions in Russia.

On August 8, 1914, in Kyiv, at the same meeting of representatives of Czech communities and the society named after J. A. Comensky, the Czech Committee for Aid to Victims of War (ČKDZV) was formed, which was headed by entrepreneur and active public figure Jindřich Jindříšek (Henrykh-Ignatiy Ignatiyovych) – the organizer of the anti-Habsburg movement among the Czech national minority of the Russian Empire and Right-Bank Ukraine in particular. On August 9, the committee appealed to the Czechs in Russia to create Czech military units [135, ark. 91].

František Dedina and F. Paul were one of the most famous Czech public and political figures on the eve of the Ukrainian Revolution. F. Dedina called on young people to join the ranks of the Czech military formations in the Russian Empire, gave patriotic speeches in the Kyiv sports hall "Falcon". Dedina's words made a strong impression on young people. Under their influence, Karel Kutlvashr, the future general,

* Kraiyans (compatriots) are residents of a certain region or country in relation to the indigenous population of the same region.

and J. Vuchterle, the future company commander in the battle near Zborovo, signed up for Druzhina Golasek. Also, F. Dedina, in the spring of 1915, prepared the holding of the First Congress of the Union of Czechoslovak Societies. In addition, he obtained permission and himself organized "Evenings of Slavic Unity" in Kyiv, where Slavs living in the city gathered. He gave one thousand rubles to the Committee of War Victims, which he divided so that the Kyiv military hospitals received half, and the committee had to divide the other half between the injured Ukrainians and Poles in Galicia and Serbia [135, ark. 105–111].

F. Paul was one of the first to join the organization of the liberation movement among Russian Czechs. He was elected a member of the Kyiv Czech Committee for Aid to War Victims. He became an associate of J. Jindříšek, O. Chervena, V. Shvigovskyi, V. Vondrak and others. In August-September 1914, the Czech Committee in Kyiv sent F. Paula to Petrograd to draft a memorandum to the tsar about the Czechoslovak liberation movement [136, p. 123].

In general, the social and political movement of the Czechs was mostly national in nature, with the aim of preserving the national and political interests of the minority. In particular, the Czech minority of the Right Bank before the Ukrainian Revolution cooperated with the Russian government, receiving economic and political privileges and actively resisted the German and Polish resistance to the Russian government during the First World War.

Thus, the social and political life of Russians, Poles, Jews, Germans and Czechs and the territory of the Right Bank until 1917 was determined by the strict policy of autocracy, the influence of the First World War. In particular, the Russian government supported public associations of Russian and Czech minorities, active opposition was carried out in relation to Polish, Jewish and German public positions. The factors of support and persecution of minorities by the Russian administration, its incompetence in the field of management, the post-war devastation and the formation of the national consciousness of the peoples of Right-Bank Ukraine became the determining basis of the public position in the process of the formation of the Ukrainian government on the eve of the Ukrainian Revolution of 1917–1921.

6.2 The political and legal situation of the ethnic minorities of the Right Bank during the period of the change of Ukrainian governments in 1917–1919

The policies of the Central Ukrainian SSR, the government of P. Skoropadsky and the Directory became fundamental factors for the activation of the socio-political movement of Russian, Polish, Jewish, Czech, German and other ethnic minorities in Kyiv, Volyn and Podilsk provinces.

In particular, Russians in Right-Bank Ukraine with the beginning of the February Democratic Revolution in 1917 satisfied their political preferences in all-Russian parties, which more or less openly advocated the preservation of the unitary Russian state, against its transformation into a federation of equal peoples, and even more so, their separation from of Russia, then in the new conditions they turned out to be unprepared for constructive cooperation with the organized Ukrainian intelligentsia. The degree of political mobilization of Russians was much lower than its potential. This was especially acute in comparison with the activity of Jews and Poles.

After the adoption of the First Universal, 15 Russian deputies (out of 65 people) joined the Small Council of the Ukrainian SSR. After the adoption of the Second Universal, more than 14% of Russians were in the Central Rada.

On September 25, 1917, the "Congress of Representatives of Peoples and Regions Who Aspired to the Federal Reconstruction of Russia" was held on the initiative of the Ukrainian Soviet Socialist Republic. The congress was attended by: 15 Muslims; 10 Ukrainians, Latvians and Jews; 3 Russian and Estonian socialist revolutionaries [137, p. 18, 132].

Only with the growth of the role of the Central Rada in the political life of Ukraine and with the strengthening of the Ukrainian national movement, Russian organizations began to emerge in Kyiv: "Democratic Union of Russian Culture", "Rus" society and others. V. Voinalovich called these organizations "small islands of uninsured people in the great sea of Ukrainian elements" [138, p. 74]. More active Russian associations, similar to the structures of other ethnic minorities, began to form only in 1918 [139, p. 86].

During the spring of 1917, a number of congresses of political parties of ethnic minorities took place in Ukraine with the aim of developing their programs and determining the tactics of activity during the Ukrainian revolution.

The most influential of all Russian parties in Right-Bank Ukraine was the Party of People's Freedom, better known as the Party of Cadets. The main base of cadets in Ukraine were big cities - Kyiv, Mykolaiv, Kharkiv. 7.5–8 thousand people were concentrated in its organizations operating on the territory of Ukraine. The social base of the party consisted of the upper circles of the liberal intelligentsia and officials, the middle bourgeoisie, and the countrymen. National composition of the party: Russians, Ukrainians, Jews. The People's Freedom Party intensified its activities on the Right Bank after the beginning of the revolutionary unrest. After all, this region has always been the object of interest not only of the titular ethnic group - Ukrainians, but also of Poles. The cadets stood up to protect the interests of the empire. In 1917, the party "took an openly hostile position towards the liberation struggles of the Ukrainian people and began to move toward the reconstruction of a centralist, single, indivisible Russian empire" [140, p. 139–142]. In May 1917, the party proclaimed that "preserving the state unity of Russia is the limit that the party will not cross. The breakdown of the state into sovereign, even partially, units is completely impossible for the party" [140, p. 147].

Point one of the Party Program established the equality before the law of all Russian citizens, regardless of nationality, the elimination of status privileges: all restrictions on the personal and property rights of Poles, Jews and all other individual population groups, without exception, must be abolished. This was of great importance in Right Bank Ukraine, where the largest number of Poles and Jews lived.

Clause No. 11 of the Program provided for the guarantee of the right to cultural self-determination, i.e. complete freedom to use the languages of national minorities, freedom to create and maintain educational institutions, preservation and development of the language and culture of each nationality. A little later, amendments were made to items #11, #12, #24, #25 of the party program. The essence of the changes was that Russian, as the national language, should continue to be the language of state

institutions and the armed forces. The use of other languages in lower-level state authorities was only allowed under the conditions of legislative protection of the Russian language. Education in national languages was allowed only at the primary school level. In addition, the changes made to the cadet program provided for the possibility of granting local self-government bodies the right of so-called "provincial autonomy", that is, the possibility of submitting joint petitions on certain issues to central institutions and issuing normative acts in some spheres of economic and cultural activity. At the same time, the Constitutional Democratic Party considered it necessary to grant the central government the right to cancel the specified regulatory acts in cases where they "violate the limits of autonomy established by the national constitution" [140, p. 146–147].

The party did not recognize the Universals of the Central Rada. As V. Voeykov emphasizes, in the response of the Podilsk Committee of the Party of Cadets regarding the First Universal, the Radu was called a "self-appointed" and chauvinistic leadership that is trying to quarrel Russians and Ukrainians. And questions regarding the fate of Ukraine should, according to the authors of the appeal, be decided exclusively by the All-Russian Constituent Assembly. Then, after the adoption of the III Universal, there was a call from the Kyiv Committee of the Cadet Party, in which the position regarding the Ukrainian People's Republic was determined: the Cadets opposed this state, "for a free autonomous Ukraine in close union with all of Russia" [141, p. 230].

The Cadet Party had its own representation in the Central Rada. Out of 202 active members and 51 candidates, cadets received 10 active members and 2 candidate positions.

The Russian Mensheviks supported the idea of a unitary state. In 1917, 50 local branches of the RSDLP(m) operated in Ukraine, the number of their members reached 40,000. The party had representatives in the Central Rada and the Small Rada. According to the "Resolution of the commission on the project of replenishing the national composition of the Ukrainian Central Rada with representatives of the peoples living in Ukraine as a minority" dated June 28, 1917, the Mensheviks received 2 seats [142, pp. 88–89]. The Menshevik faction in the Central Rada accepted the demand for

Ukrainian autonomy within the Russian federal state. Autonomy was supported by the representatives of the RSDLP(m) A. Mustafov and the leader of the SRs B. Chernyak [142, pp. 91–93, 98–99].

The party of the Russian Socialist-Revolutionaries was quite influential on the Right Bank during the Ukrainian Revolution. Its cells were active in all provinces. The total population reached 69,000 people. The Russian SRs were members of the Central Rada (they had 2 seats) and the Small Rada. Party leader O. Zarubin was a member of the General Secretariat. According to the program, the party advocated the transformation of Russia into a federation. On the other hand, the predominance of Russian political parties in Ukraine created great difficulties for the implementation of even the smallest Ukrainian demands, and without the consent of the Russian Mensheviks, SRs, and Cadets, the Ukrainian liberation forces could not solve the main issues of the Ukrainian revolution. Therefore, both the Central Rada and the Ukrainian socialists had to constantly turn to the Russian socialists, listening to them.

In the first half of 1918, the Volyn branch of the "Russian Union" intensified its activities, the members of which aimed to unite democratic forces under the slogan of "national peace". The Union Council included people with different political views. These are cadets (Puzanov, Abbarius, Saplin, Tugengold, Huk, Polyniev, Ivanovsky, Slonytskyi, Katkovskyi, Semenov), social democrats (Prokudin), non-party members (Shakhovskaya, Orzhevskaya). On April 21, 1918, a meeting of the union was held, where the prevailing opinion was that due to the law on national-personal autonomy, a small parliament would be created in Volyn, around which representatives of the political movement would unite into a national community [143, pp. 72].

The ambiguous situation regarding the Russian minority in Right Bank Ukraine developed during the reign of P. Skoropadskyi in 1918. According to the Russian researcher N. Golovin, due to the desire to retain power, the hetman asked for help from representatives of all anti-Bolshevik forces, announcing a federation with the future non-Bolshevik Russia. In addition, on November 14, the hetman dismissed the government of F. Lyzogub. And although the ministerial crisis had been brewing for a long time, the main reason was his change in foreign policy orientation. The new

composition of the cabinet consisted of people with a pro-Russian orientation [144, p. 568].

During the administration of the UNR Directory, the socio-political status of the Russian minority on the Right Bank lost its previous importance. As a result, the degree of political mobilization of Russians at that time turned out to be much lower than their potential. The idea of all all-Russian parties in the Kyiv, Volyn and Podil provinces was aimed at preserving the integrity and indivisibility of the Russian state. Despite disagreements on many issues in the resolution of the Ukrainian question, these forces either rejected and did not recognize the very fact of the existence of the Ukrainian people as a separate ethnic community, or ignored it, giving priority to the class principle of the division of society, rather than the national one.

After the liquidation of the Russian monarchy in 1917, the Jewish minority supported the formation of the Ukrainian state. Already on March 9, 1917, the political parties and movements of Volyn organized a demonstration in Zhytomyr. The military garrison, students of primary and secondary schools, and citizens of the city took part in the celebrations.

Features of social and political life were reflected on the pages of periodicals. If with the beginning of the First World War some newspapers and magazines were banned, then the February Revolution brought periodicals back to life, and new ones began to appear. On the eve of the elections, a rather tense situation developed, as various competing forces tried to position themselves as the only representatives of national interests [145, p. 31].

Jewish parties determined their attitude to the Ukrainian revolution and political changes in this way. Instead, with the beginning of the establishment of Soviet power, the Jewish parties were persecuted by the Bolsheviks for their loyal attitude to the Central Rada.

The Zionists expressed their attitude towards the statehood of Ukraine in a different way, since at first they supported the policy of the Provisional Government. The Zionist movement was represented by two parties: the Zionist Socialist Party (ZSP) and the Zionist Socialist Labor Party (ZSLP), which on the Right Bank stood for territorialism,

i.e. compact living of Jews. In a telegram dated March 26, 1917, the General Assembly of Zhytomyr Zionists warmly welcomed the Provisional Government and expressed "willingness to support your glorious struggle with all our might, sincerely believing that a truly free Russia will be a country of free peoples, where the Jewish nation will also find an opportunity to improve its living conditions on the way to its national revival" [146, p. 88]. Zionist leaders also emphasized that in the West, equality was granted to Jews on the condition of their assimilation, while in Russia they were recognized as a people. As a people, Jews should be given the right of representation in central and local authorities, the right to free use of their languages in education and culture [147, ark. 309]. Zionists believed that even if national demands were met, the problem of the entire Jewish nation could not be solved in the Diaspora. In any case, Jews there will have to adapt to someone else's way of life, someone else's culture, someone else's laws.

Jewish public and political organizations were very active in the life of Zhytomyr, where on April 2, 1917, at a meeting of Zionists, elections were held for the presidium of the city committee. U. Bitelman was elected as chairman, M. Zilist as secretary, and U. Berezon as treasurer [148, ark. 160]. And later the head was re-elected, Yu. Feinzilber became him. The local population even elected 177 people to the "Council of Affairs of the Zhytomyr Jewish Community" to protect their public interests [149, ark. 306 , 459]. The Zionists of Uman were no less active, as evidenced by their regular meetings and preparations for local elections, in which they always received the majority of votes compared to other Jewish parties and organizations [146, ark. 3–12].

Unlike the Zionists, the tenth conference of the Bund in April 1917 limited its tasks to the organization of institutions that should ensure the national and cultural autonomy of Jewish life. Its scope was to cover all aspects of Jewish cultural life: school and education, literature and art, science and technology. Bundists defended the secular nature of all cultural institutions, noting that religious organizations should be independent and protected by state laws [150, p. 91]. The Bund advocated the development of culture in Yiddish, considered it necessary to grant the right to local organizations to have schools with instruction not only in Hebrew, but also in other

languages. The Bund program also contained a requirement to finance the institutions of national and cultural autonomy from the state budget and to grant these institutions rights, including forced taxation of Jews.

The leaders of the Bund, a social-democratic party, opposed radical forms of class struggle in the Jewish community on the Right Bank, as it could destroy Jewish industry and put thousands of hired workers out of work. In addition, they were inclined to peaceful methods of regulating relations between labor and capital. They recognized all types of strikes only as a last resort when all others had been exhausted. To reinforce this position, the example of Western countries was cited, where the better organized the proletariat, the fewer strikes [151, p. 60].

In general, the Jewish parties accepted the Central Council as a free body and acted in it as its equal members, with equal political and national rights. In August 1917, in the Central Council, the Jewish parties received: the Bund – 13 seats, the United Jewish Socialist Labors Party (UJSLP or Fareynigte)[*] – 13, the Zionists – 13, the Jewish Social Democratic Labors Party (JSDLP "Poalei Zion")[**] – 9, the Jewish Democratic Association – 2. In addition, Jewish parties were to nominate 13 deputy deputies: the Bund – 4, and the others – 3 each [152, p. 222]. In total, more than 50 representatives of various Jewish parties were included in the Central Committee of Ukraine.

The Small Council included 16 representatives of Jewish parties and associations. From Poalei Zion – S. Goldelman and P. Menchkivskyi; from the Bund – O. Zolotaryov, M. Lieber, M. Rafes and A. Tiomkin; from Fareynigte – Gutman, Dubinsky, M. Zilberfarb, M. Litvakov, Hurgin and M. Shats-Anin; Zionists Sorokin and N. Syrkin, as well as Yudin. Later, the people of Nirenberg and Lipets also took part in the work of the Small Council. The representative of the EUSR, Moshe Zilberfarb, was appointed vice-secretary for Jewish affairs. The head of the Bund M.

[*] Fareynigte – United Jewish Socialist Labors Party (UJSLP), which was formed in June 1917 as a result of the merger of the Zionist Socialist Workers' Party (SSRP) and the Socialist Jewish Workers' Party (SERP). The main goal of the OESRP was national and personal autonomy, which provided for self-government not only in the cultural, but also in the social life of the Jews.

[**] Poalei Zion, Jewish Social Democratic Labor Party (JSDLP) is a Jewish socialist organization that was founded in 1906. Some members of Poalei Zion, in particular Solomon Goldelman, actively supported the idea of Ukrainian statehood. In the USSR, the activity of the organization was banned in 1928.

Rafes became a member of the General Secretariat of the Central Rada, and the leader of territorialists, lawyer and public figure A. Margolin became a member of the Supreme Court [153, p. 73–74]. Such data prove that the Jewish ethnic minority took the most active part in the state-building processes in Ukraine and the Right Bank, in particular, where the number of Jews was the largest.

The Bund conference in August 1917 supported the revolutionary changes in Ukraine, the struggle of broad sections of the Ukrainian people for the democratization of the state system. The decision of the conference emphasized the need for a proper solution to the national and, in particular, the Jewish question in Ukraine. For this, it was necessary to ensure the language rights of ethnic minorities in all spheres of social and political life, as well as the right to free cultural development in the form of national and cultural autonomy.

Instead, on June 29, 1917, the Bureau of the South-Western District Committee of the Jewish Social-Democratic Labor Party noted the need for: recognition by the Provisional Government of the Central Rada; start preparing documents for the development of the Ukrainian state.

The district committee also believed that representatives of national minorities are obliged to form nationally autonomous institutions with relevant local bodies throughout the territory of the Right Bank [154, ark. 159].

Jewish leaders imagined the order of organizing elections to the higher legislative body in different ways. On August 5, 1917, at the first meeting of the VI session of the Central Rada, it was proposed to elect representatives to the higher legislative body not from parties, but from the entire Jewish population. After the creation of the General Secretariat, the post of General Secretary for Nationalities Affairs was created, who had three vice-secretaries for Russian, Jewish, and Polish affairs [153, p. 138].

The positions of the representatives of the Ukrainian and Jewish parties in Right-Bank Ukraine on the main state-building issues, as a rule, coincided. This was also the case in August 1917 at the VI session during the discussion of "Temporary instructions to the General Secretariat of the Provisional Government in Ukraine." The instruction greatly narrowed the autonomy of Ukraine, limiting the territory of the region to only

five gubernias (Kyiv, Podil, Volyn, Poltava, and Chernihiv). In particular, representatives of the EUDRP "Poalei Zion", the Bund and other Jewish parties protested against Petrograd's policy of restrictions on Ukraine. It had the appearance of a manifestation of friendly cooperation between the national movements of both peoples.

After February 1917, the number of members of the Bund began to grow rapidly. They united around the Southern regional, Kyiv, Katerynoslav and Odesa district committees. In August 1917, the largest Bund organizations in Right Bank Ukraine were: Kyiv - 760 people; Bilotserkivska - 350 people; Vinnytsia - 250 people [155, p. 132].

Some of the members of the SSLP and SJLP, who did not join the UJSLP, joined the Volkspartei*. The central point of the party program was "national-personal autonomy", which provided for Jewish self-government not only in matters of culture ("cultural-national autonomy"), but also covered the solution of social and other issues.

The Zionist party prevailed in most Jewish communities not only in the center, but also on the periphery. In particular, the general meeting of the Jews of the city of Volodymyrets, Volyn province, convened on September 5, 1917 by the city's Zionist organization, spoke in favor of the representation in the Central Council of broad sections of the Jewish population of Ukraine. The meeting defined the then-existing representation from the Bund and the United Jewish Socialists as one-sided, expressing confidence in the representatives of the Zionists [156, ark. 3–10, 141–146].

In Podilla, the Zionists were led by lawyer I. Roisenburd, store owner E. Shapiro, merchants H. Sliozberg and I. Kleinman. Jewish political parties played a special role in the social life of Vinnytsia. There were 12 parties in the small Vinnytsia Jewish community. As the newspaper "Vinnytsia Listok" emphasized, in September 1917 they managed to open 2 Jewish gymnasiums in Vinnytsia. The newspaper also describes and gives examples that even Jewish children over the age of 10 took part in social and political life [157].

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* Volkspartei - the Jewish People's Democratic Party, the main goal of which was the national and cultural autonomy of the Jews.

According to the data of the State Archive of the Vinnytsia Region, in July and August of 1917, lists of 15 parties and blocs were submitted to the city administration of Vinnytsia. National minorities were represented by the Polish People's Party, the United Jewish Socialist Workers' Party, the Jewish National Bloc, and the Socialist Bloc, which included not only the Jewish Bund, but also the Mensheviks and Socialist-Revolutionaries. The United Socialists and the Jewish bloc were among the favorites in the competition [158, ark. 33; 50, ark. 2 vol.]. In July 1917, the Jewish "Bund" united with the RSDLP(m) and the Socialist-Revolutionary Party. This merger, with the support of the Jews, was able to control the trade unions of tailors and printing workers, which influenced the circulation of propaganda products. The rivalry between the political forces was hostile - more and more chauvinistic slogans were heard. Sometimes the case went to court. In the final result, on September 20, 1917, Israel Yakovych Slutsky was elected chairman of the City Duma, for whom 27 councilors voted [160, ark. 126].

In November, the Ukrainian Central Rada established power in Vinnytsia. On November 4, 1917, the Regional Committee for Protection of Revolution and Order, formed under the Executive Committee of the Council of Public Organizations, self-liquidated and transferred its powers to the General Secretariat. Hryhoriy Kalistratovych Stepura, assistant to the Podillia gubernatorial commissioner, noted on November 8 that "decrees not approved by the Central Rada are illegal, or proclamations that you have no right to spread or implement without the permission of the General Secretariat as a county commissioner" [160, ark. 138].

Most of the Jewish parties supported the autonomy of the Ukrainian People's Republic. In particular, on November 17, a solemn meeting was held in the city theater on the occasion of the proclamation of the formation of the Ukrainian People's Republic. Representatives of the United Jewish Socialist Labor Party were present there. In particular, X. Kiel welcomed the Third Universal and the newly formed Ukrainian People's Republic, but emphasized that autonomous Ukraine should be an integral part of federal Russia. Each of the parties expressed its own opinion regarding Ukraine's autonomist aspirations:

- M. Haimon, a representative of "Tseirei-Zion" expressed his support for the autonomy of the Ukrainian People's Republic and advocated the equality of the Jewish nation and other peoples inhabiting Ukraine;

- M. Luchanskyi, on behalf of the Jewish National-Democratic faction, congratulated the autonomous UNR as part of the Russian Federal Republic;

- V. Swederskyi, representing Polish interests, sincerely welcomed the Ukrainian People's Republic. But he did not bypass the social reforms of the Central Rada, sharply criticizing them, protesting against some points of the III Universal.

- The Socialist Polish Party (or PPS) led by O. Radosz, in contrast to Swederski, supported the social reforms of the UCR, emphasizing their effectiveness. Its representatives also congratulated the fraternal Ukrainian people and the "Ukrainian Federal Republic" [161, ark. 359–362].

In general, representatives of Vinnytsia's ethnic minorities supported the III Universal of the Ukrainian SSR and the autonomy of the Ukrainian SSR, but with their own interests in mind.

Of all the Jewish parties in the elections of deputies of the Ukrainian Constituent Assembly, the Zionists received the majority of votes – 120,063 (66%) of the votes of Jewish voters in the Right Bank provinces. The second place was taken by the Bund – 33,369 (18.4%) votes; the third UJSLP – 18,520 (10.1%); the fourth JSDLP – 9903 (5.5%). In the Kyiv province, the distribution of seats in the elections was similar: Zionists – 68,604 (66.7%) votes, Bund – 17,551 (17%), UJSLP – 13,223 (12.8%), JSDLP – 3,557 (3.5%). In Podilla, the popularity of Jewish parties among voters was different: Zionists – 16,887 (56.5%) votes, Bund – 6,030 (20.2%), JSDLP – 3,669 (12.3%), UJSLP – 3,285 (11%). Such a distribution of seats also took place in Volyn: Zionists – 34,572 (70.5%) votes, Bund – 9,788 (20%), JSDLP – 2,677 (5.5%), UJSLP – 2012 (4%) [162].

Podil and Volyn representatives of Jewish parties recognized the Central Rada as the highest authority in Ukraine, expressed a desire to cooperate with it, nominate their representatives to its composition. Despite inter-party contradictions, the positions of these parties regarding the authorities in Ukraine were almost identical.

V. Vynnychenko, analyzing the positions of the parties of national minorities, wrote: "Especially the Jews, purely Jewish political parties, took a judicious attitude, and some of them were even sympathetic to the idea of Ukrainian statehood. They accepted the idea of \u200b\u200bUkrainian statehood as a fact, as something natural and inevitable, incorporated it into their worldview, adapted their own aspirations to it, and quite consciously resolutely and consistently recognized themselves as citizens of the Ukrainian state" [163, pp. 6–9].

The newspaper "Podolskie Vedomosti" characterized the attitude of Jews towards the Ukrainian state as follows: "The fate of millions of Jews living in Ukraine also depends on the mysterious existence of Ukraine. We Jews have numerous miscalculations with Ukraine. It should not be denied that the majority of Jews do not have Ukrainian patriotism. And an ordinary Jew, who has always felt that he is spiritually higher than the serf of a small Russian and a bourgeois, will not so easily get used to the idea that Ukraine is a state, "Ukrainian" is the language, and "Kobzar" is the culture, so say the Jews to whom the Central Rada generously gave the position of minister » [164]. Despite the desire for their own autonomy, the positions of the Ukrainian and Jewish parties on the main state-building issues, as a rule, coincided.

During the voting for the III Universal of the Central Rada, the Jewish political parties were divided. However, during the voting for IV Universal, the idea of national-personal autonomy united them in support of Ukrainian statehood. The law became an organic part of the Constitution of the Ukrainian People's Republic and granted the "Great Russian", Jewish and Polish ethnic communities the right to national and personal autonomy. Other national minorities could enjoy such a right, provided they collect 10,000 signatures each and submit a corresponding application to the General Court. Each national group was given the right to create its own national union, which had the exclusive right to represent the given nation in state and public institutions. In order to implement the state policy regarding national minorities, the Secretariat for Nationalities Affairs was established as a special state body, as well as government departments: Jewish, Polish, and Russian.

In the light of democratic slogans, political parties and movements of ethnic minorities of the Volyn province are intensifying their activities. An example can be the results of the first city elections in Zhytomyr at the end of 1917. A total of 11,108 citizens took part in the elections. 2,764 people voted for Polish parties and public movements, 3,683 people voted for the Jewish (Jewish Party – 2,173, Bund – 922, United Jewish Socialist Party – 359, Poalei-Zion – 125, Volkspartai – 104), Ukrainian (Ukrainian Socialists – revolutionaries and the Volyn Council of Peasant Deputies – 1147, Orthodox parishioners – 1106, Ukrainian Social Democrats – 365, Ukrainian Socialist Federalists – 186, Ukrainian Trudoviks – 54) – 2858, Russian (people's freedom) – 769, Russian Social Democrats (united) – 364, socialist revolutionaries – 118) – 1251 people, Bolsheviks – 480 people, for the Czech-Slovak working peasantry – 170 people. [165, p. 73].

In January 1918, the Bolsheviks returned to Vinnytsia. The Jewish minority was very large, so the Bolsheviks were careful with them. On January 26, the first issue of the Jewish newspaper "Nabat" was published with the support of Edelshtein Yevhen Pylypovich ("comrade Filippov").

The Bolsheviks, who captured Kyiv at the end of January 1918, did not enjoy the support of Jewish parties. Later, M. Shats-Anin (UJSLP) noted at a meeting of the Small Council, "the old government made many mistakes in the cause of peace, but the Bolsheviks will correct these mistakes in such a way that we will not be able to correct their work later" [166, ark. 96]. Also, at the beginning of 1918, elections to public councils were held in Kyiv, in which only 15,164 people (25.1%) participated out of 60,354 Jews who had the right to vote. 32 Zionists, 7 representatives of the Volkspartai, 7 – from the Bund, 4 – from Poalei-Zion, 5 – on religious lists and the same number on local lists were elected to the council of communities [167, ark. 16–21]. During the changes of government and the repressions that accompanied them, the community tried to help the Jews of the city as much as possible. The parties organized: a survey of Jewish children in primary and secondary schools to find out the need to expand

the network of Jewish education; help Talmud Torah*; opening of a polyclinic in Podil; support of low-income groups of Jews [168, p. 166].

In 1918–1919, Jewish organizations also took part in elections to local authorities. In the elections to the Kyiv City Duma, Jewish organizations acted as a single democratic bloc, which called for the nomination of representatives from the broad Jewish masses. Their national interests were to protect representatives of all classes and population groups [169, ark. 42]. Jews received a day off during the April 1918 elections to the Uman Jewish Community Council [170, ark. 73–75].

The Jewish socialist factions in the Kyiv City Duma formed a delegation to S. Petlyura with the aim of discussing the issue of preventing possible violence when troops entered Kyiv in March 1918. The delegates also had information that the presence of a certain number of Jewish commanders in the Ukrainian army could be used to provoke anti-Semitic sentiments in military units. Delegation member M. Rafes recalled that after the negotiations, S. Petliura said that he could not guarantee anything. He knew the mood of the soldiers, but he saw in them a thirst for revenge, not anti-Semitism. However, Petliura, at the request of the delegates, agreed to enter Kyiv not through Podil, inhabited mainly by the Jewish population, but through Kurenivka. However, it was not possible to prevent violence. Many Jews were beaten, robbed, shot [171, pp. 16–19].

The newspaper "Kievskaya mysl" noted that after the occupation of Kyiv, the Bolsheviks canceled the law on cultural and national autonomy and liquidated the Ministry of National Minorities. The Bolsheviks did not receive the support of the Jewish parties, as they did not recognize their rights for the development of national life [172][171, p. 174]. At the congress of the United Jewish Socialists in Kyiv, a resolution was adopted that advocated "councils without Bolsheviks." Jewish parties took an active part in the actions of resistance against the Bolsheviks. In January 1918, factions of the RSDLP (united), the Bund, the Socialists, and the Poalei-Zion opposed

* Talmud Torah is a Jewish religious primary educational institution for boys from low-income families that arose in Europe during the Middle Ages. Pupils studied Hebrew, Torah and Talmud, sometimes other subjects were introduced: arithmetic, writing in Yiddish and others.

the Bolsheviks for their attempts to disperse the Constituent Assembly. The greatest opposition to the Bolsheviks on the Right Bank came from Jewish social democrats and Zionists. In their policy, they tried to weaken the power of the Bolshevik strikes, which was carried out on the democratic public, and thus reduce the threat of an upcoming reaction. The Jewish parties' opposition to the Bolsheviks' policy was one of the factors that determined their cooperation with the democratic forces of Ukraine. In 1918, the Jewish Community Council (JCC) was to be established to manage all Jewish affairs and institutions. Its financing was provided at the expense of the box tax and state funds [173, ark. 15–18]. The JCC was first established as an advisory body under the Vice-Secretariat. The organization was to become an active factor in the revival of Jewish autonomous life.

Instead, the Zionists opposed the hegemony of the socialists of the JCC. The Zionists chose the right to national-personal autonomy, which would give an opportunity to create territorial autonomy. The Zionists also had a negative attitude towards the Hetman's coup [174, ark. 8].

Jewish organizations and repressions of the German military authorities, directed against the left forces, did not escape. The Germans dispersed the Bund meetings in Kyiv and banned the congress of local Jewish organizations. Publication of the newspaper "Volkszeitung" was stopped [171, pp. 23–25].

In particular, after Pavel Skoropadsky came to power on April 29, 1918, the Zionists did not stop their activities [174, ark. 5–7]. The Hetman's government took a course to liquidate the main democratic assets of the Ukrainian People's Republic, in particular in the field of policy regarding national minorities. Then the Law on National Personal Autonomy was suspended, and the Ministry of National Minorities was liquidated, which lasted until September 1918. However, the Law "On Hetman's Power" gave the followers of each denomination the opportunity to freely use the rite of their own religious denomination.

On July 9, 1918, the "Law on National Personal Autonomy" was officially repealed. On November 6, 1918, a decree was published on the abolition of the Ministry of National Minorities and the dismissal of its ministers.

After coming to power, the Directory adopted a resolution on the restoration of national and personal autonomy, which was part of the Constitution of the Ukrainian People's Republic. In January 1919, the Ministry of Internal Affairs was created under the leadership of the leader of the Poalei-Zion A. Revutsky. The ministry planned a democratic way of building Jewish national autonomy. The legal and financial base, an extensive system of Jewish schools, support for medical care, regulation of emigration, defense of Jewish rights in various spheres of state life, transition of Jews to productive forms of work, protection of freedom of religion and activities of religious organizations had to be provided [175, ark. 1–3, 18–20; 67, sheet 21–22].

Like the Jews, the Polish national minority in 1917 had its own representation in the Central Rada (20 seats), i.e. 2.5%. On the Right Bank, the interests of this group (the third largest after Russian and Jewish) were also represented by political parties and organizations.

In March 1917, a gathering of Polish circles took place - the Kyiv District Council, which selected from among its members the "Committee of Nine", which took the initiative to create a wider political association. A few days later, on March 6, 1917, a meeting of the "United Polish Organizations" was held in Kyiv, where 552 delegates represented the interests of 233 associations of Poles, which were mainly concentrated in Podil, Volyn, and Kyiv Oblast and represented the interests of mainly landlords. bourgeoisie, intelligentsia and clergy [177, pp. 165–167].

It is interesting that of all the women of the ethnic minorities of Right Bank Ukraine, it was the Poles who were the most independent and actively participated in public and political life. For example, on May 5, 1917, the Union of the Polish Women's Community in Volyn was established. The organization had a clear structure and charter with concretely formed ideological foundations and areas of activity [178, ark. 176–177].

One of the most influential Polish political figures in the Ukrainian SSR was lawyer A. Staniewicz, engineer V. Swederski, L. Dlugolentskii, Z. Groholskii - the self-proclaimed "Polish Commissioner of the Podilsk Region." The Polish Democratic Union was headed by lawyer F. Tsionglynski. On March 10, on the initiative of Letta

Yaroshynska, the educational society "Masierz Skolna na Podolu" resumed its activities. In June 1917, this society opened 300 folk schools and 3 Polish gymnasiums. Plays were staged in the Polish House under Shurkevich's leadership. "University for All named after Romuald Traugutt" gave the opportunity to listen to courses of lectures on nature, Polish history and literature. There was also a union of military Poles, headed by the garrison adjutant Second Lieutenant Kozakiewicz. In the future, this alliance became the basis of the Polish legion, which was based in the Groholsky manor in Pyatnychany, in the Vinnytsia region [179, p. 77].

Back in April 1917, the newspaper "Podolskie vedomosti" published an appeal of the Provisional Government to the Poles with the aim of uniting them around pro-Russian positions and with the promise of creating an independent Poland: "The Provisional Government considers the creation of an independent Polish state, which should be created from lands, inhabited by the Polish people is the key to the renewal of modern Europe. United with Russia by stable military alliances, the Polish state will be a powerful defender against the attack of other states on Slavism" [180]. The Provisional Government promoted the formation of the Polish Executive Committee (PEC), which included representatives of conservative circles as well as liberals and socialists. This composition of the committee allowed its leaders to claim that "the representatives of the vast majority of Polish citizens in this region are not individual parties, but the Communist Party of Ukraine" [181, pp. 11–13].

Most representatives of Polish political parties supported Ukraine's aspirations for autonomy. In particular, V. Svedersky emphasized that "Poles, being the original citizens of Ukraine, have the most favorable attitude towards the just aspirations of the fraternal people for self-determination and sincerely welcome the rising dawn of independent political life of the Ukrainian Democratic Republic. But at the same time, they regret that the social reforms announced by the Ukrainian Rada are generally detrimental to the revival of Ukraine and lead to widespread anarchy, dangerous for the entire population of Ukraine and its future. Therefore, in the name of the good of the people, we are forced to protest against this part of the Universal of the Ukrainian Central Rada" [182, p. 106].

Instead, O. Radosz (Polish Socialist Party) issued a call: "The Polish Socialist Party welcomes the Universal Declaration of the General Secretariat of the Ukrainian Council as an act confirming the rights of the Ukrainian people to an independent state life in union with the Russian Republic on the basis of the union of the free with the free. The social reforms announced by Universal provide an improvement in the economic life of the working people, both Ukrainian and other nationalities, who inhabit Ukraine and will give brilliant results in the near future. We are sure that the Ukrainian People's Republic will flourish magnificently, and waking up from the century-long sleep of slavery in the midst of unprecedented bloody discord, it will call all peoples to fraternal peace with the power of popular enthusiasm. Long live the Ukrainian People's Republic!" [182, pp. 107–108].

The day before, on June 18, 1917, a congress of Polish officers of Ukraine took place in Kyiv, which welcomed the aspirations of the Ukrainian people for political liberation and declared that the Poles were ready to support these aspirations. This meeting developed the draft "Statute of the Rights of the Polish People in Ukraine", which stated that Poles as a minority have the right "to take measures to preserve, support and develop the Polish nation (language, culture and economic and economic interests)" [183, pp. 238–239].

Having united, the Poles took a "favorable position towards the new government." At the meeting of the Council, in the same year 1917, S. Zelinsky stated that "at the meeting of Polish organizations, as well as the regional society, which unites 39 Polish organizations, it was decided to enter into contact with the Council of Public Organizations. For this purpose, a committee of 9 people was elected, which will coordinate its actions with the Council of Public Organizations" [184, pp. 11–14]. Representatives of the Committee of Nine – F. Kzhizhanivskyi and S. Zelinskyi - were sent to the Kyiv City Council of United Public Organizations. S. Zelinsky joined the Executive Committee of the Council and assumed the position of treasurer. Subsequently, this representation was increased to five seats in the Council and four seats in the Executive Committee. The same S. Zelinsky became a member of the special commission on the organization of the city militia. When the main

administrative collegial body of the province was founded in Kyiv on March 16 – the Kyiv Provincial Council of Public Organizations, it included two representatives from the Polish organization. They were Z. Khoetskyi and B. Perrot. Also, two Poles became members of the Kyiv County Council of Public Organizations. Similar representations of Poles arose in other cities, counties and provinces [185, ark. 2–4].

Subsequently, on July 4, 1917, after the agreement of the Central Rada with the Provisional Government, a delegation of the Polish Executive Committee was sent to it again "to come to an agreement on the participation of Poles in state-creative work in Ukraine." Among the demands put forward by the committee were the following: 1) provide representation to the Polish minority at the level of 5–6% of the number of members of the Central Rada; 2) to create the position of General Secretary for Polish affairs in the General Secretariat, and Polish referents at other secretariats; 3) appoint candidates elected by Polish organizations to these positions [186, ark. 137].

The Polish committee did not receive a reply to this letter from the Central Rada. Seats for the representation of the Polish minority were given to the Polish Democratic Central (PDC), from which M. Mickiewicz and V. Rudnytskyi joined the Council at the beginning of July 1917 [187, ark. 16–17].

P. Gai-Nizhnyk claimed that Poles, having entered the representation of higher state authorities and the Central Rada, received 22.5% of the seats reserved for national minorities. Polish seats were distributed according to the influence on the population, to a greater extent of the Right Bank, of Polish national parties [188, p. 51].

In particular, Polish interests were represented in the bodies of the Central Rada: in the Small Rada, Korsak (PPS revolutionary faction), V. Matuszewski (PPS – left, Polish National Democratic Central (PNDC)), V. Rudnytskyi, D. Pochetovsky (PNDC). The Assistant Secretary General of International Affairs for the Polish Department from July to November 1917, and from January 25 to April 28, 1918, the General Secretary (later Minister) of Polish Affairs of the Ukrainian People's Republic was Mechyslav Kazemirovich Mickiewicz [182, pp. 105–106].

Mieczyslaw Mickiewicz (sometimes Vyacheslav Mickiewicz) is a Polish politician, lawyer, originally from Kamianets-Podilskyi. He was one of the leaders of the central wing of the Polish National Democratic Party.

At the beginning of July 1917, during the resolution of the issue of replenishing the Central Rada with representatives of national minorities and transforming it into a "regional authority", M. Mickiewicz became in opposition to the Central Rada. He reacted particularly negatively to the beginning of the cooperation of Polish socialists and democrats with the Ukrainian SSR. In particular, after the negotiations of the Central Rada and the Provisional Government began, in which the General Secretary for Polish Affairs himself participated, the Polish Executive Committee (PEC) sent Kerensky its protest, pointing out that M. Mickiewicz did not have the right to represent the entire Polish population Ukrainian lands, but only the interests of a "small group called the Democratic Central", which cooperates with the Central Council. The reason for the conflict between the PEC and the Central Council was that the latter, taking into account the split of the PEC and the departure of democrats and socialists from it, rejected the demand of the Endeks to recognize the Committee as the sole representative of the Polish national minority of Ukraine and decided to replenish the composition of the plenum according to the party principle [189, pp. 223–225].

The Polish historian V. Mendzetsky emphasized that the Ukrainians were a separate nation that had the right to cultivate their own culture and language. The only way to a successful resolution of Ukrainian-Polish relations in Right-Bank Ukraine is the active participation of Poles in the process of forming a modern, developed Ukrainian nation. Polish political parties and organizations, showing respect to Ukrainians, helping them to find and find their own identity, should have suggested that the common mission of both nations was the joint victory of the mortal enemy - imperial Russia [190, pp. 38–46].

Poles, along with other peoples, showed a strong desire to take part in the development of revolutionary Russia and actively advocated democratic transformations. Poles, aware of their status as an ethnic minority in Ukraine, defended the interests of their historical homeland – Poland, and set themselves the task of

fighting for the greatest possible Polish presence (primarily political) on the Right Bank.

In December 1917, relations between supporters of the Central Rada and the Bolsheviks worsened. Armed clashes could start at any moment, but even then the national Jewish and left-wing Polish parties recognized the General Secretariat as the only body of executive power in Ukraine [191, p. 141]. This was confirmed at the meeting of the executive committee on March 8, 1918. A resolution was adopted, in which it was noted that Poles stand on the basis of self-determination of peoples. On March 18, a congratulatory letter was sent to the Ukrainian Central Rada, in which Ukrainians were called for mutual understanding and cooperation with the Poles as equal brotherly people.

Polish political parties in the Central Rada supported its bill on granting national minorities in Ukraine national and personal autonomy. Thus, on January 2, 1918, during the discussion of the specified bill in the Small Council, the member of the PPS (r) Korsak declared on behalf of Polish political organizations: "We welcome this law. From now on, it will be our battle slogan, for which we will also fight in Poland" [192, ark. 45].

However, as V. Mendzhetsky emphasizes, certain disagreements, which became a harbinger of future Polish-Ukrainian disputes, proved that the tragic page of the historical confrontation was never turned over. On January 9, 1918, L. Pochentovskyi, a member of the PPS (L) at a meeting of the Small Council, spoke against the Ukrainian government's assertion of Kholm region as its territory without holding a referendum there. Then, on March 15, 1918, at a meeting of the Small Council, he spoke against the ratification of the Beresteysky Treaty, since according to it Kholmshchyna joined the UNR [193, pp. 174–175]. Soon the Ukrainian People's Republic was overthrown as a result of a coup carried out by Pavel Skoropadsky, and the creation of the Ukrainian State in the form of the Hetmanate was announced.

The Ukrainian government was often forced to react sharply in 1918 to the occupation of certain regions of Podillia by Polish legions. In the same year, the Polish army captured the outskirts of Nemirov and the Olgopil district. The Poles

requisitioned oats, horses and messages at telegraph stations in the villages. On April 18, 1918, in Hnivan, Polish legionnaires and Ukrainian peasants agreed on peace only under the pressure and mediation of the Austrian colonel Linde. P. Skoropadsky applied certain restrictions to the Polish legions. As the "Podillia" newspaper emphasized, on April 30, 1918, the hetman's order was issued regarding the Polish troops in Ukraine. The gubernatorial and district commandants in relation to the Polish troops had to be guided by the following rules [194]:

- Polish troops had no right to interfere in the internal affairs of the state and issue orders;
- requisitions by Polish troops regarding fodder, access to bread were to be stopped;
- the division of property and weapons between the troops of the Ukrainian People's Republic and the Polish legions was prohibited.

At the same time, Hetman Pavlo Skoropadsky provided financial and material aid to the soldiers of the Ukrainian Galician Army, and his government, at the request of the Minister of Finance A. Rzepetskyi (a Pole by origin), on November 25, 1918, decided to release 1 million krb. by order of the Minister of Finance. for the issuance of an interest-free loan to the Polish special envoy in Ukraine for the provision of assistance to Polish refugees [195, ark. 29]. According to difficult conditions, the Polish national minority supported Skoropadski's government, with the hope of restoring the rights of the Polish nation.

With the coming to power of the Directorate of the Ukrainian People's Republic in December 1918, the law on national and cultural autonomy was restored on the Right Bank, but the Poles did not receive the right to form a corresponding national ministry. This refusal was justified by the fact that first of all it is necessary to establish relations with the newly formed Polish state and to agree on the guarantees of the rights of Ukrainians in Poland.

In June-November 1919, the city of Kamianets-Podilskyi was the temporary state center of the Directorate of the Ukrainian People's Republic. Meanwhile, the Polish population, on the basis of the restoration of the Polish state, stopped trusting the UPR. As it was emphasized in the newspaper "Renaissance", anti-Ukrainian propaganda was

often carried out among the peasants. Polish agitators spread information that the Polish army was planning to occupy Podillia.

The relations of the Poles with the government structures of the Ukrainian People's Republic revived after the declaration of the Council of Ministers of August 19, 1919, in which all nationalities of Ukraine swore to support the construction of the democratic independence of the Republic. At the end of August, a delegation of Poles from Podillia, which included Ya. Urbanskyi and S. Fliorchak, petitioned the leadership of the Ukrainian National People's Republic to grant national and personal autonomy to the Poles of Ukraine and promised to support Ukrainian statehood, as well as government policy and not to allow anti-government agitations. Representatives of Polish citizenship assured the authorities of the Ukrainian People's Republic that when the Poles of Podillia are given the opportunity to organize themselves, they will send a delegation to the Republic of Poland to convince Warsaw of the need for an understanding between Poland and the Ukrainian People's Republic [196, ark. 103–105].

The Chairman of the Council of Ministers, Isaak Mazepa, ordered the administrative bodies not to interfere with the assembly of Polish citizens, if they comply with the above-mentioned conditions. Regarding the provision of personal and national autonomy, the UNR government did not go to a meeting with the Polish community, waiting for the normalization of the regulation of the status of Ukrainians in Poland.

In the middle of 1919, Polish units occupied part of Podillia. Despite the fact that the Polish army came to the region as an ally of the Ukrainian People's Republic, an occupation regime was actually established. Ukrainian power structures were changing, searches, requisitions, and arrests were widely carried out. The Polish population of Podillia submitted an application to Józef Piłsudski about the inclusion of Kamianets in Poland. This caused anti-Polish sentiments among the Ukrainian population [197, ark. 5].

Despite everything, the Poles supported the aspirations of Ukrainians for self-determination. It is unlikely that this was due to some altruism of the Polish population

or their extraordinary devotion to the ideas of freedom and justice (although this could have taken place in the conditions of general elation during the Ukrainian revolution). Polish activists were aware that in the Ukrainian state (whether independent or an autonomous part of a wider federation) they would have a greater influence on political or economic life than in the Russian multinational (or even mononational, if Ukrainians were not recognized as a separate ethnic group), but not to the federal state. So the Poles were sincerely sympathetic to the Ukrainian cause, based on their own interests.

In all programs of all political parties, the national factor occupied a leading place. It is important to note that all programs proclaimed the full equality of all citizens regardless of nationality, the legislative protection of the rights of national minorities, the granting of state status to national languages in places where minorities live compactly. Practically all parties that defended the autonomy of Ukraine included in their programs provisions on the right of national and personal autonomy for the non-Ukrainian population.

The socio-political life of the German minority was also marked by a certain dynamism, although much less compared to the Polish and Jewish minorities of the Right Bank. First, in 1917, 70% fewer Germans lived in the right-bank provinces than at the beginning of the First World War. Secondly, the Russian command of the South-Western Front was determined against the repatriation of the colonists and actively prevented their independent attempts to return to the Right Bank [198, pp. 272–273].

The repressive actions of the Russian military were often supported by the local population, which had already managed to occupy or loot the lands and property of the Germans, as well as the chauvinistic part of the public. Thus, in the second edition of the collection "German Evil" in 1917, its editor, the commander of the "Red Guard" units, M. Muravyov, as in the times of the autocracy, called to "finish the victory on both fronts", that is, not only over "external" Germany. and "internal" Germany, meaning the German population of the entire Russian Empire [199, p. 44]. Thus, the difficult political situation caused by the struggle of political interests forced the right-wing Germans to fight for their rights.

In the wake of the rapid development of democratic processes, the movement of the German ethnic minority for national and cultural autonomy arose and began to develop. Initially, it took the form of a struggle for the abolition of discriminatory measures implemented by the Russian government during the First World War against the German population, for the elimination of their negative consequences. The autonomist movement was not the only one. It had several regional centers and developed in the regions depending on the specific socio-political situation. There were three such centers of struggle of the German ethnic minority: in Saratov (February 1917), Odessa (March 1917) and Moscow (March 1917). Representatives of Volyn Germans took part in the Moscow Congress of April 20–22, 1917, at which the Main Committee of the All-Russian Organization of German Citizens was formed for representation in the Provisional Government in Petrograd. Its members included K. Lindemann (a professor at Kyiv University in 1918–1921), Ya. Propp, and A. Robertus [200, p. 253–255].

At the beginning of the Ukrainian revolution, the German ethnic minority of the Right Bank, along with the protection of property rights, significantly expanded its public activities, seeking to resolve the issues of revival of self-government, native language and culture, and church life. However, the fragmentation of the German national movement did not allow the Volyn Germans to defend their rights and interests in 1917. The German ethnic minority could not form any national political party, unlike the Jews and Poles. As for the elections in the volost and poviat zemstva, here German and Mennonite candidates were elected by the voters of their settlements and played an important role in the relevant zemstvo institutions of their volosts and poviats of the Volyn province [200, p. 267].

After the overthrow of the Provisional Government and the declaration of Soviet power in Russia, from November 1917 to February 1918, the Soviet troops fought against the armed forces of the Ukrainian People's Republic of Ukraine. During this period, the process of expropriation in the German colonies of Ukraine took on a massive character. Since the German representation in the Ukrainian SSR in 1917 was insignificant - according to the report of the mandate commission - one seat from the

Germans and one from the Mennonites, therefore the Germans began to defend the main right to national self-determination during the government of P. Skoropadskyi [201, p. 28].

At the beginning of the Ukrainian revolution, we can note the activities of such a representative of the German minority, a native of the village of The town of Rivne District, Volyn Province, Fedor Rudolfovich Shteingel. In March 1917, he headed the Kyiv Executive Committee, and in August 1917 he was appointed by the Central Council as the General Secretary of Trade and Industry of the Ukrainian People's Republic.

After Russia's withdrawal from the First World War, in February 1918, German and Austro-Hungarian troops occupied part of Ukraine, Belarus, the Baltic States, and southern Russia. As a result, large areas of compact residence of ethnic Germans, primarily on the Right Bank, were captured. Thus, the German colonists found themselves at the epicenter of the most important military clashes of the period of the Ukrainian revolution, which had a detrimental effect on their lives and well-being.

The arrival of the occupation troops was perceived by the majority of the German population of Ukraine as salvation from the difficulties of the times of revolutionary anarchy. On March 21, 1918, the German command issued an order to return colonist lands and property captured by Ukrainian peasants. Representatives of Volyn Germans expressed their desire to continue living in Ukraine in accordance with the law on national and personal autonomy [202, ark. 25–27].

On April 29, 1918, the German and Austro-Hungarian senior leadership, dissatisfied with the policy of the Central Rada, sanctioned a coup and the establishment of the rule of hetman P. Skoropadskyi. The measures taken by the hetman to organize the internal political system of the life of the Ukrainian state were accepted by the German population with approval. A number of activists of the German ethnic minority S. Gerbel, A. Lignau and others took important positions in the state administration of P. Skoropadskyi. J. Wagner became the Minister of Labor, and F. Shteingel was the designated ambassador of the Ukrainian state in Germany. Together with other large landowners, German colonists, especially among the victims of

expropriation, took an active part in actions to eliminate the revolutionary movement in Ukrainian villages, which were carried out there by the occupying forces and hetman's armed formations. Such an action took place in the provinces of Right Bank Ukraine [203, pp. 16–17].

Since the summer of 1918, the German population on the Right Bank took steps to create their own armed self-defense. Detachments consisting of local residents were formed in almost every colony in Volyn. Significant help was provided by the command of the German and Austrian troops. A large number of rifles, several dozen machine guns, as well as ammunition and some other equipment were sent to the colony. In a number of localities, especially in Mennonite settlements, German and Austrian servicemen organized military training for young colonists. In the majority of colonies, the issues of creating and training self-defense units were dealt with by front-line colonists who had significant combat experience of the First World War [204, p. 32].

A special center - the German Committee - was created to coordinate actions. Only during the summer of 1918, several delegations were sent to Berlin to negotiate with government officials. The most active supporters of the idea of creating a German protectorate were Pastor Winkler and the former Secretary of State for Colonies F. von Lindequist. In their opinion, it was necessary to create "national-territorial autonomy" in Ukraine, Southern Russia and the Volga region, which could concentrate about 600,000 ethnic Germans. Agitation in the colonies was extremely successful. The colonists believed that the issue of including the regions of their compact residence in the new entity was a settled matter, and therefore they refused to delegate their representative to the department for the affairs of German colonists under the hetman's government [205, p. 228].

It is worth noting that the German government was in no hurry to grant German citizenship to the colonists, regardless of their ethnic origin [206, p. 193]. Therefore, from the beginning of November 1918, the process of creating colonist units accelerated, when the signs of revolutionary disintegration in the occupation troops of Germany and Austria-Hungary began to manifest themselves clearly. It was clear that

soon they would leave Ukraine, and the colonists would remain face-to-face with the radical masses of the Ukrainian peasantry, widely represented in the Kyiv region and Podillya. During this period, much attention was paid to the issue of coordinating the actions of self-defense units in the areas of compact settlement of the colonists, since the previous sad experience showed that a single unit of a separate colony is not able to oppose such numerous and well-prepared military forces of the Bolsheviks [207, p. 3–5].

On November 19, 1918, the Ukrainian government approved the rules for organizing self-defense in all German colonies of Ukraine. According to them, the general leadership of self-defense was entrusted to the Union of Colonists [204, p. 29]. In this way, the Hetmanate decided to transfer responsibility for the possible consequences of inevitable conflicts between wealthy German colonists and Bolshevik units.

Despite the active support of the German colonists of the Volunteer Army, a certain chauvinistic part of it had no sympathy for the colonists. Requisitions of food and confiscation of horses, forced labor in the colonies were often more significant in scale than in the nearby Ukrainian villages [199, p. 45].

Right-bank Germans also took part in local self-government, which manifested itself in elections to zemstvo authorities. Thus, only 36 Zemstvos were elected in the Volyn province - 6 of them were Germans. In the Kyiv provincial zemstvo, out of 60 people, all vowels, only three had German surnames. Of the 82 members of the Podilsk provincial zemstvo assembly, 9 people were Germans, and two of them were Orthodox [200, p. 258].

Thus, the German national minority of the Right Bank during the Soviet Union took a waiting position and did not participate in political events, and with the coming to power of P. Skoropadskyi and the occupation of Ukraine by German troops, the Germans revived, although they were not as active as the Jews and Poles. After the Directory came to power and the retreat of the German army, most Germans tried to return to their ethnic homeland.

The social and political life of the Czech colonists during the period of change of governments was marked, as among the Germans, by not very high activity during the period of the rule of the Ukrainian People's Republic, but by the active defense of rights during the rule of P. Skoropadskyi. Thanks to the Czechs, the then government of the Ukrainian People's Republic wanted to speed up the economic development of one of the most remote western regions. Therefore, developing at the initial stage mainly under the influence of economic factors, Czech emigration to Volhynia increased significantly as a result of support and encouragement from the government.

An important moral and political factor in the development of Czechoslovak-Ukrainian relations was the fact that during the First World War, Ukraine played perhaps the most significant role in the history of the Czechoslovak national liberation movement. Since 1916, the board of the "Union of Czechoslovak Societies in Russia" has been meeting in Kyiv province. Congresses of its delegates were held here, the main branch of the Czechoslovak National Council (CSNC) was located here - the highest representative body of the nation, the foundations of the future Czechoslovak government, as well as the headquarters of the Czechoslovak army and its reserve battalions, which were partially staffed by Volyn Czechs [208, pp. 45–49]. The commander of the troops of the Kyiv Military District, K. Oberuchev, suggested disbanding the Czech volunteer military units, since their presence prompted Ukrainians to demand the creation of a Ukrainian army [209, p. 240].

Czech legions were also stationed near Kiev, which under Zborov inflicted a decisive defeat on the Austrian troops, capturing 62 officers, 3150 soldiers, capturing 15 cannons and many machine guns. The day of the Battle of Zborovo (June 17–18, 1917) was considered Army Day in Czechoslovakia [208, pp. 61–65].

The relocation of the CSNC branch from Petrograd to Kyiv took place in connection with the rapid spread of Bolshevik ideas, where after the proclamation of the Third Universal on November 7, 1917, all power was transferred to the Central Rada. However, even here the communist ideology received wide support among the Czech minority. Thus, in December 1917, there were about 10,000 supporters of the Czech Social Democrats in Ukraine [209, p. 250].

The Czechs in Right-Bank Ukraine received the news about the February Revolution with great enthusiasm and after the first news about this event declared their support for the revolution. Moreover, different political groups began to compete in expressing respect for the new government in Petrograd. And after the Ukrainian Central Rada was recognized by the Russian Provisional Government as a regional authority in Ukraine, the Czechs signed an agreement on the status of Czechoslovak military formations in Russia (and practically in Volyn) with the authorities not only in Petrograd, but also in Kyiv. Tomáš Masaryk (the first president of Czechoslovakia in 1918–1935) signed an agreement with the Secretary (Minister) of International Affairs of the Ukrainian People's Republic Oleksandr Shulgin (time in office December 1917 – January 24, 1918) on the conditions for the deployment and supply of Czechoslovak troops. The idea of self-determination of all nations, as one of the components of their political ideology, was put forward by the Czech leaders of the national movement [209, pp. 255-228].

In 1917, the political views of the Czech community in Volyn, as well as in the former Russian Empire in general, were divided into two parts. The minority supported the "democratic Czech people who were in the camps", meaning fighters for Czech statehood, regardless of their place of residence (ie including the Czech minority on the Right Bank). The majority sympathized with the views of "fans of the Russian reaction in Kyiv," that is, the board of the "Union of Czechoslovak Societies in Russia." But gradually during 1918–1919 the Union lost popularity. The board and all its initiatives, with the beginning of the Ukrainian revolution, lost support from both countrymen and government departments. In such a situation, they approached the third congress of the Union of Czech-Slovak Societies, which was held from April 23 to May 1 at Kyiv University named after St. Volodymyr and Commercial Institute.

The initiative in the work of the congress was taken by the Czech military and prisoners of war (from which the Czechoslovak corps was formed). Thus, the representatives from the army were represented by 141 delegates, the prisoners represented 86 representatives. The delegation of colonists was a minority – 55 members. Delegates from prisoners of war represented 335 associations, in which

22,890 Czechs and Slovaks were enrolled. There were 20 societies representing the colonists. The total number of their members was 5127 [209, p. 234].

At the end of December 1917, an agreement was concluded between the People's Republic of China and the government of the People's Republic of China, according to which the Czechoslovak army, which had previously been part of the Russian army, was subordinated to the Ukrainian army. Such agreements were dictated by the fact that the Central Rada declared a course for the continuation of the war with Austria-Hungary. Undoubtedly, such determination allowed the Czechs and Slovaks to resume their struggle against the Habsburg dynasty. The agreement also considered the option of "withdrawal of the Ukrainian People's Republic from the position of a belligerent party with the Central Powers." Under such circumstances, the Czechoslovak army was given the opportunity to leave the borders of Ukraine unhindered [209, pp. 251–252].

In 1918, the political reason for the retreat of the Czech corps from Ukraine was the danger of an attack by the Austrian army, which was based in Podilla. At the same time, a decision was made to leave Kyiv by political leaders who were members of the ChSNR - Vaclav Hirsa, Yuriy Kletsanda, Prokop Maksa and others. At the end of February, the Presidium of the People's Republic of China moved to Pyryatyn. Only a few of its workers remained in Kyiv, headed by the horn player Vaclav Houska. On February 23, the evacuation of the First Division of the Czechoslovak Corps from Berdychev began. On February 24, the first skirmishes with the Germans took place near Zhytomyr. During the following days, February 28 - March 2, Kyiv silently watched as the division left the city to the sounds of Czech marches.

With the departure of the Czech corps from the territory of Right Bank Ukraine in March 1918, the active activity of Czechoslovak societies ceased until October. The number of Czechs and Slovaks has decreased significantly. Some of the soldiers returned home to Volyn. Czech political figures also left for the Czech Republic in March, and only those of them who did not approve of the course of the ChSNR or were in conflict with its active members remained in Kyiv. Vaclav Vondrak, the most famous of the Volyn Czechs, who was arrested soon after, also remained. Venceslav Shvigovsky, the editor of the only Czech newspaper published in Ukraine -

"Cechoslovan" - was also in Kyiv. He had quite friendly relations with Ukrainians [210, pp. 275–277].

Czech and Slovak politicians had reason to fear the consequences of the Brest Peace Treaty for the Czechoslovak community in Ukraine. The first repressions against Czechs and Slovaks began already in March. Entrepreneurs were the first to suffer. For example, V. Shvets, the owner of shops on Khreschatyk, was deprived of his property. His complaint was not only not considered, but also caused the businessman himself to be accused of Bolshevism. V. Shvets managed to avoid imprisonment. Dr. Vaclav Vondrak, a leading figure of the Czech social and political movement in Ukraine, was imprisoned in Lukyanivka for two months (from July 2 to the end of August). The reason for his arrest was his active participation in the organization of the Czech army of former prisoners of war. At the same time, Dr. Vondrak was lucky that the Germans did not hand him over to the Austrian authorities. After his release, he moved to Novorossiysk, where units of the Volunteer Army were being formed, which included Czechoslovak units. Czechoslovak leaders were lucky that Kyiv was subject to German, not Austrian, administration. The Germans were not very willing to hand over the former inhabitants of the Czech lands to the Austrian police. In addition, in the German commandant's office, which was located on the corner of Khreschatyk and Duma Square, the Czechs had their confidant - V. Suk, who was considered the "right hand" of Lieutenant Vachtl. In turn, an officer of Polish origin also served in German intelligence, who willingly informed the Czechs about which of them the Austrian police were looking for.

Instead, the autumn of 1918, in connection with the end of the First World War, was marked by a significant revival of the activities of foreigners in Kyiv. On September 10, the meeting of all foreign consuls resumed, during which the head of the diplomatic corps was elected the Swiss consul Gavril Enni. The previous chairman, the Greek consul Hippari, had to leave Kyiv due to misunderstandings with the local authorities [211, pp. 82–85].

The cooperative activity of the Czechs and Slovaks was revived. The Czechoslovak credit union, which did not stop its work for a whole year and existed until 1920 p.,

was joined by the Czech cooperative, which became an intermediary between peasants and entrepreneurs, and later provided support to breweries in Ukraine. At the same time, the Czechoslovak Chamber of Commerce was opened. The Czech Credit and Savings Union continued its activities in Zhytomyr.

The possibility of establishing a Czechoslovak consulate in Kyiv was considered by Czech officials already in the second half of October 1918. The majority of Czechs believed that Vojtech Ambrož, a former member of the Board of the Union of Czechoslovak Organizations in Russia, should be elected Czech consul. His candidacy was supported by members of the Czech National Economic Union. The opposite opinion was held in other Czech circles in Kyiv. One of them was centered around K. Klemper, who gathered around him former prisoners, young people [212, p. 85].

In 1918–1919, new military units from Czechs and Slovaks were created in Ukraine. Such an idea belonged to those Czechs who were especially close to the Russians, united around General Anton Denikin on the Don. Among the Czechs were Jan Wolff, engineers Menzl, Tozhichka, military personnel Klich and Khytil. They campaigned throughout the territory of the Right Bank for the formation of Czech military units with the aim of overthrowing the Hetmanate of Pavel Skoropadskyi. According to some data, on November 1, 1918 p. y room 24 of the hotel "Prague" they formed a secret Czech group "Union for the Liberation of Russia". During that meeting, it turned out that the old man Khytil had been sent to Kyiv from the Don in order to collect Czech volunteers for General Alekseev's army. However, during the discussion, those present still came to the conclusion that it is better to create a Czech wife in Ukraine to help the Entente, not the Russians [213, pp. 7–9].

The first order for the Dnipro Czechoslovak National Guard was given on November 17, 1918 by Captain Hrushka. Captain Vishka, who was dismissed from his post on November 27, became his assistant. The wife included 13 officers who served in various military units: in the Kuban Army, the 3rd Czechoslovak Rifle Regiment, the Austrian Army, the 7th, 42nd and 51st Siberian Rifle Regiments [213, pp. 11–12].

In general, it was in the ethnic structure of Volyn that the Czech ethnic group was formed, which led active political activity on the Right Bank. The Czechoslovak

political movement was supported, to one degree or another, by the governments of the Ukrainian People's Republic and the Hetmanate, which became the basis for the formation of future close international relations between Ukraine and the Czech Republic.

So, political transformations and the struggle for power in Ukraine during 1917–1919 awakened the national consciousness not only of Ukrainians, but also of national minorities. All minorities of the Right Bank - Russians, Jews, Poles, Czechs, Germans and others - took an active part in the public movement at the national and local levels. They formed a number of parties and organizations that resolutely defended their own positions and beliefs, which often differed and conflicted with each other. However, not everyone took advantage of the Law on National Personal Autonomy, for example, the Germans. The difficult political situation caused a greater desire among the Polish, German and Czech national minorities to return to their ethnic homeland than to fight for public and national rights in Right Bank Ukraine.

6.3 Public and political activity of national minorities of the Right Bank with the establishment of Soviet power in Ukraine

During the establishment of Bolshevik power, the socio-political movement of the national minorities of the Right Bank remained noticeable. However, any public activity was directly regulated and controlled by the Bolsheviks.

First of all, the activities of the departments, subdivisions, sectors, sections, bureaus of national minorities under party committees created in 1920 were noticeable. Documents and instructions on the creation of national sections and the organization of their work were regularly issued on the Right Bank. The national sections were an integral part of the subdivision of national minorities under the propaganda and agitation department of the party's regional committees. The governor's bureau was elected to lead the work of the national sections. Issues of work among national minorities were in the field of view not only of the sponge committee, but also served as a subject of discussion in centers and general meetings [214, p. 143].

Special public activity was shown by national minorities in the Bolshevik agrarian and social transformations. In the 1920s, the increase in productivity and marketability of agricultural production led to the diversification of forms and the expansion of the grassroots periphery of cooperative societies of national minorities.

The formal proclamation of the regime of promoting the development of peasant cooperation contradicted both the general goal of socialist socialization of the agrarian sphere and the command-administrative methods of managing public structures on the part of the Bolshevik state, leading to the leveling of national cooperative forms and ignoring the traditional directions of the economic life of the rural population of national minorities. The deployment of military communism in the areas where ethnic minorities live was determined by the policy of administrative pressure and state terror, the participants and hostages of which were peasant public associations [215, pp. 137–143].

Their participation in the functioning of local authorities was declared to be one of the areas of activity of peasant public associations of national minorities of Ukraine.

Accordingly, according to the data of the Central Committee of Ukraine, the policy regarding local councils carried out by class unions in areas with a compact population of national minority peasants was practically no different from the line pursued by these organizations among the Ukrainian population. Implementation of the principles of Soviet suffrage was officially entrusted to village election commissions. Formally, they represented the entire set of village public associations and were elected at the general meeting of the village. In practice, in accordance with the existing instructions, the political centers and the Committees of Poor Peasants (hereinafter referred to as the KNS) recommended only rural activists loyal to the regime to the election committees. Since the Russians of the Right Bank did not consider themselves to be national minorities, their views directly coincided with the pro-Russian public direction.

In 1920, the national communist groups within the CP(b)U took up campaigning and propaganda work with renewed vigor. The activities of the German and Czech departments took place in the following main directions: campaigning, organizational and cultural and educational work. The Communist Party of Ukraine, as reported in its

report for the second half of 1920, sent instructors to the colony who used every opportunity to organize rallies and lectures on political, economic, and cultural and educational topics. In particular, during the period of establishment of Soviet power on the Right Bank, 120 rallies, 60 women's meetings, 30 youth meetings, and 25 lectures were held. Agitation was also carried out through newspapers and other publications.

At the end of 1919 – the beginning of 1920, the CP(b)U party remained the ruling party on the Right Bank. There were also two main groups of political parties. The first group is the national-communist and pro-communist parties Ukrainian Communist Pariah (Bortbists) and Ukrainian Communist Pariah (Ukapists), as well as the Ukrainian Party of Left Socialist Revolutionaries (Borbists), the Jewish Bund (Komfarband) and others [216, pp. 54–55].

Evsections at the party committees of the CP(b)U began working in 1919 with the aim of active propaganda of communist ideology among the Jewish population. On April 15, 1920, the Central Committee of the CP(b)U issued a resolution on the dissolution of the eusections, replacing them with the corresponding departments under the party committees. The eusections were accused of detachment from general party life, their independent resolution of fundamental personnel issues, and the Main Bureau of Eusections of the Central Committee of the CP(b)U – of trying to become a "political representative of the Jewish people in Ukraine" [216, pp. 57–58]. However, this did not prevent them from actively working in the same direction. For example, in Vinnytsia, on September 4, 1921, at a meeting of the Yevsection of the Podilsk District Committee, a decision was made to attract Jews who know their native language to enterprises where many Jews work, with the aim of preserving and spreading the Hebrew language [217, ark. 4]. And on November 27–30, 1921, on the initiative of the Evsection, the First city-wide non-party conference of Jewish workers was held in Vinnytsia, consisting of: Zionists – 5 people; Poalei-Zionu – 4; Mensheviks – 13, representatives of the Bund, United Socialists and Esdeks also entered there; the communist faction made up the majority – 180 [218, ark. 2].

Right-wing political parties - the USDRP, the Ukrainian Socialist Workers' Party and others were forced to emigrate and operate abroad.

The second group is the organizations of the all-Russian Menshevik and Socialist-Revolutionary parties. Therefore, the liquidation of multi-partyism in Ukraine was carried out in two main directions: firstly, it was the absorption of the national-communist parties and, secondly, the liquidation of the Mensheviks and SRs.

In July 1920, the Communist Party of Ukraine (b)U joined the UPLSR (fighters), which was quite numerous (at that time it numbered 7,700 people, mostly of Russian nationality) and influential among the Russian left-wing peasantry and laborers of eastern and Right-Bank Ukraine. This party actively fought against the Hetmanate, the Directory and the Denikin region. It actively cooperated with the Bolsheviks, its representatives took part in the work of the 1st – 3rd All-Ukrainian Congresses of Soviets, were part of Ukrainian Soviet governments and other authorities. Therefore, a strong left-wing current emerged in the party, which significantly exceeded the right-wing ones, and the Central Committee of the Borotists party consisted almost entirely of leftists, such as, for example, the Russians M. Algasov, M. Alekseev, V. Kaczynskii, Ye. Terletskii and others. Therefore, after joining the KP(b)U Party of the Struggle Party, they themselves decided that now "our time has come, and we need to now resolve the issue of uniting with the Bolsheviks."

The Jewish minority perceived the establishment of Bolshevik power in the 1920s as far from ambiguous. At that time, the strategy of the Bolsheviks for the eradication of religion, including Judaism, the Red Terror against the rabbis, Jewish socialist parties, and finally the introduction of military communism, which, along with the confiscation of bread from the peasants, provided for the reckless nationalization of industrial enterprises, trade and even handicrafts - all this did not create more or less favorable conditions for the normalization of the life of the Jewish community. That is why the masses of Jews, most of whom had not yet recovered from the pogroms they had experienced, sought to leave the Bolshevik-controlled part of Right Bank Ukraine as soon as possible, hoping for a better fate in emigration. During 1920–1921, about 200,000 Jews from the Kyiv, Volyn, and Podil provinces left abroad [219, pp. 136–138]. The social and political activity of the Jewish minority was suppressed and controlled. Instead, after the mass flight, at the initiative of the jewsections at the

Central Committee of the RCP (b), the Soviet government did not take urgent administrative measures to artificially narrow the emigration flow, forcibly returning to their places of previous residence those who could not prove that they had grounds for emigration officially recognized by the Soviet authorities.

The situation with conflicts between Bolsheviks and Jews was not improved by the fact that the Communist Party created in 1918 a special Jewish Commissariat (Yevkom) and a Jewish Section (Yevsektion) under the Central Committee. They were based on Jewish communists, and among the main goals of these structures and their dozens of local branches on the Right Bank was neither the representation of the Jewish population nor the alleviation of its fate. In this case, they tried to monopolize the right to political activity in the right-bank provinces, using the example of councils that monopolized the right to national politics in the name of the proletarian dictatorship [216, p. 43].

The leaders of the Evsections considered it necessary to establish control over the adoption of any decisions concerning the Jewish population. The realization of these goals led to the actual defeat of other parties claiming to support the Jewish national minority in Right-Bank Ukraine.

By the beginning of 1921, almost all Jewish socialist parties ("United Jewish Socialists", "Bund" and "Poalei Zion") found themselves in a split, unable to withstand pressure both from the inside and from the outside - from the Communist side. Subsequently, those members of these organizations who were oriented towards the Communists joined the Communist Party and its Evsection. Those who expressed disagreement with the authorities had a choice - either to leave political activity or to go underground [216, pp. 83–84]. Changes in national politics contributed to the growing feeling of marginalization among Jews.

June 24, 1919 in Kyiv, at the address of st. Khreshchatyk 36, sq. 3, the "Society for the Study of the History of the Jewish Labor Movement and Revolutionary Social Currents in Jewry" was formed. The presidium included: Ya. Litvak, M. Zilberfarb and M. Rafes [220, ark. 3].

In 1921, the legal political organization in Volyn, Kyiv Oblast, and Podilly remained the Jewish Communist Party "Poalei Zion" (JCP PZ), which advocated the creation of a Jewish proletarian nation through the colonization of Palestine; construction of bodies of Jewish proletarian self-government for social and cultural issues - Jewish workers' councils; creation of a single plan of Jewish communist construction; the organization of special Jewish proletarian self-defense [221, p. 124]. One of the members of Poalei-Zion, Reichman, emphasized that "this is not the time to criticize the Soviet government" and announced a party declaration in which he developed requirements for the organization of Jewish "soviets" [222, ark. 3].

Also, in the first half of the 20s, the Zionist socialist federation "Droir" ("Freedom") operated in Ukraine, which sought to unite all Jewish youth organizations into a single union of Zionist-socialist youth. Its center was located in Warsaw, and branches were created and operated in Podilsk, Volhynia, Kyiv and other provinces. She had her own newspaper called "Revolutionary Thought". The organization "Hashomer Hatzoir" was also active. It united Jewish youth aged eight to 21 and had not only a Zionist, but also a sports-scout character. In total, in the USSR in these organizations there were more than 8 thousand members of the "red" and 2-3 thousand "white and blue" Hashomer [223, p. 236].

On the other hand, it was more difficult for the Zionist political parties to defend the interests of the Jewish masses, because they acted semi-legally. The most influential Zionist associations were the Zionist Socialist Party (SSP) and the Zionist Labor Party Tseirei Zion (STP CC).

The Zionist Socialist Party was formed in 1920 as a result of the separation of some activists of the Zionist Labor Party. She recognized the class struggle, but only within the framework of parliamentarism. Like others, this party also had a secretive character, whose members, like the STP, used nicknames in their work and encrypted letters. Their printed organ was Zionist-Socialist Thought. According to the DPU, it was the most stable, active and dangerous political organization among the entire Zionist movement in Ukraine.

The Jugend organization had a special political color, which united Zionist-socialist youth and promoted socialist ideas among Jewish youth and tried to educate them in national self-awareness. She carried out work in the field of economy, in particular, she created production tools, she cooperated in this direction with the Zionist organization Gehalutz* [224, pp. 278–279].

An important element of the public life of the Jewish national minority in 1920–1921 was their self-defense organization. Self-defense units were created in all small and large towns of the Right Bank. The Soviet authorities did not like the certain independence of the Jewish self-defense units, which, moreover, were apparently financed exclusively by the Jewish bourgeoisie. According to the Communist Party, the case had to be carried out exclusively under its control [225, pp. 38–39].

Accordingly, in January 1921, the Politburo of the Central Committee of the CP(b)U spoke out in favor of the liquidation of public Jewish self-defense units, which were created on a national, not a class basis. The objections of even the head of the National People's Congress H. Rakovsky, who argued that the organization of self-defense with observance of all guarantees of class characteristics in the towns where pogroms had previously taken place, were absolutely necessary for the near term were not taken into account. Town communists also opposed the liquidation of Jewish units [226, ark. 225–227]. The Jewish population of the Right Bank of Ukraine, in conditions of a difficult economic situation, often united in order to preserve an established social and household situation.

In general, the Bolsheviks paid considerable attention to the social and political activities of Jews and Poles, since they constituted the majority among the minorities of the Right Bank.

For example, the newspaper "Bolshowyk" (March 1920) often provided false information about the Polish national minority. The publication emphasized the "atrocities of the Polish legionnaires": "The legionnaires committed terrible atrocities during their unsuccessful offensive. So, in one village, for the fact that 4 Red Army

* Gehalutz is an international Zionist organization created by Joseph Trumpeldorf in January 1919 with the aim of preparing Jewish youth for resettlement in Palestine.

soldiers were found, 14 villagers and found Red Army soldiers were killed. They also killed Red Army soldiers, gouging out eyes and other body parts. There were also many robberies" [227].

In another article, "Polish Communists in Volhynia," it was emphasized: "In 1920, a Polish Bureau of Propaganda and Agitation was established in Zhytomyr, which manages propaganda among the Polish people of Ukrainian villages. Communist literature is distributed, reading rooms are opened" [227].

To carry out the policy of involving the Polish population for the construction of socialism, the Soviet authorities created a party-administrative apparatus in the USSR. In April 1921, the department for national affairs under the People's Commissariat of Internal Affairs of the USSR began to operate, and in August, the Nationalities Council under the People's Commissariat of Education of the USSR.

In 1921, the Regulations on National Sections at the Party Committees of the CP(b)U were adopted, signed by F. Kon and I. Kulik, which stated: "To conduct agitation and propaganda among workers and working national minorities, to develop and present before by the party and Soviet bodies on the issue of party and Soviet construction, within the framework of party resolutions arising from the everyday and cultural characteristics of these masses, and for the performance of special tasks, party bodies may be created under the organizations of the CP(b)U section of national minorities" [228, p. 74].

In particular, at the Central Committee of the Communist Party of Ukraine in 1921, the Polish Bureau was established, which functioned until 1931. Its members included S. Konarskyi (head), F. Matushevskyi, E. Sviontek, B. Raport, M. Sviontek, I. Lonstein. Polish bureaus operated under the provincial party committees, in particular, under Volyn and Podilsky [228, p. 77].

Polburo departments were established in small towns, in particular in Zhmeryntsi, Proskuriv, Kamianets-Podilskyi, Mogilev-Podilskyi, Novaya Ushytsia, and Letychyv. Thus, according to the report of the head of the Polburo department in Zhmerynka, H. Grigoryovych, in the summer of 1921, agitation among the Poles was carried out

successfully. And on July 20, 1921, Polish refugees organized a farewell rally and went to Poland with the slogans "Glory of the Revolution" [229, ark. 7].

Also, in November 1921, at the third conference of Polish communists in Moscow, a decision was made to send communist cadres who speak Polish to Right Bank Ukraine to carry out Soviet propaganda work among the Polish population. Secret circulars of the Polburo instructed its local units to monitor the behavior of the Polish population and report on "all counter-revolutionary manifestations in the field."

At the same time, among the Polish population of the Volyn province, a decree was forcibly imposed on the nationalization of enterprises and other real estate and their transfer to the ownership of the Radnarkhoz (Soviet national economy). Factories, workshops, warehouses, transport, hotels, shops, currency, banks, housing, etc. became the property of the state. The Revkom successfully began accounting for nationalized wealth. The AREC (All-Russian Emergency Commission) carried out its massacres on a full scale. On November 6, 1920, a Russian, the commandant of the July 1919 peasant uprising against the Bolsheviks in Novograd-Volynskyi, M. Modestov, who managed to stop the pogroms of the Jews, was shot [230, p. 285].

After the establishment of the Soviet regime, Poles who were suspected of sympathizing with and participating in the insurgent movement, during the march of Y. Pilsudskii's troops to Kyiv in 1920, in the activities of the Polish military organization, were robbed, sent to forced labor camps, subjected to repression [231, p. 75]. That is why the inhabitants of Podillia and Volhynia often turned to the Polish army for the purpose of introducing troops into their provinces. Some residents of Proskurivskyi and several other neighboring counties appealed to the Polish government to introduce the Polish Army into the territory of Podillia to protect people's lives and peace. The reason for such a request was that "Bolsheviks in Ukraine are fueling the flames of hatred for Poles, with the help of leaflets they began to slander the Entente and the Polish Army, attributing to Polish soldiers the abuse of Ukrainians in Eastern Galicia occupied by the Poles, announcing retribution to the entire Polish race. The owner of the 120-mortuary estate of Buyalsky in Janov near Bazalia was killed. In Lyshuvka, not far from Kupel, the Sichovites brutally murdered a Zemstvo

citizen, Felix Minkevych. The Polish language, the Polish school, Poles-officials, in a word, everything Polish is subject to tireless persecution" [230, pp. 305–307].

Unlike the Jewish parties, the Czech and German social movements on the Right Bank had their own difficulties. Jews mainly lived in cities and towns and were more active in public life than other national minorities, who were mostly rural dwellers. The territory of residence of different ethnic groups had a considerable influence on the nature of their public positions [232, p. 19].

In the national German and Czech villages, there were traditional organizations that had a religious color and functioned exclusively within the territorial boundaries of a separate settlement and did not have any centralized management. German youth hardly took part in public life, no party, Komsomol or pioneer organizations were active, but 9 national newspapers were published in the three provinces of the Right Bank. Two conservative religious organizations were also discovered – "Marienkinder" and "Ordensweiber" [233, p. 186]. The first organization included girls of different social status: daughters of poor people and wealthy peasants. According to the statute, they were forbidden to go to parties, theater performances, and meet boys before marriage. In another organization, "Ordensweiber" (Order of Franciscan monks), it was necessary to strictly adhere to the canons of the Catholic faith, to spend free time in fasting and prayer.

Among the Czech public organizations in Volyn were the fire brigade (Ochotnicza Straż Pożarna), "Sokół", the Agricultural Society (Towarzystwo Rolnicze) and others. It was with their assistance that the Czechs published their own magazines. The "Czechoslovak People's Association" (ČNO), "Czech Mother School" (ЧМШ) also expanded their activities [234, p. 55]. The main idea of public organizations was to maintain economic and cultural ties between representatives of the Czech national community in Volyn. Such organizations were recognized by the Soviet leadership as hostile, consisting of the Kurkul-clerical element and having no right to exist.

Despite everything, the Czech ethnic minority continued to maintain cultural ties on the Right Bank. On August 1, 1921, on the initiative of the Czechoslovak branch of the Volyn Provincial Committee (Bolsheviks), the First Congress of Czech Colonists

of Volyn was convened. The congress was held in the Peasant House in Zhytomyr. The delegates were representatives from villages (1 delegate from 200 residents) and members of the Committee of the Poor. Komnezam members were the most active group, but among the speakers there were also several representatives of the intelligentsia.

Most of the Czech colonists of Right Bank Ukraine did not support the new Bolshevik government. This is proven by numerous reports of the Central Committee of the Czech Communist Group. For example, in a message dated June 24, 1919, it is stated that the colony of "Czech Smiles" is absolutely opposed to the Soviet government. It is also stated that most of the "bourgeois elements" who did not leave for the Czech Republic remained in Kroshno and Zhytomyr [235, ark. 2–6].

Thus, with the arrival of the Bolsheviks in the political arena of Right Bank Ukraine, Russian and Jewish public organizations continued their activities, partially or completely merging with the Communist Party. The activity of the public movement of Poles has significantly decreased due to emigration and the hostile policy of the Soviet authorities. The Germans and Czechs, who did not willingly participate in the revolutionary race since 1917, and those who could not leave Ukraine, almost stopped social activities and limited themselves to solving problems of an exclusively local nature.

Conclusions:

1. The socio-political position of the Jews was primarily determined by the problem of the "settlement strip" and the active participation of the Jews in the revolutionary movement. On the eve of the Ukrainian revolution, Jewish parties set themselves the goal of guaranteeing the rights of national minorities, recognizing minorities' right to national and personal autonomy. In 1915, the Jewish Committee for Aid to the Victims of War (ECJV), the Society of Handicrafts (TRP) was established.

2. On the eve of the Ukrainian revolution, the socio-political movement of Poles was relatively active. Taking advantage of certain concessions, Polish communities created the "Polish House" in Lutsk (1906), the "Brotherly Help" society in Uman

(1906), dozens of Roman Catholic circles. However, after the First World War, the authorities treated with suspicion and mistrust the vast majority of the national minorities of the Right Bank, including the Polish population, resorting to brutal persecution and repression, accusing them of anti-Russian and separatist sentiments.

3. The German ethnic minority of Right Bank Ukraine did not participate in public and political activities until 1917. Instead, the Germans paid attention to their self-government. The internal organization of the German colonists in Ukraine was characterized by broad democracy (election of a manager, teacher, and priest).

4. The social and political views of the Czechs on the Right Bank were determined by their cooperation with the tsarist government. In particular, since 1916, the meeting of the board of the "Union of Czechoslovak Societies in Russia" has been held. Congresses of its delegates were held here, the main branch (branch) of the Czechoslovak National Council was located here – the highest representative body of the nation, the foundation of the future Czechoslovak government, as well as the headquarters of the Czechoslovak army and its reserve battalions. All of them were created with the aim of countering Habsburg Austria-Hungary.

The activities of the Czech People's Council on the territory of the Right Bank were aimed, first of all, at communication with locals and local groups abroad, as well as theoretical and practical solutions to the problems of immigrants. Czech schools were mostly established at the churches of the Right Bank. The network of folk schools in Czech settlements was quite dense, there were reading rooms and libraries. Until 1917, the Czechs maintained schools at their own expense and taught in their native language using foreign textbooks. Subsequently, these national schools were subordinated to the Ministry of Public Education.

5. Jews and Poles were the most active in the social and political movement of the Right Bank during the Ukrainian Revolution. In the Central Rada there were more than 15% Jewish and 20% Polish representatives. The Jewish parties – the Bund, the EUDRP, the Zionists, the OESRP, the Jewish Democratic Association and Polish associations – the Polish Circle, the Socialist Polish Party supported Ukraine's aspirations for autonomy, but primarily took into account their own territorial and

national interests. All national minorities of Right-Bank Ukraine during the Ukrainian Revolution took an active part in local self-government.

The change of governments in Ukraine during 1917–1919 did not weaken the political activity of the national minorities of the Right Bank. The officially canceled national freedoms did not prevent the national minorities of the Right Bank from taking an active part in the public and political life of Ukraine. Russians, Poles, Germans, and Jews held government positions during the Hetmanate along with Ukrainians.

The UNR Directory restored the abolished national freedoms and the law on national-personal autonomy of national minorities, but was unable to guarantee them. A series of Jewish pogroms swept through Right-Bank Ukraine, Polish estates were looted. Substantial damage was caused by the Bolshevik and Denikin occupiers. This led to the weakening of the social movement of the majority of national minorities of the Right Bank and caused a desire among them to leave for their ethnic homeland. Only Jewish parties and public organizations continued their active activities.

6. Starting from the second half of 1920, political parties and public figures of ethnic minorities on the Right Bank were forced to adjust their political programs and adapt to the new socio-political conditions caused by the establishment of Soviet power in Ukraine. Despite some belonging to the Bolshevik movement of Jews and Poles, the elections to the Soviets were carried out by the methods of harsh pressure of the new regime and were conducted in the interests of the state. Manifestations of free political thought and the creation of new parties were prohibited on the basis of an extensive party and repressive apparatus, particularly in the right-bank provinces. The most effective Jewish parties and organizations during the period of the establishment of Soviet power were the Zionist Socialist Party, the Zionist Labor Party "Zeirei Zion", Jewsection, "United Jewish Socialists", "Comferband", "Bund" and the Jewish Communist the "Poalei Zion" party, formed in August 1919. Some of them, such as the Bund, self-liquidated as early as 1921. Starting in 1919, Polish, German, and Czech organizations were forced to adapt to difficult conditions of existence, and Russian ones merged with the dominant Bolshevik by movement.

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7. Scientific aspect of jurisprudence in the works of M. Yu. Chizhov

Abstract

The relationship between the science of society (sociology), the science of the state (political science) and the science of law (legal science) is defined by M. Yu. Chizhov in a unique way, and in a generalized form it is as follows: on the basis of the specificity of the studied phenomena and relations, political science, along with political economy and intellectual sciences, is separated into an independent branch of social science, and jurisprudence is a part of the science of the state, more precisely a part of the "department" of the science of the state, which the scientist calls the science of public administration. It should also be noted that in the views of M. Yu. Chizhov on the issues under consideration, we find a significant influence of the ideas of his teacher - L. von Stein, under whose guidance he improved his legal knowledge in Vienna.

A comparative analysis of the ideas of M. Yu. Chizhov and other scientists (both scientists of that time and modern ones) allows us to state that an important point in M. Yu. Chizhov's concept is his recognition of political science as an independent science. As for his relationship with jurisprudence, his subordination of jurisprudence to political science is unfounded.

The main goal of jurisprudence - to understand the law - is carried out by the implementation of a number of tasks, the definition of which this scientist attached special importance to.

According to M. Yu. Chizhov, a lawyer must study not only the forms in which the law is made available to us (symbol, word, writing), not only the forms in which it becomes mandatory (custom, law), but also must be aware of the law as one of the social phenomena, as a product of various social factors acting under the influence of certain laws. Without a lawyer paying attention to life relationships, jurisprudence falls into the world of concepts without reality, into the world of forms without content, into the world of results without meaning. As M. Yu. Chizhov emphasizes, what makes a

lawyer a lawyer is the practice of law itself, as a set of norms, and the study of the development of law on the real ground of life relationships. The science of law turns from a simple knowledge of positive laws into a science only when the laws to which society obeys are recognized as the source of change and development of positive law.

7.1 M. Yu. Chizhov on the place of jurisprudence in the system of social sciences

It is worth starting by stating the fact that M. Yu. Chizhov borrowed an idea from contemporary German science about the organic representation of the science of society, the science of the state, and the science of law. Lorenz von Stein [282, p. 421]. It is also important to note that in M. Yu. Chizhov's views on the issues under consideration, we find the influence of the ideas of his teacher, under whose guidance he improved his legal knowledge in Vienna. Therefore, the views of M. Yu. Chizhov on such scientific issues as the system of social sciences, its main fields, the place of jurisprudence in this system, the relationship between social sciences, political science and jurisprudence, must be considered in a comparative perspective, namely, by comparing them with the ideas of Lorenz von -Stein, in order to reveal the extent of the latter's influence on M. Yu. Chizhov, as well as to establish the scientist's own contribution to the study of scientific problems of legal science.

Lorenz von Stein's ideas on this issue, based on the presentation of M. Yu. Chizhov himself, can be briefly summarized as follows. Lorenz von Stein divides all sciences by objects of knowledge into: 1) natural sciences; and 2) sciences relating to the personality in its essence and reality. According to Stein, the sciences based on the existence and activity of the individual are reduced to two sciences: philosophy and the science of the state in the broadest sense. The first deals with the essence, and the second with the phenomena of the individual's life in his individual and joint life with others; the first establishes a system, and the second deals with the knowledge of the phenomena of state life in order to learn the law. The science of the state in a broad sense for Stein is divided into two parts: 1) general, which provides the elementary

basis of the science of the state and is divided into: a) statistics (the doctrine of facts, the doctrine of the existence of nature in its relation to the self-determining activity of individuals and b) population studies (that is, the doctrine of the population and the conditions necessary for the realization of goals in real life); and 2) a special part, or political science, in the true sense of the word. The latter, in turn, is divided into the doctrine of goods, society and political science in its own sense. Thus, Stein gives too broad a meaning to the science of the state, which covers all phenomena of the real life of an individual [282, p. 7-10]. The state, according to Stein, is an expression of society; the science of the state, based on society, is a set of forces that form law; knowledge of law from these forces, more precisely - knowledge of the relationship between forces and law, is included in jurisprudence. Thus, Stein introduces the idea of "an organic connection between the science of society, the state, and law; that the development of political science depends on the successful and correct development of the science of society; that the foundations of legal norms lie in a diverse combination of real elements of social life; and that social phenomena and laws give life the right" [282, p. 417]. Stein began an attempt to combine two areas of science into one: jurisprudence and political science, making the former dependent on the latter [282, p. 407].

M. Yu. Chizhov, when determining the relationship between the science of law and other sciences, proceeds from the postulate that since law is a social phenomenon, the science of law must be connected with the science of people's social life, that is, social science, which, covering all phenomena of the common life of people, is engaged in the study of the laws of coexistence and continuity of social phenomena [279, p. 4, 282, p. 418].

According to M. Yu. Chizhov, the criteria for the classification of social (social) sciences are the type of social phenomena and the functions of the social organism. According to the scientist, three categories of needs are clearly distinguished in the social life of people: 1) material needs; 2) spiritual needs; and 3) the need for a regulatory element that establishes external order in the social union of people, the need for a central force (authority) acting in the interests of this order. The satisfaction of these needs produced three types of social phenomena: economic, spiritual in a broad

sense, and political phenomena. According to the three groups of social phenomena, the social organism has three functions - economic, intellectual in a broad sense, and political. According to these three functions, M. Yu. Chizhov establishes three main "departments" of social science:

1) science that investigates the laws of the economic life of society (political economy, or the science of national economy);

2) science that investigates the laws of mental, moral, aesthetic, religious, etc. phenomena of social life, in other words, which reveals "the laws of phenomena that belong to the state of scientific knowledge in society, to the state of religious beliefs in society, to the set of guiding principles, or principles, society, known under the name of morality, and to the state of art and education in society" (intellectual sciences);

3) a science that studies the laws governing "phenomena that belong to the activity of the regulatory element in society, which introduces external order between the parts of the social organism" (the science of the state, or political science) [279 p. 4-5, 282, p. 418-419].

Thus, M. Chizhov recognizes the science of the state, along with political economy and intellectual sciences, as an independent branch of the science of society. As such, it stands out on the basis of the originality of the phenomena and relationships it investigates.

Moreover, according to the scientist, political science, "in addition to the laws that it borrows from other sciences, has its own laws, namely laws related to the activities of the regulatory basis of society (authority, power in society, the state). This activity can be directed by the state either to its own organization, or to the implementation of the idea of state organization in the real life of society with the help of various measures" [279, p.5]. So, according to M. Yu. Chizhov, there are two types of activity of the regulatory framework in the state, and, accordingly, the single and whole science of the state is divided into two large groups ("departments"): 1) science of the state system; 2) the science of public administration.

At the same time, the science of state organization studies "the laws of the external organization of the regulatory framework in human society, which includes

consideration of the forms in which legislative, governmental, and judicial power in the state are acquired, consideration of the bodies through which these powers act, as well as the principled position of the individual in relation to of the state and its bodies" [279, p. 5].

The science of public administration is a study "about the laws that the state authority observes in its activities in relation to society" [279, p. 6]. The need for this principle is due to the fact that in order to fulfill its purpose "the state must use known measures that are required by the goals of the state and give direction to all life in the state" [279, p. 6].

M. Yu. Chizhov, following Shtein, includes the following as the subjects of state activity: 1) determination of the state and attitude of an independent state to other states of the same type (international relations); 2) support of the autocracy of the state with the help of physical organized force (army); 3) determination of the economic conditions of the existence of the state (finances); 4) establishment of order between social elements on the basis of known norms, definition and protection of social relations with the help of known rules and guidelines (law); 5) promotion of comprehensive development and well-being of citizens (internal management). In addition, 6) the state has certain relations with the church. Each of the selected six spheres of public life is, according to M. Yu. Chizhov, the content of a special branch of the science of public administration: the science of international relations, the science of military life, the science of state economy, the science of law, the science of internal management (or the science of the police) and the science of church life. The scientist especially emphasizes that the type of state activity aimed at the formation of norms differs from other types of this activity and, based on the uniqueness of its content, constitutes an independent organism under the name of jurisprudence, or the science of law. Thus, although the science of law, according to M. Yu. Chizhov, is an independent complex science ("to understand the law is a matter of jurisprudence, which is divided into as many branches as there are types of law"), the scientist considers it, along with the specified sciences, as part of the science of the state, more

precisely - a part of that "department" of the science of the state, which is called the science of public administration [279, p. 7, 282, p. 420].

It should be noted that this definition of the relationship between jurisprudence and political science, the unification of these fields of science, or more precisely, the subordination of jurisprudence to political science, was adopted by M. Yu. Chizhov from Lorenz von Stein. Making jurisprudence dependent on political science, Lorenz von Stein defined law by those factors and phenomena that make up the content of state life; in this way, the scope of a lawyer's research expands significantly and crosses the boundaries in which jurisprudence has been for a long time. However, as noted by M. Yu. Chizhov, showing the constant connection between the laws governing state life and the laws determining the legal life of human society, Stein in his theory of law did not deal much with the legal norms themselves, and from this point of view, his the doctrine of law is one-sided and weak [282, p. 407, 280, p. 563].

In our opinion, this definition of the relationship between jurisprudence and political science is based on the character of M. Yu. Chyzhov's understanding of law, which results from the close connection between law and the state in its formation and functioning. As it has already been noted, law for a scientist is a product of the activity of the regulatory framework in the state (a manifestation of supreme political or social authority, power), which forms law under the influence of various social phenomena [279, p. 6-7]. The scientist states that the regulatory power of the state is manifested in two ways: both in the formation of law and in the implementation of law.

It should be noted that the recognition of political science as an independent science was characteristic of some scientists. The need for specialization of the science of the state was especially emphasized by the famous German political scientist H. Jellinek [241, p. 5], according to whom "all attempts to dissolve the science of the state in any other science stem from the vagueness of thinking and must therefore be energetically rejected" [241, p. 53].

B. M. Chicherin defended the comprehensive study of the state, who, in his own words, "did not limit himself to one legal aspect" when studying his subject - the state - in the "Course of State Science". As he believed, "the correct point of view can be

established only by a comprehensive study of the state" [285, p. 4]. MM Alekseev also wrote about the separate science of the state [236].

It should be noted that the domestic pre-revolutionary scientist B. Kistyakovsky also distinguished between "sciences of law" and "sciences of the state" [248, 249, p. 437-442]. In his opinion, it is possible to solve important issues regarding the state when, along with legal studies, historical-political, sociological, psychological, and philosophical-ideological studies of the state will be done. In B. Kistiakovsky's interpretation, the science of law studies the state as a purely legal phenomenon, which is the objective of a special science of law - the science of state law. The scientist asserts that, by studying one side of state and social phenomena, it is not possible to study the state as a whole. From this we can conclude that the study of the state cannot be carried out within the framework of legal science. Other aspects of state phenomena (economic and social) should be given to other sciences - political economy, sociology and social science about the state. So, according to B. Kistyakovsky, the totality of this knowledge constitutes the science of the state [252, 253, p. 12-13].

It is interesting that the question of the relationship between political science and jurisprudence remains debatable to this day. There is a widespread opinion about the existence of a single legal science that studies the state and law [257, 258, 261, 266, 270, 271, 272, 273, 274]. Thus, the independence of jurisprudence and political science is not recognized. Only in some educational courses, the theoretical study of law is separated from such a study of the state [259, 260, 286, 287]. However, in modern legal literature, separate attempts have been made to justify the independence of political science in relation to legal science.

Thus, the outstanding Ukrainian jurist M. I. Kozyubra notes that the general theoretical discipline continues to develop as a discipline with a dual content of its subject, which is justified by the inseparability of the relationship between the state and the law in the process of their emergence, functioning and development in accordance with the scientific methodology in the relevant jurisprudence legal approach. And further: "Subject-forming for general theoretical jurisprudence, as well as for legal science as a whole, is the definition of the concept of law" [250].

Thus, V. E. Chirkin in his work entitled "Political Science" [284, p. 6], justifying the independence of political science, at the same time leaves theories of the state outside of political science, within the framework of jurisprudence, while "the explanatory science of the state," wrote H. Jellinek, "is theoretical political science, or the study of the state" [241, p. 7]. Critically analyzing the views of V. E. Chirkin, M. A. Damirli quite rightly notes that the theory of the state cannot exist outside of political science [239, p. 249-251]. Therefore, M.A. Damirli is right when he writes about the need for an independent, comprehensive science of the state - political science, the task of which would include a comprehensive knowledge of the state. Like any other science that studies a special sphere of social life, political science is divided into theoretical, historical and applied parts, which is reflected in their separation into the corresponding branches of the science of the state [237, 238, p. 166-173].

Yu. M. Oborotov defines the difference between jurisprudence and political science along the lines of hermeneutics. In his opinion, taking into account the fact that the so-called hermeneutic sciences can be distinguished, that is, sciences that deal with communicative interaction and are internally connected with language, text, jurisprudence is a hermeneutic science, while political science is not in its main such parts [255, p. 7, 255, 256, p. 30].

The conducted comparative analysis shows that an important moment in M. Yu. Chizhov's concept is his recognition of political science as an independent field of knowledge. As for his relationship with jurisprudence, his subordination of jurisprudence to political science is unfounded.

7.2 The task and system of jurisprudence in the interpretation of M. Yu. Chizhov

According to M. Yu. Chizhov, the goal of human knowledge is to understand phenomena from their causes and to find the laws governing the world organism. In this connection, a scientist in the true sense of the word calls a set of known laws, on the basis of which the coexistence and sequence of world phenomena occurs [283, p.

13-14]. Therefore, the business of jurisprudence is to understand the law [279, p. 7]. This main goal of jurisprudence as a science in the true sense of the word is carried out by the implementation of a number of tasks, the definition of which this scientist attached special importance to.

M. Yu. Chizhov determined the tasks of his contemporary law science based on the analysis and constructive criticism of subjectivism and objectivism in the knowledge of law. He noted the importance of a huge revolution in legal science, made in the 19th century, which sought to find new foundations for law, which took place in the context of the struggle to liberate law from its subjective foundations. Until now, according to M. Yu. Chizhov, philological and legal thought ignored two very important things: 1) the importance of history in the formation of law; 2) the influence of the objective, real world on the process of law-making [281, p. 1].

As already noted, M. Yu. Chizhov emphasized a special role in the struggle to liberate the science of law from the subjectivism of the historical school of law and extreme objectivists. Thanks to them, the belief in the inevitability of the objective real basis of law was strengthened in jurisprudence. M. Yu. Chizhov considered it comforting that lawyers, instead of memorizing legal norms, began to study the spirit of law as one of the moments of social life; began to search for objective, real forces involved in the formation of law; the content of the science of law was defined differently [281, p. 6]. But M. Yu. Chizhov criticized the representatives of the mentioned students for their one-sidedness, which consisted in the fact that they neglected the foundations of law, which are rooted in the human personality.

In order to correspond to the actual state of affairs, according to M. Yu. Chizhov, the tasks of the science of law must be different: it must not forget one very important thing: that law is the product of those forces that are rooted both in the objective, real world and equally and in human nature. Therefore, in order to understand the law, it is not enough to limit oneself to finding out only the objective, real life conditions of a person, but it is also worth studying the nature of the person himself. Therefore, the content of the science of law consists in revealing the subjective and objective foundations of law. This content is formed in accordance with the needs of the modern

common life of people, in which the main principle is the solidarity of personal and public interests, solidarity based on the recognition of the sanctity, inviolability and inviolability of the person. It is possible to implement this solidarity only through the study of all factors of law formation, not excluding the individual, that is, through the study of subjective and objective actors of law [281, p. 6-7].

M. Yu. Chizhov also disagreed with the opinion that the understanding of law is conditioned by knowledge of only the norms of current law. He wrote: "For us and today's lawyers, one fact is important, that the time when the goal of legal education was considered to be knowledge of only the norms of current law has irretrievably passed; that the direction by which the concept of law was determined only from history also weakened. We can proudly say: the time has come to recognize the norms of law only as ways to enter life; that the understanding of law presupposes the necessary knowledge of objective real phenomena of human life. We know that only reality causes law with its instructions to life and supports its existence, the study of the laws of development of objective, real conditions of personal existence is a necessary proposal for understanding the laws of law development. Only through the study of the objective conditions of human existence have recently more or less accurately understood the forms and laws of the political and legal development of nations, determined the forces of the social and state organism" [281, p. 5]. These ideas are very relevant today in the context of the problem of socialization of legal science [262].

M. Yu. Chizhov, analyzing the works of his contemporary lawyers, notes that some of them limit the task of the science of law almost exclusively to the consideration of the so-called growth of law, i.e. the understanding of the consistent development of rights and the connection to dependence on various social phenomena and factors [282, p. 428-429].

L. von Stein adheres to the same position, according to which the knowledge of the norms of positive law is not included even in the science of law, but a special department of human conduct is created: "die Rechtskunde". The task of the science of law is not to study law, but to understand the forces that create law. M. Yu. Chizhov

criticizes the definition of the task of jurisprudence by L. von Stein "as a science that learns law-forming forces", because such a definition is insufficient on the grounds that "jurisprudence deals not only with the forces that form law, but also with the law itself, formed by them" [280, p. 564].

Establishing the aforementioned task of jurisprudence, L. von Stein took the ranks of representatives, according to L. von Stein himself, of the social science of law. Regarding this, according to M. Yu. Chizhov, the teaching of L. von Stein is of great importance in the science of law. He not only pointed out the need to understand law in connection with life, but also derived from life the foundations of the existence of certain legal institutions. Pointing out the need to change the law, he demanded an explanation of the process of the formation of law as one of the social phenomena, among which economic phenomena undoubtedly take the first place [282, p. 429].

By juxtaposing "die Rechtskunde" and "die Rechtswissenschaft", L. von Stein, according to M. Yu. Chizhov, wanted to distinguish the practical practice of law with the aim of applying it to life from its scientific knowledge, which implies the disclosure of the laws of legal phenomena. In the first case, the center of gravity of the entire activity of lawyers lies, of course, in the art of bringing this specific case under the appropriate norm, that is, processing and discussing a specific case in accordance with the legal norm, in the second - in clarifying the phenomenon from its causes.

According to M. Yu. Chizhov, law is a set of norms that belong to the phenomena of social life. Regardless of the knowledge of the origin of these phenomena (norms), the subject of a lawyer's scientific pursuit can be the "construction" of law. In this exercise, the lawyer combines norms into one whole by the unity of their objects and purpose; legal concept and extends to the legal system. Only such study and formation of law separates a legal specialist from a non-lawyer.

Thus, according to M. Yu. Chizhov, a lawyer studies not only the forms in which law is made available to us (symbol, word, writing), not only the forms in which it becomes mandatory (custom, law), but also realizes law as one of the social phenomena, as a product of various social factors acting under the influence of certain laws. It may not be a lawyer (for example, a political economist, a theologian, or even

a naturalist) to study the forces and factors that influence the formation of law, and everyone, studying these forces for their own special purpose, will give one or another answer to the question of connection and the dependence of law on certain social factors or natural conditions (economic, religious, flora and fauna), but their solutions, certainly scientific, will be for a lawyer only the necessary material for the formation of a theory of law; these specialists still cannot be called a lawyer in the strict sense of the word. M. Yu. Chizhov believed that, ignoring the content of life relationships, it is impossible to obtain scientifically sound legal results, although the independent study of this content may not be the job of a lawyer. Without a lawyer paying attention to life relationships, jurisprudence falls into the world of concepts without reality, into the world of forms without content, into the world of results without meaning. But, as M. Yu. Chizhov emphasizes, what makes a lawyer a lawyer is not only the study of the development of law on the real basis of life relationships, but also the practice of law itself as a set of norms [282, p. 429-430].

According to M. Yu. Chizhov, the scope of the science of law, first of all, includes consideration of the creation and implementation of law in the real life relationships of people, i.e. the creation of law and the application of norms to real life by state authorities. But a lawyer cannot limit himself to considering the formation of law, i.e., the steps by which law rises to its binding nature. The science of law turns from a simple knowledge of positive laws into a science only when the source of change and development of positive law is recognized as the laws to which society obeys [282, p. 421].

According to M. Yu. Chizhov, the tasks of jurisprudence cannot be established arbitrarily, but must arise from the nature of law, which he understands, as already noted, as a set of three elements inextricably linked: 1) norm; 2) vital phenomenon (relationship); and 3) law-making power.

According to M. Yu. Chizhov, in the first moment (in the moment of norms; when the law appears as a binding and regulatory force, as external human actions and relations), the task of jurisprudence is not only to know the content of the norm, but

also most importantly, in understanding the principles of their binding force, in understanding why and for what members of a given society obey the law [281, p. 7]. In the second moment, according to the scientist, jurisprudence is aimed at understanding the content of legal norms (relationships and life phenomena, relationships in their actual and past), seeks to study their properties, to separate the accidental and inconsequential from the necessary and essential in order to create a general image of the considered relationship and understand its purpose for human life [281, p. 7].

M. Yu. Chizhov attaches special importance to the third point, without which the science of law would be limited only to the assimilation of norms that correspond to life relationships, and about every lawyer it could be said that he knows the law, but does not yet understand it, since for a lawyer there is still hidden reasons, he has not yet understood the forces that transform a life phenomenon into a legal one. When studying these reasons, these law-making forces, the fulfillment of the main task of jurisprudence begins: understanding the process of law-making on the basis of understanding those forces, which by their nature are not law at all, form law. Here, the connection between the norm and its content is learned through the social force common to both of them [281, p. 8].

Based on these statements, M.Yu. Chizhov reduces the task of modern legal science to the following three provisions: 1) to know the norms of law that were and are in effect; 2) to the study of the phenomena of human life determined by law; and 3) to an understanding of the forces that transform a life phenomenon into a legal one: to an understanding of law-making forces [281, p. 7].

According to M. Yu. Chizhov, the solution of the above-mentioned three tasks of jurisprudence is based on the concept of law as a set of norms established in accordance with the natural life phenomena of people, formed (phenomena) by forces rooted not only in the objective, lying outside the subject world, but also in the nature of the human personality. With this understanding of law, the content of jurisprudence is mainly reduced to the understanding of those forces that form law, that is, to the understanding of the personal and objective foundations of law. Only under this

condition, M. Yu. Chizhov confidently emphasized, jurisprudence is a science, otherwise it is simple knowledge.

M. Yu. Chizhov also attached special importance to the definition of the system of jurisprudence. At the same time, he proceeded from such a general position that world phenomena, which are the object of human knowledge, "on the basis of their similarities and differences, can be divided into groups, which include phenomena and relations with the same properties and signs. Human knowledge is also divided into groups of world phenomena; the diversity of groups of world phenomena creates the division of science into separate fields. With the development of knowledge, many separate branches of science appear that were once barely familiar or completely unknown. In turn, each branch of science is divided into so many parts that there is no possibility to examine them in their entirety, and each researcher is forced to choose for his studies any small department or small branch of science in order to know non multa, sed multum ("not much, but a lot." - A. D.). This is how the specialization of knowledge is created, which is a characteristic of our time" [283, p. 13-14].

According to M. Yu. Chizhov, jurisprudence is a complex education, an independent system. This system of the scientist is based on the systematization of law itself, which is developed on the basis of criticism of the views of L. von Stein, who proposed three ways of systematization of law. As a philosopher, he built a legal system based on eternally equal categories of personal life and divided law into criminal, civil and public law. As a lawyer, he established a system of law according to the system of phenomena and spheres of the real life of an individual and divided law into personal, economic, social and public law. The third system of law is a modified form of the first, which consists in the fact that all law is divided into the law of the state system, state-civil law (civil and criminal law) and the law of public administration.

According to M. Yu. Chizhov, neither that, nor the other, nor the third system of law in L. von Stein can be left unchallenged. M. Yu. Chizhov does not recognize the first system as satisfactory, because Stein singles out criminal law in a special branch, which stands next to civil and public law on the basis of recognition by one person of another as a fact. This reason, inherited from predecessors, can hardly have a scientific

justification at present, because the nature of a criminal offense is assessed not from the point of view of denial by one individual of the personality of another, but from the point of view of violation of the criminal law and legal order based on the norms of objective law. A crime is considered a crime not because it violates a valid right or the interests of an individual, which are based on objective norms, but because the criminal act violates the precept of the criminal law, which requires the inviolability of the legal order. Criminal laws are the essence of expressing the desire of common life for self-preservation, self-support. A crime is generated by a will that contradicts the norms that protect the conditions of existence of society, therefore, violation of personality is only a means of crime. In addition, not all criminal offenses deny personality, unless property is considered an extension of personality. Criminal law, which aims exclusively at public interests, does not constitute a special type of law, parallel to private and public law, but is a branch of public law [282, p. 422].

L. von-Stein's opinion that in all their legal systems the sphere of civil law is the sphere of economic property relations of an individual is recognized by M. Yu. Chizhov as correct, but with significant reservations. In his opinion, a large part of civil law is really the sphere of property relations, in other words, a large part of institutions and norms of civil law is an expression of the economic life of society. At the same time, the scientist believes that the science of civil law cannot be limited only to the knowledge of the definitions of external relations of people to each other regarding their private interest: it must understand the foundations of these definitions, which are rooted to a greater extent in the economic life of society. Therefore, a civilian cannot do without the study of political economy if he wants to understand its causes, and in this case - without the study of the economic forces of social life. If the science of civil law should be a science, then it cannot study property rights, servitudes, contracts without their economic basis [282, p. 423].

In addition, the sphere of private interests covered by civil law, according to M. Yu. Chizhov, is not exclusively the sphere of economic interests, civil law includes not only property, but also personal and family relations, that is, the sphere of private relations, which separates common life into separate persons, determining their

conditions of existence and protection. Moreover, there are a number of benefits, conveniences, benefits that have nothing to do with property, and meanwhile they cannot under any circumstances be attributed to public law. On the other hand, if all property relations were to be attributed to civil law, then artillery, fleet, and fortresses would have to be transferred from public law to civil law. The content of private law will be clear if we do not reduce this content to an interest covered by private law [282, p. 423]. This point of view seems to be very relevant in the conditions of the separation of economic law as an independent field.

As for the second type of legal system in L. von Stein, it is also, according to M. Yu. Chizhov, not free from shortcomings: reminiscent of the commonly used division of law into private (personal and property) and public, it forms a new branch of law - law public, occupying a middle place between public and private law and covering the law of social orders and classes. Public law, as an independent branch of law, caused by the appeal of independent public interests and spheres, supposedly independent of the state, according to M. Yu. Chizhov, had almost no followers in those days, because all public unions, their organization and activities were covered by the state union as the highest form of the common life of people. Speaking against the independence of public law, M. Yu. Chizhov believed that it could not be justified even from the point of view of Stein himself: yes, according to Stein, society is a collection of individuals that has not risen to the independence and self-awareness of an individual; an independent individual is only the state, which contains society (society is a state body), which, therefore, alone has a will that turns the right an sich into a positive right, obeying, of course, the nature of social orders. If society is the body of the state, then there is no need for a special law, social law, which defines social orders, classes accepted by the state and defined by state law [282, p. 424].

M. Yu. Chyzhov also disagrees with L. von Stein's third system of law, which divides the law into the law of state organization, distinguishing it from state law, into state-civil law (civil and criminal law) and state administration law. Here, according to Stein, criminal and civil law have one basis - the inviolability of the individual, namely: criminal law presupposes the violation of the individual, and civil law - its inviolability.

According to M. Yu. Chizhov, this basis of criminal and civil law is more original than scientific, because criminal law does not arise from the assumption of a violation of personality, but from a violation of the legal order. The difference between the law of state organization and state law is easily destroyed by the inclusion of both rights in public law, which concerns the organization and activity of the state [282, p. 424].

M. Yu. Chizhov himself defines the system of jurisprudence, or more precisely, the system of those legal sciences that study individual branches and institutions of law, based on "types" of law, groups of legal phenomena: jurisprudence is "divided into as many branches as there are types of law" [279, p. 7]. Types of law are formed on the basis of the nature of those relations defined by law. According to M. Yu. Chizhov, in the mass of social relations, two types of relations are sharply marked: private relations and public relations. The law makes both types of relations legal, and the order of all relations of society based on it is called the legal order. According to the mentioned two types of relations, the rules of law that protect, define and guarantee the mentioned relations are divided into: rules of private law and rules of public law.

So, regarding the division of law into private and public, M. Yu. Chizhov adheres to the classical views of Roman lawyers, in particular Ulpian. If private law is a set of norms regulating relations between private individuals regarding their private interests, then public law is a set of norms regulating relations between the state and public unions or private individuals regarding public interest. In the field of private law, a person is given the opportunity to establish relations at his discretion. In private relations, individual interests and the limits of their dominance collide with the same ones (the relationship of the parties in the employment contract, the price in the sale). In relations of a public nature, at least on one side there are public interests (for example, the interests of the state), on the other side, the same public interests or the interests of individuals may collide with them (for example, relations between the crown and parliament, society and the state, the state and criminals, police and citizens). In public law, a person is considered as a member of the state body, as a member of the whole, in everything dependent and subordinate to the whole. From the point of view of the state, an individual is the bearer not of his private rights, but of the

rights of the state, which a person cannot use at his discretion, but is obliged to exercise them. In private law, the bearer of private rights is a member of society recognized by the state as an individual. Certain qualities of an individual are recognized for her, as a result of which she acquires the opportunity to pretend to protect her interests to the assistance of state power. All private rights are linked to the public right to seek recognition and protection. All private law, therefore, rests on public law, which in relation to private law is completely independent. The protection of private rights depends on the discretion of the person concerned, while public rights in which the direct state is interested are protected at the initiative of public authorities. The public right granted to individuals is not given to them for their own, private interests, but for the interests of the entire state. Despite the noted difference between private and public law, there is unity between them: both serve the interests of coexistence, and private law occupies a subordinate position in relation to public law. The impact of public law on private law is felt in almost all spheres of the latter. Public law restricts the freedom of the person, property and circulation in the general or public interest. Public law is present in private law at almost every step, to the extent that a person's private legal activity is a condition of cohabitation. Private law is not the domain of exclusive rule of private interest. All law is formed for common life, which does not exist outside of the individuals who make it up. According to M. Yu. Chizhov, the valid reason for limiting the private right by public law is that the common interest is an inevitable condition for individual development and well-being. Therefore, the scientist summarizes, it can be recognized as a generally accepted rule: there is no private law that is only private: private law can be called the sphere assigned by the state to an individual who has his individual goals as a goal, to the extent that this desire corresponds to the interests of the state [279, p. 7-8].

According to M. Yu. Chizhov, private law norms are based on the natural classification of legal objects, i.e. everything that can be subordinated, on the basis of civil law norms, to the rule of a person as a means of achieving his life goals. According to the scientist, the object of law can be: 1) things, that is, certain objects of the external unfree world, which are capable of being subject to the legal rule of a person and have

a known economic value; and 2) external actions of a person. Some of the actions have no economic value for the authorized person, while others have this value. In the first case, it is assumed that the will of one person will be directed by the will of another in the interests of the first. These actions are included in the sphere of family relations. External actions related to economic good that can be valued in money belong to the sphere of obligation relations. The set of norms that determine the direct domination of one person over the external actions of another, which have no economic value for the first, belong to family law, which also includes property relations between spouses, parents and children. Finally, because a lot of property relations arise from family relations after the death of a person, a special branch of civil law is formed, according to which the known rights and obligations of the deceased are transferred to a known person. This right, which occupies an intermediate place between family law and property law, is the right of inheritance. The direct dominion of a person over a thing is covered by property law, and the dominion over the external actions of other persons of economic value is included in the obligational right. Thus, private law is divided into the following areas:

1) family ("family") law;

2) hereditary right;

3) property right;

4) binding law [279, p. 9].

As for public law, according to M. Yu. Chizhov, it covers relations between the state and public unions or individuals regarding state interests and is divided into separate branches according to the subjects of activity of the regulatory element in society. These subjects are: 1) self-government of the state (state organization); 2) international communication; 3) army; 4) finances; 5) the legal system of society; 6) internal management; 7) church. The law regarding all the specified subjects of activity of the regulatory power of society is called "the law of state organization and management", the varieties of which are: the law of state organization, international law, military law, financial law, management of the legal system of the state, the law of internal administration and church law. There are as many branches of the science

of public law as there are types of public law. Thus, we have the science of the law of state organization, the science of international law, military law, etc. [279, p. 9].

Above, we talked only about the system of those legal sciences, the object of which are certain branches and institutes of the legal system. Undoubtedly, the system of legal sciences in M. Yu. Chizhov was not limited only to the specified areas. We find in it considerations about various theoretical-legal and historical-legal sciences: general theory of law, philosophy of law, encyclopedia of law, history of law, comparative history of law, which are of considerable interest in modern conditions.

According to M. Yu. Chizhov, the main task of the general theory of law is "to discover the connection and continuity of legal phenomena, to reduce the mass of legal phenomena to a small number of principles, laws into one complete whole" [279, p. 4].

According to M. Yu. Chizhov, if philosophy deals with eternally equal law, which is based on the essence of the individual, then it will become a philosophy of law [282, p. 415]. The philosophy of law as a science deals with legal life an sich (in itself) [282, p. 417]. M. Yu. Chizhov criticized Lorenz von Stein's views on philosophy in general and the philosophy of law. According to the scientist, philosophy in general and philosophy of law in the form presented by Stein is not needed; it does not even fit the concept of science, which was given by Stein himself in the sense of the unity of forces (laws) and phenomena, in the sense of knowledge of certain laws in the aggregate of phenomena.

M. Yu. Chizhov emphasized the special importance of considering the gradual growth of law and understanding the general laws of the historical development of the comparative study of law. In his opinion, the comparative study of law should lead to the same benevolent results to which it led researchers in the field of anatomy, physiology, mythology, etc., that is, to the exact clarification of the laws of the development of legal life in all nations [279, p. 47]. According to the Ukrainian teaching, it is the comparative history of law, the importance of which has been assessed only recently, that helps in the historical phases of the development of law to distinguish national and periodic features from the general properties of individual rights [279, p. 41].

M. Yu. Chizhov on the status and purpose of the encyclopedia of law

The history of domestic jurisprudence is known for a whole galaxy of legal encyclopedists who left behind a relevant scientific heritage [240, 242, 243, 245, 246, 254, 263, 264, 265, 267, 268, 269, 270, 275, 276, 277]. Mykola Yukhimovych Chyzhov is one of them.

As already noted, in the late 1970s and early 1980s, M. Yu. Chizhov improved his legal knowledge at famous European universities (first in Heidelberg, Strasbourg, Munich, and Vienna, and then in 1882-1884 in Berlin, Paris and Strasbourg), intensively engaged in theoretical legal disciplines, studied the practice of teaching and studying the encyclopedia and philosophy of law at these universities. The result of these searches was initially a work entitled "Encyclopedia and Philosophy of Law in German and Austrian Universities" (Odesa, 1882). He also needed the accumulated experience when teaching since 1885 at the Department of Encyclopaedia of Law and History of Philosophy of Law at the Imperial Novorossiysk University. Foreign research trips and his own teaching experience later allowed M. Yu. Chizhov to prepare his own lecture course on the encyclopedia of law [279, p. 146-147].

According to M. Yu. Chizhov, there is no branch of jurisprudence, regarding which there would be so many of the most uncertain views, as the encyclopedia of law; almost every legal scholar interprets it in his own way. Therefore, everyone who begins studying the encyclopedia of law asks the question: what kind of science is the "encyclopedia of law"? What is its importance among other legal sciences? What is the purpose of its study and what is its content? [279, p. 3]. According to the scientist, the solution of these issues is important in terms of not only the fate of this subject at the university, but also the scientific identity of the encyclopedia of law.

On the basis of a critical analysis of large Western European and domestic literature on this issue, M. Yu. Chizhov, following M. Zverev [243, p. 21] groups the existing views on the status of the encyclopedia of law in the following way. Some of the scientists do not recognize the importance of an independent science in the encyclopedia of law, considering it only as an introduction to the study of law and the completion of its study. Others, on the contrary, consider the encyclopedia of law to be

an independent science. (M. Zverev reduced all points of view to two directions - "negative" and "positive").

Representatives of the first group, who deny the independence of the encyclopedia of law, justify its existence among other legal sciences purely for practical, pedagogical purposes, propaedeutic considerations. They believe that the encyclopedia of law is intended for those who start and finish legal education. In this connection, the opinion of the domestic scientist K. A. Nevolin is of interest, since, according to M. Yu. Chizhov, "it is one of the best and clearest opinions in all European legal literature on this point" [283, p. 7].

Thus, according to K. A. Nevolin, the encyclopedia of legal studies is an overview of the sciences of legal studies in relation to each other, although he formally recognized the independence of the encyclopedia of law, in fact he reduced it to the combination of legal sciences into one whole, to their abbreviated presentation. It is in this sense that K. A. Nevolin recognized the need for an encyclopedia for those who start and finish the course of legal sciences. According to K. A. Nevolin's view, the encyclopedia, considering legal sciences in relation to their content, firstly, gives the beginner solid points so that he can establish his concepts when studying these sciences; secondly, it shows the beginner the correct method of studying the laws; thirdly, it satisfies the student's natural desire to have any idea about the subjects of his future studies, to review his entire path in advance from the very beginning to the end. According to K. A. Nevolin, the significance of the encyclopedia of law for those completing legal education lies in the fact that an encyclopedic review at the end of his field suddenly illuminates in his memory everything he has confused for several years; he completes his studies as if they had lasted only a few days.

Scientists who give the encyclopedia the meaning of introductory and concluding science, along with justifying the existence of the encyclopedia of law for purely practical purposes, demand from the encyclopedia of law brevity and brevity of its content, and they recognize this brevity and brevity of the presentation as a necessary part of encyclopedic teaching of law. Referring to the ideas of P. G. Redkin, presented in his course "Encyclopedia of Legal, Political and Social Sciences", and analyzing

them in detail, M. Yu. Chizhov comes to the conclusion that "if the meaning of the encyclopedia of rights is determined by the practical goals of its teaching for those who begins and ends legal education, means to reduce the encyclopedia of law to the degree of means, to achieve with its assistance the subjective goals of students and teachers, which are flawed in themselves; and it also means to distinguish the encyclopedia of law from other sciences not on objective, purely scientific grounds, but on the basis of its dependence on the subjective requirements of the listeners or the teacher. Limiting our science and its meaning to the subjective weaknesses of the students or the subjective understanding of the teacher means excluding the encyclopedia from the field of science, reducing it to the place of a simple means for an external goal" [283, p. 10]. The main conclusion of M. Yu. Chizhov is that the meaning of the encyclopedia of law and its existence in the scientific body should be determined by objective scientific principles arising from the nature of the subject of this science itself.

According to M. Yu. Chizhov, recognizing the encyclopedia of law as only a concise and short "review", "essay" of all legal sciences should also be recognized as unscientific, because the concepts of "brevity" and "brevity" are not definite, stretched and do not derive from the essence of the content of the encyclopedia of law, and from the subjective understanding of the author, who can, as he likes and whenever he likes, introduce his arbitrariness into the content of the encyclopedia of law, which is completely foreign to science in the true sense. If the entire content of the encyclopedia of law is reduced to an abbreviated and concise presentation of the important truths of science, which are justified by external, extraneous goals, then, according to the scientist, its university position may even be superfluous: it should be destroyed, because it is possible to do without the encyclopedia of law [283, p. 10-11].

M. Yu. Chizhov is sure that the independent scientific value of the encyclopedia of law is determined by its specific content, which is not included in any of the special legal sciences in their individuality and in their totality. He considers the encyclopedia of law to be an independent science among other legal sciences, therefore he analyzes in detail the opinion of those scientists who defend the independence of the specified science and look at it as a single whole, organically connected in all its parts. If the

encyclopedia of law is an organic unity of all parts of law and the science of law, then where does the encyclopedia of law borrow its content from? - asks M. Yu. Chizhov. When solving this issue, some scientists believe that the encyclopedia of law does not have its own content or subject of study, which would not happen in all other legal sciences, but its independence is acquired by the way of attitude to the studied material, not by what it studies, but by how it is studied [263]. And others, on the contrary, assert that the encyclopedia of law has its own independent content, regardless of the special legal sciences taken together; it acquires its content itself from internal and external experience and draws appropriate conclusions; because the encyclopedia deals with the development of the idea of science, it is science itself, in other words, the science of sciences [246, p. 10-12].

In fact, even a superficial examination of the pre-revolutionary encyclopedic literature demonstrates the diversity of definitions of the content of the encyclopedia of law. Thus, M. Rozhdestvenskyi's book "Encyclopedia of Legal Studies" was an overview of the content of individual legal sciences [265]. In P. Delarov's encyclopedia of law, the subject of the law encyclopedia is law as a whole, at the same time it is not a science, because it does not investigate its subject, but describes it, repeats in a systematic connection the set of principles and provisions that should make up its object scientific review [240, p. 389]. M. Zverev in his article "Encyclopedia in a number of legal sciences" [243, p. 21, 259] writes: "While legal sciences investigate the phenomena of law, each in its own separate sphere, the encyclopedia seeks to cover the same phenomena in their entirety; it studies its subject as a whole, while all other sciences study it in parts. If, for example, civil law examines what law is in this specific form, and state law examines what law is in the field of phenomena of state life, then the encyclopedia seeks to understand what law is in general" [243, p. 24]. According to F. V. Taranovsky, the subject of the encyclopedia of law is the disclosure of those basic ideas of jurisprudence that permeate all special legal disciplines and receive detailed development in them in relation to the peculiarities of their private object and the point of view from which it is considered. Taranovsky's encyclopedia of law

consists of two parts: the general doctrine of law and the general doctrine of the state [270, p. 11].

According to M. Yu. Chizhov, the degree of validity of the given opinions can be revealed by establishing the reasons that gave rise to the encyclopedia in general, the encyclopedia of law in particular.

According to M. Yu. Chizhov, the encyclopedia exists alongside other special sciences on the same basis on which synthesis exists alongside analysis: the predominant application of analysis to the phenomena of world life creates specialization of knowledge, and the advantage of synthesis is encyclopedism. That is why the need for encyclopedism appeared as soon as certain special fields of knowledge reached more or less high development. The existence of the encyclopedia in general is brought to life by the needs of the human spirit for unity and is conditioned by the development of specialization of human knowledge, and is not justified only by practical propaedeutic goals [283, p. 13].

M. Yu. Chizhov notes that the science of his time had branched out too much, knowledge was too specialized, and the desire for the specialization of the sciences was too unstoppable, that such an aspiration could lead to the saddest results (to the preference of specialized education to the detriment of general education), if nearby with the desire of human knowledge for specialization, there was no other direction that sought the apparently lost connecting threads in the mass of special knowledge. This second direction of human knowledge, which is opposite to the first, is the desire to connect the conclusions provided by individual branches of knowledge, to combine the results they have obtained under one general principle, to merge the essential foundations of all sciences into one harmonious whole, into one system on the basis of the dominance of general laws in all world phenomena that are subject to human knowledge, on the basis of the unity of the forces acting in the world phenomena. Encyclopaedias exist to represent the unity of various sciences based on the generality of the laws of known phenomena. An encyclopedia is a synthesis of human knowledge that reconciles all the opposites of individual sciences and satisfies the human spirit's desire for harmony and unity. This is science in its true sense, reduced to the simplest

higher principles, on the basis of which all phenomena of world life are established and developed. (Faculties are the embodiment of specialization, and the representative of encyclopedism is the university as a scientific system in reality) [283, p. 14]. A unified representation of all human knowledge on the basis of the general laws of the world organism creates a general encyclopedia, and a person capable of compiling such a representation is called an encyclopedist in the true and broad sense of the word. The representation of a systematic collection of knowledge belonging to one or any field of science constitutes a private, special encyclopedia. A special encyclopedia is called to life for the same reasons as the existence of a general encyclopedia, that is, the need of the human mind for unity, in a system among diversity. There are as many separate groups of human knowledge as there can be special encyclopedias. Thus, there is an encyclopedia of philosophical sciences, an encyclopedia of medicine, etc. The encyclopedia of law, which belongs to the group of legal knowledge, is included in the special, private encyclopedias. The encyclopedia of law, as a special science, has not yet been fully defined. In any case, according to M. Yu. Chizhov, the unity of all legal sciences based on the general laws of the development of the phenomena of legal life constitutes the encyclopedia of law. It differs from other subjects of legal education not by the fact that it borrows its content from all sciences taught at the Faculty of Law, and not by the way of only considering the material presented to it, but by the fact that it has a special content that is independent of all other special legal sciences , and that she sets her own tasks [283, p. 15].

In another work, the scientist explains the need for such a generalizing science as an encyclopedia of law in a unique way. In his opinion, clarifying the general foundations of law and establishing a legal system is necessary when studying special sciences as much as it is necessary to clarify details from the general whole. The scientist is sure that "the content and tasks of the encyclopedia of law cannot be included in any of the special sciences without violating their own content and invading their foreign sphere. Establishing a system of general principles of law is an activity that is outside the scope of the work of specialists. Why not call the results of this scientific activity the content of a special science?" [279, p. 3].

Based on the position of contemporary science that the science of law has the task of revealing the laws of development of legal phenomena, M. Yu. Chizhov defines the content of the encyclopedia of law as the unity of simple, root forces and laws that act in all manifestations of law as one of the phenomena of social life . Knowledge of the general in law goes beyond the limits of one or another special legal science and belongs to the encyclopedia of law. According to the scientist, the encyclopedia of law is responsible for solving, mainly, two independent tasks that give the encyclopedia an independent position among other legal sciences. These tasks are: 1) establishing a system of law and legal sciences; and 2) in clarifying the law in all its manifestations on the basis of indigenous social forces, laws [283, p. 15-16]. In another work, the scientist specified these same tasks in the following way: "1) in clarifying the general principles of law inherent in each of the branches of the science of law (general doctrine of law); and 2) in the establishment of the system of law and legal sciences (a systematic review of various branches of law in a joint connection with their content - taxonomy of law)" [279, p. 3].

In the interpretation of N. Chyzhov, the encyclopedia of law is a science, the specified content and tasks of which are not arbitrary, not determined by his personal discretion, but stem from the requirements of the science of law. In his opinion, establishing a system of jurisprudence and clarifying the foundations of the legal life of society is as necessary when studying the special sciences of law as it is generally necessary to clarify details from the general whole. The content and tasks of the encyclopedia of law cannot be included in any of the special sciences without violating their own content and invading their foreign sphere. Such content and such tasks should have formed a special branch of legal sciences, which is only an encyclopedia of law [283, p. 16].

Thus, M. Yu. Chizhov comes to the conclusion that the establishment of the legal system and the clarification of the general in law should form a special branch of legal sciences, which is the introduction to the study of law (encyclopedia of law).

In accordance with the two independent tasks of the encyclopedia of law, its exposition, according to M. Yu. Chizhov, is divided into two sections. In the first of

them, the nature of law is realized on the basis of indigenous social forces, and in the second, the system of law and legal sciences is presented [283, p. 17].

M. Chizhov gave his lectures on the encyclopedia of law under the title "Introduction to the study of law (encyclopedia of law)" (Odesa, 1908). The scientist begins this work with the following words: "I release my lectures to the world: 1) under the name of introduction to the study of law and 2) not in the form of a compact course, but in the form of notes that I formed while reading lectures and which I shared with his listeners" [274, p. 1].

The peculiarity (probably also the contradiction) of M. Yu. Chizhov's definition of the status of the encyclopedia of law (as a separate science) lies in the fact that he understands science specifically in this case. He writes: "I called my lectures an introduction to the study of law, because I look at the encyclopedia of law as a science in the sense that it is a special subject of legal education, intended mainly for beginners in legal education... In the "introduction" a beginner can learn general concepts about law and systematically examine different branches of jurisprudence in a common connection from the side of their content" [279, p. 1]. In other words, there is an identification of science and academic discipline. M. Yu. Chizhov's encyclopedia of law has the character of a textbook, which is also reflected in the title - "Introduction to the Study of Law". From this point of view, the encyclopedia of law of M. Yu. Chizhov does not differ from many of its counterparts.

According to the scientist, it is the above-mentioned tasks that determine the special position of the encyclopedia of law among other legal sciences. In this connection, the judgments of M. Yu. Chizhov about the relationship between the encyclopedia of law and the general theory of law are interesting. In his opinion, the task of the general theory of law "to discover the connection and continuity of legal phenomena, to reduce the mass of legal phenomena to a small number of principles, laws into one and finished" is also the task of the encyclopedia of law [279, p. 4]. As it is not difficult to notice, in this part the encyclopedia of law is identified with the general theory of law, which was actually customary among the encyclopedists of that time [251, p. 4]. Some of them proposed to rename it to the theory of law. In particular, based on the

uncertainty of the content of the encyclopedia of law and the limitlessness of the material that could be included in its composition, M. Kapustin suggested calling this science not an encyclopedia, but a theory of law [244, p. 14]. M. Korkunov also insisted on the need to give the generalizing science in jurisprudence the name of the general theory of law, while he proceeded from the fact that the philosophy of law and the encyclopedia of law are one and the same, and these are only preparatory stages for the creation of one generalizing discipline [251, p. 48]. Although the work of E. Trubetsky is called an encyclopedia of law, it actually constitutes a theory of law [275, 276, 277].

The encyclopedia of law in the interpretation of M. Yu. Chizhov, in his own words, is very close to the philosophy of law, because "both are legal systems, both study the common connection of legal sciences, and the other strives to support the unity of individual branches rights" [279, p. 4]. At the same time, M. Yu. Chizhov disagrees with the opinion of some scientists who claim that the encyclopedia of law borrows its content from the philosophy of law [283, p. 16-17]. By the way, for the first time, P. Karasevich expressed the need to merge and identify the philosophy of law and the encyclopedia of law [245, 246].

In conclusion, it should be noted that the encyclopedia of law played a very important role in the history of the formation of general theoretical jurisprudence. However, our position is that the encyclopedia of law cannot be recognized as a science in its modern sense. As V. M. Khropaniuk rightly observes, the encyclopedia of law as a science is methodologically untenable, since it has neither its own subject nor research method, that is, what is inherent in any science, and it has now been transformed into an educational discipline under the name "Introduction to legal specialty" [278, p. 15].

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8. General legal principles of safety and quality of agricultural products

Abstract

A necessary element of the human life support mechanism is the satisfaction of his nutritional needs. However, with the growth of the Earth's population and the simultaneous decrease in the area of land plots suitable for growing agricultural products, a significant deterioration of natural and climatic conditions, the issue of providing the population with the specified products not only in sufficient quantity, but also in accordance with modern safety and quality requirements, which relate to her. First of all, this is due to the fact that in the case of the purchase of agricultural products of inadequate quality, the most important thing is at risk - human life and health, which is defined by the Constitution of Ukraine as the highest social value (Article 3). Thus, it is the safety and quality of agricultural products that is one of the main factors that affects not only the state of health and life of a person, but also the state of food security of the country as a whole.

However, despite the high degree of importance of the specified problem, the current legislation of Ukraine on the safety and quality of agricultural products is imperfect, contains many gaps in the legal regulation of the specified issues. These problems become especially acute in the light of the agrarian reform, which is caused by the need not only to increase the competitiveness of domestic agricultural products on European markets, but also by the aspirations of Ukraine to acquire full membership in the European Union and fulfill the obligations assumed in connection with joining the World Trade Organization knitting, which determines the relevance of this topic.

8.1 Theoretical studies of organizational and legal bases of safety and quality of agricultural products

Among the various sectors of the economy of any country, the food sector has always been and remains one of the most important. This can be explained by examining such a simple chain. One of the features of the state (some scientists, in particular H. Ellinek, single it out even as the main one [305, p. 296] is its population, which consists of individual people (citizens, subjects, etc.). Every single person, through his mental and/or physical work, ensures a certain (sufficient) standard of living (this applies to housing, food, etc.), however, such a process of provision has a two-way nature: the state, in its turn, as a political and legal organization of people, is obliged to It is necessary to create appropriate conditions for everyone to be able to provide for their primary life needs, first of all, in safe and high-quality agricultural products. So, if we simplify the specified chain, we will get a simple rule: for its normal functioning, the state must provide each person with agricultural products in sufficient quantity and of appropriate quality. The availability of safe and high-quality agricultural products forms the food security of the state, which is an important element and integral component of the country's national security. As O. V. Zvereva rightly points out, if in the case of non-food products we are most often talking about a certain discomfort caused by the purchase of goods of inadequate quality, then in the case of food products we can almost always talk about a threat to the life and health of the end consumer [313, p. 137].

For Ukraine, in the conditions of a difficult ecological situation, mass importation of imported agricultural products, most of which do not undergo proper inspection, it is extremely important for all market participants to comply with the requirements regarding the safety and quality of such products. In addition, the integration of Ukraine into the world economic community is impossible without the creation of a perfect legal framework for ensuring the quality of food [360,p. 106].

We note that the definition of the concepts of safety and quality of agricultural products is impossible without taking into account and generalizing the definitions of

safety and quality of products as a whole already developed in legal science, given the following. The definition of the term "agricultural products" is ambiguous. Thus, V. M. Yermolenko refers to it all raw products of cultivated crops, livestock and fish farming, obtained from agricultural activities, and products of its primary processing, which is carried out by its direct producer [307, p. 126]. V. I. Fedorovych considers agricultural products as unique in their properties, different from other types of products in the field of economy - both a food product ready for immediate consumption and an irreplaceable raw material for the production of food products [369, p. 192]. In turn, V. Y. Urkevich , with whom we fully agree, formulates this concept as products (plant, animal and fish), which are produced (grown) as a result of biological processes of their cultivation, have a natural origin from the earth and (or) from living biological organisms [368, p. 157]. However, all scientists, defining the concept of "agricultural products" have a common opinion that agricultural products are a variety of products (products), which proves the correctness of our statement. In addition, the Law of Ukraine "On the Customs Tariff of Ukraine" dated 04/05/2001 No. 2371-II [353], defining the concept of "agricultural products", includes food products (group 21 of the Ukrainian classification of goods of foreign economic activity), and therefore general signs of safety and quality of food products can reasonably be attributed to signs of safety and quality of agricultural products.

What should be understood by the term "product quality"? It should be noted that, despite the existence of numerous studies on the quality problem, science, including legal science, has not developed a single definition of this category.

When analyzing the practice of using the term "product quality", it can be noted that there is both polysemic use, that is, the extraordinary capacity and ambiguity of this concept, and synonymy, that is, the designation of the same concept by different terms [322, p. 38].

As L. M. Ivanenko points out, according to scientists' estimates, there are about 300 interpretations of the quality of goods (products), which have not exhausted this problem and are not exhausted to this day, which indicates the ambiguity of the studied concept [316, p. 47]. Therefore, the problem of the quality of goods and its legal

regulation remains relevant even in today's conditions, since providing the population with high-quality agricultural products is an activity that is not limited in time and space.

It is indisputable that the understanding of any phenomenon, subject, or concept is impossible without taking into account its origins, prerequisites, and general understandings. The development of views regarding the understanding of the concepts of "safety" and "quality" took place in several stages: 1) philosophical justification of the concept of "quality" and its definition as the most general concept ("quality" is a general philosophical concept); 2) justification of the concept of "quality" as a scientific category ("quality" is a special scientific concept); 3) introduction of the scientific categories "safety" and "quality" into real social relations ("safety" and "quality" are applied concepts).

The definition of the term "product quality", like any other, should be based on its philosophical concept as the most general. We associate the understanding of the origins of the concept of "quality", its philosophical justification with the first stage of the development of views on this concept, when the concept of "safety" is not separated from the concept of "quality", since the latter was defined as a philosophical category, that is, a concept with an extremely wide scope. It is believed that Aristotle was the first to address the problem of defining the concept of "quality" back in the III century. BC, who defined quality as follows: "Quality is a property associated with a certain evaluation of things, it is a specific feature that distinguishes this entity in its species specificity from another entity belonging to the same genus" [293].

Medieval scholastics asserted the existence of certain hidden qualities, which were allegedly eternal and unchanging "forms". Views about the primary and secondary qualities of things were formed on the basis of the mechanistic worldview and philosophy of the New Age.

The famous representative of German classical philosophy, H. Hegel, considered quality as a logical category, the initial stage of knowledge of things and the formation of the world, a direct characteristic of the existence of an object. "Quality, first of all, is the identical being of determination, such that it ceases to be what it is if it loses its

quality. Something is what it is because of its quality" [299, p. 157]. Thus, quality as a philosophical category represents the specific determination inherent in things, which is their being and distinguishes them from other things in a certain system of connections [303, p. 466].

As we can see, attempts to give the most general definition of the concept of "quality" can be traced throughout the history of the development of philosophy. However, it should be noted that the presence of the concept of "quality" of a philosophical nature does not exclude the possibility of its definition in relation to specific subjects, phenomena or industries [1], including the concept of "quality" as a legal category.

It is with the emergence of a scientific understanding of the concept of "product quality" that we associate the beginning of the second stage of the development of views on this concept. Already in the XVI century, emphasizing the importance of product quality issues, the English geographer and historian R. Haklut pointed out the following: "... just as good quality from the very beginning will ensure trust in your goods, which will only increase over time, so will fraudulent or counterfeit goods will call upon you and all your goods scorn and foolish fame" [338, p. 17].

The category "quality" received its most complete justification in domestic science in the works of the founders of dialectical materialism, K. Marx, F. Engels, and V. I. Lenin.

Thus, F. Engels considered the categories of quality in two aspects: 1) every quality has an infinite number of quantitative gradations (for example, color shades, hardness, softness, durability, etc.), although qualitatively different, but accessible to measurement and cognition; 2) there are "not qualities, but only things possessing qualities, and moreover an infinite number of qualities" [376, p. 547]. The quality of the object is revealed in the totality of its properties [334, p. 43].

In view of this, it is necessary to understand that quality is a property of a thing or a set of such properties. This most general definition of quality is of practical

[1]For example, the Great Soviet Encyclopedia defines the philosophical concepts of quality as such, as well as surface quality, judgment and products.

importance, since one thing can be distinguished from another or compared by the nature of its properties. At the same time, it does not matter whether the properties of a thing are positive or negative, whether they are useful or harmful, say, for a person - these properties give us a general idea of a thing as a certain qualitative determination [377, p. 8].

K. Marx connects the quality of a thing with its consumer value. In particular, the scientist pointed out that "a product, unlike a simple object of nature, reveals itself as such, becomes a product only in consumption. However, the sum of all its possible useful applications is contained in its being as things with certain qualities" [333, p. 30].

Analyzing the ratio of quantitative and qualitative characteristics of an object and continuing the idea started by K. Marx, V. I. Lenin, in particular, cites the well-known example of a glass, which, having a set of certain qualities, under different conditions of its use, is useful for the consumer precisely because it has certain quality necessary in a specific situation [329, p. 289]. Thus, a thing can have several qualities at once, each of which is revealed only in the process of consuming such a thing.

Therefore, the main characteristic of the second stage can be considered the emergence of a scientific understanding of the concept of "quality", in particular, its definition as a purely legal category, which became the basis for the start of work on the implementation of the obtained general philosophical and special legal knowledge into the normative plane through their formalization in specific legal acts.

The third stage, which, in our opinion, continues even today, is the research and highlighting of the problem of product safety and quality, which began back in the times of the USSR. During this period, the problem of product quality gained practical importance in connection with the intensive development of the country's agricultural sector. In addition, attention is paid to the quality of agricultural products as one of the areas of ensuring the country's food security. In the future, scientists distinguish as a separate component of product quality - its safety, giving the last status of one of the main elements, quality indicators.

During this period, H. G. Azgaldov, V. G. Andriychuk, N. A. Berlach, A. V. Bilousova, V. P. Voitlovskyi, M. Y. Volynskyi, A. V. Glychev, V. I. Gostev, V. P. Grybanov, M. G. Gurevich, M. B. Yemelyanova, V. P. Zhushman, A. M. Zaporozhets, O. V. Zvereva, A. A . , E. K. Olkhon, V. F. Opryshko, V. N. Panov, M. G. Pronina, A. M. Rabinovich, S. M. Romanko, E. A. Sarkisova, V. S. Shelestov, V F. Yakovlev, O. M. Yakovlev and others.

Taking into account the fact that the concept of quality is constantly changing, each of the researchers formulated his own definition of quality, which do not contradict, but complement each other [326, p. 138]. As rightly noted by M.B. Yemelyanova, the multifaceted nature of the "product quality" category made it one of the main categories of various sciences — technical, natural, and social. Strengthening their connection, joining efforts became a necessary prerequisite for solving the problems of product quality optimization and its management, and each science considers quality in its own aspect [306, p. 137].

However, recognizing the need for a complex approach to the issue of product quality and the possibility of creating a general concept of quality that would take into account all its aspects (technical, economic, aesthetic, legal, etc.), M. B. Yemelyanova believes that legal science must necessarily have developed concept of quality "in the legal sense" [306, p. 139]. At the same time, the specified category should be understood as "the degree of compliance of the products of the complex with the level of requirements that determine the suitability and expediency of using the products according to the intended purpose and established standards (technical conditions), and in the absence of standards (technical conditions) or upon agreement of higher and more detailed in requirements of the contract compared with them" [306, p. 139]. The positive thing in the given definition is M. B. Yemelyanova's indication of the need to use the product exactly as intended, as well as the introduction of the concept of "expediency of use", which in this context indicates the importance of a certain quality of a thing under the specific circumstances of its use (consumption). However, one cannot agree with the author's statement that quality is a certain degree of conformity, because, as noted earlier, quality is what characterizes a certain thing,

what makes this thing what it is. Taking this into account, we believe that quality is only a property or a set of properties of a certain thing (product).

V.L. Naumov's position is close to the one given above [337, p. 37] and V.P. Hrybanova . Thus, the latter adheres to the point of view that it is impossible to speak categorically about the possibility of the existence of only one definition of the concept of "quality", since each of them always expresses only the most important thing in the phenomenon. At the same time, each phenomenon can be considered from the standpoint of different sciences, and then different definitions of the same phenomenon are possible (and in some cases necessary). Therefore, when solving this problem, it is considered possible, based on the most general definition of product quality, to emphasize its various aspects that can be influenced by various methods. As a result, we have the fact that product quality is the degree of compliance of its technical and economic properties of the complex and the level of requirements that are set and established in the relevant legal acts and business contracts [377, p. 8]. However, in this definition, the author again uses the wording "degree of conformity", reasons for disagreement with which we have given above.

V. F. Opryshko defines quality as a legal category, the content of which is a set of relevant consumer properties legally enshrined in state, industry, republican and international standards, as well as technical conditions, samples (standards), approved in accordance with the procedure established by the state or stipulated by the supply contract [341, p. 18]. A similar definition is given by A. V. Glychev, V. N. Panov and H. G. Azgaldov [290, p. 121]. The same position is held by M. G. Gurevich, who understands product quality as "compliance of both the internal properties of the product (goods) and its external data with the quality characteristics and requirements established by state standards, technical conditions or samples" [301, p.137]. Similarly, the quality of products is determined by A. A. Sarne [362, p. 6], A. Yu. Kabalkin [317, p. 7], O. M. Yakovlev [378, p. 23]. However, these authors do not take into account such a feature of the product as its ability to satisfy certain needs of consumers, which, taking into account the previously stated positions of dialectical materialism, generally deprives such products of the meaning of existence.

A. M. Zaporozhets, noting that product quality as a complex category is a set of product properties that are laid down in the work process and provided for in regulatory and technical documents at all stages of the product life cycle, ensuring reliable and long-term satisfaction of individual consumer needs with optimal costs to support work capacity during the period of operation of final products [311, p. 21], takes into account the ability to satisfy certain needs of consumers as a property of products, which was mentioned above, however, the specified definition has a more economic meaning, since it indicates the need for certain costs during the consumption of products and operates in other purely economic categories.

V. S. Shelestov, revealing the duality of the understanding of quality and deeming it necessary to focus on the characteristics of the product from the point of view of the manifestation of its properties, separates the concept of quality in the technical and economic sense, understanding by it the set of properties of the object that characterize its social consumer value and provide to the consumer at a certain achieved technical level, its proper use, and in the legal sense, considering this category as regulated by the law, indicators of the qualitative certainty of the subject, which, according to the technical and economic content, the manufactured products must meet [373, p. 37]. The disadvantage of the specified definition of quality is the failure to take into account the possibility of contractual settlement of requirements for product quality indicators. However, in view of the administrative-command nature of the economy, which it had at the time of the appearance of the specified position, this is, rather, the author's failure to take into account possible ways of developing the understanding of the concept of "quality" in the future.

B. M. Mezrin, asserting that the unity and differentiation of the category "quality" in time and space is determined by its conditionality, normalization by social existence - the level of development of productive forces and the nature of production relations, considered another version of the definition of the concept of product quality more acceptable , namely : "Product quality is a set of socially standardized (studied) essential properties — technical, economic, aesthetic, and others, which determine the degree (level) of its suitability to satisfy certain needs in accordance with its purpose"

[336, p. 55] . In our opinion, this definition has the largest number of signs of the concept of product quality among others. However, the author, directly pointing to such properties of products as technical, economic and aesthetic, does not separate properties that carry the risk of harming the consumer of such products to his health or even life, assigning such properties to the category of "others", and in addition - completely deprives this concept of any legal content. Scientists such as V. G. Andriychuk [292], M. Y. Dolyshnyi [304], V. P. Voitlovskyi [298], A. V. Krysalnyi [375], V. P. Zhushman [308], V. M. Ogryzkov. Thus, the latter noted that product quality is a category that exists objectively and there is no point in talking about different concepts of the same phenomenon. Research should be conducted not in the direction of "independent" industry definitions of product quality, but the formation of a practically applicable general definition of product quality. Thus, the scientist proposes a complex concept of quality: "Product quality is a set of essential properties (technical, economic, aesthetic, and others), established by standards and technical conditions, as well as revised in cases established by law by the supply contract" [339, p. 29]. A similar definition is proposed by O. V. Zverev [313]. The disadvantages of these definitions are the same as in B. M. Mezrin 's definition given above.

Emphasizing the importance of taking into account the specific needs of the consumer, D. S. Lviv, understanding by utility the degree of satisfaction of social needs, that is, consumer value on a social scale, indicates that the concept of product quality should not be confused with its usefulness. On this basis, he comes to the conclusion that it is advisable to link quality research with the study of specific consumer needs. In his opinion, the quality of products should be understood as the degree of satisfaction of a specific need by these products [331, p. 10]. Ch.B. Bazarzhapov has a similar opinion, who defines quality as an integral indicator that characterizes the ability of the product as such and its properties, in particular, to satisfy certain needs [294, p. 18].

The position of such scientists as V. N. Zymovets, D. V. Polozenko, A. A. Storozhuk, V. E. Protasov [374, p. 104], Ya. A. Byeda [295, p. 49], V. I. Syskov [365, p. 35], Yu. A. Zykov [314, p. 20], which define product quality as a combination

of its consumer and production qualities, their quantitative characteristics, which can be expressed in different units, for agricultural products - mainly in percentages, for example, the content of protein, radionuclides, pesticides, herbicides [288, p. 255]. However, not all scientists agreed with the division of product quality into consumer and production [342, p. 41]. However, at this time, the expediency and even the necessity of such a distribution does not cause objections and, in particular, is reflected in the definition of the quality of agricultural products, which is given by A. P. Hetman and V. Z. Yanchuk [300, p. 217].

As you can see, there are really many definitions of the concept of "product quality", but all of them can be classified by groups. The first group is the definition of the economic content, which establishes only requirements for the consumer value of products (V. P. Grybanov, A. M. Zaporozhets, K. Marks, etc.). The second group is the determination of the legal content, which establishes the need to establish product quality requirements in certain legal acts (M.B. Yemelyanova and others). The third group is complex definitions that take into account both the objective (the need to establish product quality requirements in certain legal acts) and the subjective (the ability of products to satisfy consumer needs) side of the concept of "product quality" (V. S. Shelestov, B. M. Mezrin, etc.).

However, one should agree with the opinion that the legal definition of the quality of agricultural products should combine its economic and legal aspects [315, p. 73]. Regarding the inclusion of certain technical aspects in the specified legal definition, we believe that the standards, technical conditions and other requirements for such products should be established in certain normative acts (for example, state standards), which after their establishment acquire the status of an element of the legal mechanism for regulating safety and quality agricultural products.

Ogryzkov correctly points out, in order to judge the quality of products, it is necessary to take into account the established indicators of its quality, that is, the quantitative characteristics of the properties that are part of the quality of this product. Today, scientists have singled out quite a few such indicators [292, 296, 324, 341],

however, taking into account the special type of products that we are investigating, the following indicators of the quality of agricultural products can be distinguished:

1. Safety indicators, which generally consist in the absence of a threat of harmful effects of these products, raw materials and related materials on the human body. This indicator will be explained in more detail later.

2. Biological indicators characterize the suitability of agricultural products for consumption as food. They depend on organoleptic, chemical, physical and other characteristics of agricultural raw materials, in the process of using which these products are obtained. Among these indicators, the most important are the content of macro and microelements, proteins, vitamins, sugar, starch, fats, etc. in the products. With the help of biological indicators, a conclusion is made about the suitability or unsuitability of the corresponding type of agricultural products for consumption and ensuring the normal life activity of the human body. It should be remembered that biological quality indicators are dynamic, significantly depend on weather and soil conditions, and can improve or deteriorate under human influence.

3. The manufacturability indicators characterize such properties of agricultural products that are necessary and at the same time too important for their effective processing or for industrial use in subsequent cycles of agricultural production. Indicators of manufacturability of intermediate products directly affect not only the productivity of agricultural production, but also the quality of the final products produced by them. In addition, this indicator makes it possible to evaluate the special properties of agricultural products as an object of production and/or use (intermediate or final consumption). The most generalized indicators of manufacturability are labor intensity of production or processing, time consumption, cost, level of clogging, grade purity, level of moisture/dryness, etc.

4. Indicators of the transportability of agricultural products characterize the degree of their suitability for transportation and for loading and unloading operations by appropriate means and in certain ways. The most important indicators of transportability are such technical and economic properties as the class and dimensions of products, time and money spent on preparing products for transportation, the cost of

containers and packaging, methods of packaging, costs for loading and unloading operations, the cost of transportation, etc.

5. Reliability indicators testify to the suitability of agricultural products to preserve biological and a number of technological indicators of quality during their storage and transportation. Quantitatively, reliability indicators are measured by the resistance of products to external stimuli (factors), including the period of storage of products under different methods of its implementation and the distance of its transportation on roads of different classes and/or types.

6. Environmental indicators make it possible to judge the environmental cleanliness of agricultural products and their suitability for human consumption or animal feeding from the point of view of the harmlessness of their impact on the state of living organisms and the natural environment. These are indicators that limit the possible risks that the consumer can expect during the use (consumption) of agricultural products, that is, they outline the so-called "acceptable risks", which will be discussed further. These indicators include the content of radionuclides, nitrites, pesticide residues and other substances dangerous to human life and health.

7. Economic indicators characterize the degree of economic benefit of production by an agricultural producer of products of appropriate quality. The most important of them are: price per product unit; profit per unit of production; price competitiveness of products; the share of products for which a quality certificate has been received; the share of exported products in the total volume of their sales, etc.

8. Aesthetic indicators are of particular importance for agricultural products that are consumed fresh. They characterize the marketability of products and can significantly affect economic indicators.

9. Patent legal indicators are inherent in those types of agricultural products that are protected by a patent (for example, new varieties of plants). They describe the quality of new inventions embodied in goods, their significance. At the same time, patent law indicators characterize the patent purity of agricultural products, that is, the possibility of their unhindered circulation on the domestic and foreign markets.

In addition, it is possible to classify indicators of the quality of agricultural products according to the following criteria.

1. According to the degree of obligation to take them into account when assessing the quality of agricultural products: mandatory (for example, environmental safety) and optional (for example, aesthetic indicators).

2. According to the form of manifestation: actually existing and normalized. The significance of the specified classification is that the consumer of agricultural products is able to establish whether its actual properties correspond to the indicators provided for by the relevant norms of the law and/or contract.

3. By content: quantitative (for example, cost) and qualitative (for example, safety).

4. Depending on the stage (cycle) at which agricultural products are: production and consumer.

It should be noted that neither the specified classification criteria nor the elements of such classifications can be considered exhaustive and existing in an unchanged form, since the presence or absence of certain criteria and/or elements, their names and content may change depending on specific circumstances. including from the existing level of development of science and technology. It is quite reasonable to claim that the higher the level of scientific and technological progress of mankind, the more science discovers new things where, it would seem, the limits have already been reached, which in the future also expands the perception of the safety and quality of agricultural products.

The opinion of the Russian scientists M. Predvoditelev and O. Badaev [343], who follow the example American colleagues A. Parashurman, V. Zaitaml and L. Berry [379, 380] in approaches to quality management, focusing on the consumer, use the GAP model (from English Gap - gap) . The originality of this model lies in the fact that its starting point is the correlation of the consumer's expectations from the thing with the consumer's perception of the actually received thing. Such logic is relevant above all for goods whose quality is difficult to assess on the basis of purely objective characteristics. Given the fact that one of the signs of the quality of agricultural products is its ability to satisfy certain needs of the consumer, the presence

of objective and subjective characteristics of these products is indisputable, which determines the relevance of the specified model for the field of agricultural product quality management. In this way, the specified model can be used to analyze the reasons for not satisfying certain human needs from the consumption of agricultural products and reducing its competitiveness. Moreover, according to the specified model, an agricultural product is of high quality if there is no gap between the perception of the product and the expectations regarding this product. The existence of the specified gap arises due to certain reasons (so-called "Discontinuities").

Thus, Gap 1 occurs when the actually obtained agricultural products do not correspond to the generally accepted ideas about these products in our time. For example, the majority of the population of Ukraine is used to the fact that watermelon and strawberries must have stones (seeds). However, even today these products can be grown without such stones (seeds), and therefore it can be perceived by the consumer as a product of inadequate quality.

Gap 2 occurs when the actually received agricultural products do not meet the requirements for it established in the current legislation of Ukraine or the contract. The reason for this may be the insufficient level of qualification of workers, outdated technologies for the production of agricultural products, as well as an imperfect control system for the safety and quality of agricultural products.

Gap 3 occurs when consumers have a false perception of agricultural products. Such a situation can arise under the conditions, if the producer or seller of agricultural products intentionally overestimates some of its indicators in order to obtain a greater economic benefit.

Gap 4 occurs when the consumer's expected indicators of agricultural products are lower than those actually received by him. First of all, this is due to the improper performance of the duties by the producer and/or seller of agricultural products. Such a situation is also possible in case of non-observance of established prescriptions for storage and transportation of products, as a result of which the latter does not meet the requirements applied to it by the consumer.

As you can see, the GAR model makes it possible to control the production processes and circulation of agricultural products in terms of dialogue between the producer, the seller and the consumer, which makes it possible to identify potential reasons for the latter's dissatisfaction with the consumed agricultural products, to predict the influence of certain external or internal factors on his perception of such products. In addition, this model once again emphasizes that the consumer value of agricultural products is one of the main signs of its quality.

However, among all the existing indicators of the quality of agricultural products, the most essential, the most important from the point of view of the possibility of impact on human health and life, is its safety, which in general consists in the absence of the threat of harmful effects of these products, raw materials and related materials on the human body [296, p. 150].

Concepts similar in form, but different in content, are often found in legal literature and legal acts. In particular, it is about the concepts of "environmental safety of agricultural products" and "safety of agricultural products". In order to distinguish them, let's explain the following. As S. M. Romanko reasonably claims [361, p. 10], environmental safety of agricultural products is one of the types of environmental safety and one of the areas of ensuring global and national security in general. It can also be characterized by the state of social relations that arise in connection with the production, processing, and sale of agricultural products, for which it is necessary to ensure the right of the consumer to ecologically safe agricultural products and to a safe environment, which is achieved by establishing in the current legislation requirements for rational use of nature in the field of agricultural production, on measures to ensure the environmental safety of agricultural products and the creation of a system of specially authorized state authorities to monitor the implementation of requirements.

In turn, safety is one of the properties of agricultural products, which mainly determines its ability to be consumed. Safety is a less mobile and more concrete indicator of the quality of agricultural products than, say, its aesthetic indicator. First of all, this is due to the fact that the requirements for the safety of agricultural products under modern conditions are quite strictly regulated by legal acts in order to prevent

the spread of diseases caused by the use of products of questionable safety [330, p. 197].

A. M. Rabinovych even notes that product safety is a prerequisite for its quality, arguing that if the products are not safe for the consumer, then the question of their quality cannot arise at all, since they are known to be harmful to life and health human, and therefore are of poor quality. In this case, they have a harmful, negative quality (malignancy) [360, p. 106]. However, in our opinion, this position is debatable. First of all, this is due to the fact that the current legislation, while using various legal constructions, guarantees the right of every person to safe living conditions. So, today there is a presumption of safety of life, which, in particular, includes a presumption of safety of agricultural products. Based on the above provisions, it is quite reasonable to claim that safety cannot be a prerequisite for quality, but on the contrary, it is an indicator of it. The same opinion, in particular, is held by S. M. Romanko [361], V. Z. Yanchuk [288], T. G. Kovalchuk [323] and others.

However, situations may arise when some agricultural products may be dangerous for a certain category of the population. So, for example, sugar, which is a high-quality product under the conditions of compliance with the usual indicators related to it, can pose a threat to the life and health of a person suffering from diabetes, and therefore be dangerous in this particular case. However, we note that safety should be understood as an indicator for which the requirements are generalized. This means that the product is safe for a person whose state of health corresponds to the norm (certain physiological, medical indicators, etc.), of course, provided that such products are used as intended. The application of the concept of "normal state of health" is necessary, because in the production of any product, including agricultural products, it is impossible to take into account all possible risks. We can follow a similar approach to taking into account the diversity of life situations in many normative legal acts, which contain wording such as "and similar...", "and others..." etc.

However, it should be remembered that there are no absolute categories, and therefore no product can be absolutely safe. For example, on June 25, 2009, a twelve-year-old boy named Noam, a resident of Beersheba almost died because of a milk

allergy, which Noam 's parents learned about when he was an infant. At the same time, the boy's allergy appeared not only when dairy products were consumed directly, but also when another food product was next to the dairy product.

In view of this, it would be more correct, in our opinion, to talk about the safety of agricultural products not only as the complete absence of any harm from their consumption, but also about the possibility of negative effects of such products on the human body within the limits established in advance by legislation or a contract . Modern science, legislation of foreign countries and international treaties use the category "risk" to indicate the indicated possibility of a negative impact of the use of agricultural products on the human body. Therefore, we believe that it is appropriate to use the concept of "acceptable risks from the consumption of agricultural products" to indicate the limits of such risks.

The analysis of the studied scientific works gives reason to conclude that the concept of "quality of agricultural products" and, together with it, the concept of "safety of agricultural products" as its indicator have the following main features:

1. A set of essential properties of agricultural products. This means that we do not attribute any properties of the specified products to such a set, but only those that are defining for this particular product, that make it what it is. As V.F. Opryshko points out, in practice, out of the multitude of properties that can characterize each product, to characterize its quality, only those properties that are now of the greatest interest to society, can be achieved at this stage of the development of technology, production and achievement of which are singled out is economically feasible [322, p. 38]. This sign has a legal character, since the indicated essential properties of agricultural products are fixed in the relevant legal acts: regulations, provisions, standards, technical conditions, etc.

2. Agricultural products may not pose any or may pose acceptable risks for the consumer under the reasonably foreseeable, usual or such conditions of use of such products as are established in a regulatory act or contract (product safety). This means that the manufacturer guarantees the absence of risks (or their acceptable level) only under the condition of observing the rules of its consumption, which are either

generally accepted in society at a specific stage of its development (normal conditions), or which differ from generally accepted ones, but can be provided by the manufacturer or by the "average" consumer (reasonably foreseeable), or that are fixed in a regulatory act or contract. It follows from this that the consumer (buyer) must be properly informed about the order of consumption (use) of this or that product. A similar provision is used in such civil-law relations as warranty repair, when the manufacturer (seller) guarantees to eliminate the defects of the goods produced (sold) by him only under the condition that the buyer (consumer) complies with certain rules (for example, regarding the operation of the goods). Therefore, given that agricultural products are, albeit a special type of goods, the application of the specified provisions will be expedient and mutually beneficial for both the consumer (buyer) and the producer (seller).

3. Taking into account the impact of agricultural products on the surrounding natural environment when determining them as safe and/or high-quality, since both agricultural products and the surrounding natural environment influence each other. This feature is directly related to the environmental safety of agricultural products, the issue of which was discussed earlier.

4. Product properties are able to satisfy the predetermined needs of the consumer of such products. As mentioned earlier, a thing becomes itself, acquires consumer value and reveals its qualities only in the process of its consumption, that is, the satisfaction of certain needs of the consumer. However, such consumer value is determined not only by the totality of physical, chemical and other natural properties of products, but also by the complex of purposeful actions of a person in relation to such products, as well as the perception of such a person about these products.

8.2 Legislative provision of safety and quality of agricultural products

One should agree with the statement that preserving and strengthening human health and recognizing his right to safe and high-quality food products was and remains one of the main tasks of any state, including Ukraine [289, p. 406].

Modern economic and political conditions, in which Ukraine is, give the problem of safety and quality of agricultural products a new sound, which requires a review of outdated scientific and legislative views and the development of new solutions of an organizational and regulatory nature. It is undoubtedly important to take into account all the advantages and disadvantages of domestic and foreign legal experience in regulating issues of safety and quality of agricultural products. As T. E. Varlamova rightly noted, "history is the science of the future. In order to manage our future ... one must know the history of its development, be able to use its lessons" [370, p. 3].

Yes, even in the Laws of Manu, written in the period from the II century B.C. - II century AD, and is a monument of ancient Indian literature, one of the conditions of the contract of sale of goods was their quality. In particular, it was stipulated that "one should not sell a product mixed with another, neither of low quality, nor insufficient in weight, nor such that is not available, nor hidden or hidden under a dress or in the ground" [309]. In case of sale of goods of inadequate quality, the agreement could be terminated within 10 days without any additional explanations. In Ancient Egypt, for example, requirements were established for the size and quality of building elements [332, p. 53]. Also known is the fact of the existence of the so-called Phoenician trademarks, which confirmed the quality of the manufactured products.

With the passage of time, the importance of quality as one of the main requirements for products has not decreased. So, for example, according to Article 1516 of the Code of Laws of the Russian Empire, the seller must transfer the property to the buyer of the same quality as it should be on the basis of the condition or previously by mutual consent of the approved samples [363, p. 129]. According to Article 1518 of the specified Code, in case "if it is recognized in court that the property sold does not meet the conditions and samples in terms of its qualities, it is returned to the seller, who, in turn, is obliged to return the deposit to the buyer" [310, p. 282], which was mentioned in the decision of the Senate No. 1450 of 1873.

In the 20th century, thanks to the trends of humanization and democratization of society and the state as a whole, the actualization of consumer rights protection issues, the need to expand the country's export capabilities, as well as the direct interest of

manufacturers and sellers of products [327, p. 50], including agricultural, the problem of product safety and quality is increasingly being paid attention to in national legislation.

It should be noted that the legislation that regulates the safety and quality of agricultural products is complex, that is, it is legally heterogeneous, because it includes not only the norms of individual regulatory acts, but also, as a whole, normative acts of various branches of legislation [341, p. 27]. In particular, it combines the norms of labor law (for example, the norms regulating the procedure for payment of labor in the manufacture of products that turned out to be defective), civil law (for example, the norms that establish the terms of the contract for the contracting of agricultural products); criminal law (for example, norms establishing criminal liability for the production or circulation of substandard products), etc. These norms are included both in special normative acts, devoted exclusively (or mainly) to the specified issues, and in other normative acts, which in their main content cannot be generally classified as legislation on product quality [341, p. 27, 322, p. 38].

Analyzing the legal regulation of public relations in the sphere of product safety and quality in the Russian Federation, L. E. Chapkevich singles out its three main stages [372, p. 89]. In turn, we propose to single out three stages of the development of legally regulated social relations arising in connection with the safety and quality of agricultural products in Ukraine.

At the first stage, the concept of "safety" was not separated into an independent category and together with other product requirements formed the concept of "product quality". This stage was characteristic of the Soviet period and lasted from approximately 1923 to the beginning of the 90s. It was in 1923 that the requirements for exported goods were established, and the Decree of the Supreme Soviet of the USSR dated September 15, 1925 established the obligation to comply with standards for all goods produced in the USSR. One of the indicators of the development of the planned economy was the improvement of product quality, and the safety of products produced for the domestic market and imported by the Soviet state was assumed [312, p. 94]. In particular, the Civil Code of the Ukrainian SSR [371], operating with the

concepts of "quality of the thing sold" and "production of improper quality", in Article 233 presumes the quality of the thing sold and only indicates that such quality must meet the terms of the contract, and in the absence of instructions in contracts - requirements that usually apply to such a thing [2].

However, one of the first normative acts of the USSR, in which the definition of product quality received official confirmation, was DSTU 15467-79 "Management of product quality. Basic concepts. Terms and definitions" [367], according to which product quality is a set of product properties that determine its ability to satisfy specified needs in accordance with its purpose. However, this standard, which in its essence is a regulatory act, fixing the definition of the concept of "product quality", does not take into account its legal aspect, although it is certainly of great importance for the science and practice of product quality management, the comprehensive use of law as an important means of ensuring it [326, p. 139].

An important milestone in the development of legislation on product quality is the Food Program of the USSR for the period up to 1990 and measures for its implementation in 1982 [297], in which the question is raised not only about increasing the productivity of agricultural production (section two of the Program), but also about technological "re-equipment" of the agro-industrial complex (section three of the Program) and introduction of a scientific approach to production (section five of the Program) with the aim of improving the quality of products.

An equally important milestone on the way to the development of quality legislation is Resolution No. 540 of the Central Committee of the CPSU and the Council of Ministers of the USSR dated May 12, 1986 "On measures to fundamentally improve the quality of products", which outlined ways to implement the decisions of the XXVII Congress of the CPSU on improving product quality. In particular, the resolution provided for strengthening the responsibility of manufacturers for ensuring product quality, and enterprises for improper product quality.

[2]It should be emphasized that the Civil Code of Ukraine dated 16.01.2003 and the Economic Code of Ukraine dated 16.01.2003 regulate the issue of product quality (including agricultural products) similarly.

Thus, the first stage of legal regulation of the safety and quality of agricultural products is characterized by the absence of a distinction between the concepts of "product safety" and "product quality", as well as one of the earliest official fixations not only of the definition of the concept of "product quality", but also of its economic and legal features.

The second stage in the legal regulation of the safety and quality of agricultural products came in the early 1990s. First of all, this is due to the simultaneous decrease in the influence of state regulation of the quality of agricultural products and the significant development of free business relations, including foreign economic relations, which led to the saturation of the market with low-quality products (given its non-compliance with the existing standards and other norms at that time), and often and agricultural products that are simply dangerous for human life and health. Under such conditions, there was a need to guarantee the safety and quality of agricultural products at the state level.

The Law of the Ukrainian SSR "On the Protection of Consumer Rights" dated May 12, 1991 No. 1023-XII [349] enshrined the consumer's right to proper product quality and safety. Thus, Article 5 of the Law established that the consumer has the right to demand from the seller (executor) that the quality of the products purchased by him meet the mandatory requirements of state standards, other regulatory and technical documentation and contracts. At the same time, the requirements set for product quality should provide for product safety, protection of health and life of citizens, and environmental protection. Pointing to the requirements for product safety, the legislator notes that the consumer has the right to a guarantee that the products purchased by him are manufactured in compliance with sanitary and hygienic, including anti-epidemic norms and rules and other established requirements that exclude danger to life and health or causing damage to his property, and is safe during the service life (expiry date) of the products, defined by current legislation, state standards, regulatory and technical documentation or the contract.

In addition, the Law established the levels of dangerousness of products. Thus, products were considered unacceptably dangerous if their use inevitably leads to

danger to life and health or damage to citizens' property. Products, when using which it is necessary to observe special safety rules, are considered products of increased danger.

In order to protect the interests of consumers and the state in matters of safety of products (processes, works and services) for life, health, property of citizens, protection of the natural environment, Decree of the Cabinet of Ministers of Ukraine "On standardization and certification" No. 46 was adopted on 10.05.1993 -93 [357], which uses the terms "products dangerous to the life, health and property of citizens and the natural environment" and "product quality", but does not specify their definition.

The text of the Law of Ukraine "On Ensuring the Sanitary and Epidemic Welfare of the Population" dated February 24, 1994 No. 4004-XII [364] uses the term "food safety", but its definition is also not given. However, this Law established quality requirements based on safety criteria for agricultural raw materials and food products. Thus, Article 18 stated that agricultural raw materials and food products of plant and animal origin, during the production, storage and transportation of which pesticides and agrochemicals were used, must meet sanitary and hygienic requirements, which must be confirmed by a certificate of conformity. In addition, Article 19 of the Law defines quality requirements based on safety criteria for imported agricultural raw materials and food products. It states that, according to these criteria, they must meet the state standards of Ukraine and other regulatory documents, and be accompanied by certificates of compliance. In the future, changes were made to the specified article, but their legal content did not change.

As Ukraine aspires to become a full member of the European legal space, it cannot but pay attention to some acts of European international organizations, which contain relevant definitions of the concept of "quality". Thus, the International Organization for Standardization (ISO, 1946, London) formulated a definition of the concept of "quality", which should apply to all areas of business and industry. According to the ISO 8402-86 document, product quality is a set of product properties that determine its suitability to meet certain needs in accordance with its purpose. The definition of the concept of quality is also given in the International Standard ISO 9001.87, according

to which quality is a set of properties, characteristics of products or services that give these properties the ability to satisfy the stipulated needs that are expected, according to the ideology of the 9000 series standards. The quality system must function in such a way that to ensure that no defects will be found within a certain period of time after its use. In 1994, in the process of clarifying the ISO terminology, the following definition was formulated: quality is a set of characteristics of an object related to its ability to satisfy the established and anticipated needs of consumers.

The concept of "product quality" was officially established in the Decree of the Cabinet of Ministers of Ukraine "On State Supervision of Compliance with Standards, Norms and Rules and Responsibility for Their Violation" dated April 8, 1993 No. 30-93 [345]. Thus, product quality was defined as a set of properties that reflect safety, novelty, durability, reliability, economy, ergonomics, aesthetics, environmental friendliness of products, etc., which give it the ability to satisfy the consumer in accordance with its purpose (Article 1 of the Decree). In addition, the specified Decree contains the concept of "products safe for life, health and property of people and the environment", but its definition is not provided.

The Law of Ukraine " On Pesticides and Agrochemicals" dated March 2, 1995 No. 86/95-BP [354] , emphasizing the importance of the issue of the safety of agricultural products, establishes requirements for the safety of agricultural raw materials. In particular, the specified Law stipulates that agricultural raw materials must meet sanitary requirements regarding the maximum limits of residues (maximum permissible level of residues) of pesticides and agrochemicals. Agricultural raw materials that cannot be used are subject to removal, disposal and destruction.

The Constitution of Ukraine of 1996 [325], as a document of the highest legal force, creating a legal basis for ensuring the safety and quality of agricultural products, in Articles 42, 48, 49 and 50 established the rights of everyone to an environment safe for life and health and to compensation for violations this right to harm, guaranteed the right to free access to information about the state of the environment, about the quality of food products and household items, as well as the right to its dissemination. In addition, the state recognized the obligation to ensure the sanitary and epidemic well-

being of the population and to protect the rights of consumers, to monitor the quality and safety of products. Thus, the Constitution of Ukraine established not only the rights and freedoms of a person and a citizen, but also created the basis of the mechanism of their protection against illegal actions of state authorities, local governments, their officials and officials, which is further specified in the current legislation [320, p. 68].

For the first time, the concept of "food safety" and, together with it, the concept of "food product quality", were officially defined in the Law of Ukraine "On the Quality and Safety of Food Products and Food Raw Materials" dated 12.23.1997 No. 771/97-BP [358]. Thus, the concept of "quality of a food product" was understood as a set of properties of a food product, which determines its ability to meet the needs of the human body in energy, nutrients and aromatic substances, safety for its health, stability of composition and consumer properties during the period of suitability for consumption. The safety of food products was defined as the absence of toxic, carcinogenic, mutagenic, allergenic or other adverse effects of food products on the human body when consumed in generally accepted quantities, the limits of which are established by the Ministry of Health of Ukraine.

At the same time, unlike, for example, the biological value of a food product, its safety was not determined as an indicator of the quality of a food product. However, only safety and quality, according to the norms of the specified Law, were the subject of state regulation and regulation, which indicates the leading role of food product safety among other indicators of its quality.

Later, on 14.01.2000, the Law of Ukraine "On withdrawal from circulation, processing, disposal, destruction or further use of substandard and dangerous products" No. 1393-XIV was adopted, which established the criteria for determining dangerous and substandard products. In particular, dangerous and low-quality products include products that do not meet the requirements of the normative legal acts and regulatory documents in force in Ukraine regarding the relevant types of products regarding their consumer properties; products that do not meet the mandatory requirements of the normative legal acts and normative documents in force in Ukraine regarding their safety for human life and health, property and the environment; products for which

there are no relevant documents provided by law, confirming the quality and safety of products, etc.

From that time, the rule-making activity was aimed at improving the mechanism of legal regulation of the safety and quality of products, including agricultural products. In particular, acts that are the results of the specified activity include Resolution of the Cabinet of Ministers of Ukraine dated 04.01.1999 No. 12 "On approval of the list of food additives permitted for use in food products" [347], Decree of the President of Ukraine dated 07.08.2001 No. 601 /2001 "On measures to develop the food market and promote the export of agricultural products and food products" [350], order of the Ministry of Agrarian Policy of Ukraine dated September 19, 2001 No. 278 "On measures to develop the food market and promote the export of agricultural products and food products" [351], the Program for the Integration of Ukraine into the European Union, approved by the Decree of the President of Ukraine dated 14.09.2000 No. 1072/2000 [355], the Order of the Ministry of Health of Ukraine dated 09.10.2000 No. 247 "On Approval of the Temporary Procedure for Conducting State Sanitary and Hygienic Examination " [348], Law of Ukraine dated 05/17/2001 No. 2408-III "On Standardization" [356], Law of Ukraine dated 06/04/2009 No. 1445-VI "On identification and registration of animals" [352], etc.

Emphasizing the special importance of the legislation regulating agricultural relations, one of the components of which is the legislation on the safety and quality of agricultural products, on 02.06.2004 the Ministry of Justice of Ukraine issued order No. 43/5 "On approval of the Classifier of branches of the legislation of Ukraine" [346], which, in particular, such areas of legislation as "Agricultural crops and separate branches of agriculture (140.120.000)" and "Agricultural products. Purchase and delivery of agricultural products (140.160.040)".

Thus, the main achievement of the second stage of legal regulation of the safety and quality of agricultural products is the separation from the concept of "product quality" of the concept of "product safety" and its main features.

However, a significant step in the history of legal regulation of public relations on issues of safety and quality of agricultural products is the adoption of the laws of

Ukraine "On the protection of consumer rights" [349] (as amended by Law No. 3161-IV dated 01.12.2005) and "On the safety and quality of food products » [344] (as amended by Law No. 2809-IV dated 06.09.2005), with the adoption of which we associate the beginning of the third stage in the legal regulation of the field of safety and quality of agricultural products.

Thus, the Law of Ukraine "On the Protection of Consumer Rights" (as amended by Law No. 3161-IV dated 01.12.2005), compared with the same Law as amended in 1991, emphasizing the undeniably close connection between product safety and quality, but not their identity , separates the consumer's right to product safety from the right to quality products, more clearly delineates the very concepts of product quality and safety, understanding the latter as the absence of any risk to life, health, property of the consumer and the natural environment under normal conditions of use, storage , transportation, production and disposal of products. In addition, the amendments to the Law include the classification of product defects ("defect" and "significant defect") and the introduction of the concept of "adequate product quality", which is understood as a property of products that meets the requirements established for this category of products in normative legal acts and normative documents and terms of the contract with the consumer. Also, the legislator quite justifiably indicated the inexhaustibility of the list of consumer rights, which was exhaustive in the version of the 1991 Law.

Regarding the Law of Ukraine "On the Safety and Quality of Food Products" in the 2005 edition of the Law, the following provisions are new.

Thus, the legislator defines the concept of "food product safety", while earlier it was defined only by the concept of "product safety". However, we note that, analyzing the provisions of both the specified Law and the laws of Ukraine "On the quality and safety of food products and food raw materials", "On the protection of consumer rights" in the version of the laws of 1991 and 2005, as well as other laws and by-laws that regulate issues of product safety and quality, it can be concluded that the terms "safety" and "security" are used as synonyms in the specified normative acts. However, such a conceptual diversity arose due to the imperfection of the translation of basic legal acts from the Russian language into Ukrainian, since the concepts of "safety" and "security"

have similar definitions. However, in our opinion, the very concept of "safety" characterizes an object as one that does not cause and/or should not cause harm to it, and therefore, this very concept most fully reflects the essence of the legal category "safety of agricultural products".

In addition, the Law distinguishes such categories of food products as "safe", "dangerous", "suitable", "unsuitable (altered)". However, despite the complex and all-encompassing nature of the Law, it does not define one of the main legal categories - "quality food". However, this concept can be determined from the legally formalized concept of "food product quality", the content of which we will reveal further.

As M. Kuzmina rightly points out, it is quite necessary to ensure legal regulation of relations regarding safety and quality, precisely taking into account the dynamics of the development of modern market relations, which requires the adoption of new acts or the coordination and periodic revision of existing ones [328, p. 125]. Analysis of the Law of Ukraine "On the Safety and Quality of Food Products" made it possible to highlight some of its debatable provisions.

Thus, the existence of the concept of "dangerous food product" in the Law, which means a food product that does not meet the requirements established by this Law, seems controversial. An analysis of the provisions of the Law shows that today there are a significant number of requirements for a food product, in particular requirements for its safety, suitability, compliance with sanitary measures and technical regulations, quality, labeling, packaging, etc. However, it seems possible that a situation where even a minor non-compliance of an agricultural product with the requirements established by the Law (for example, product packaging requirements), which can be eliminated without significant expenditure of time and money, will lead to the fact that such products will be recognized as dangerous, which will cause significant economic losses of the producer (seller, consumer) of such products. Taking into account the above, we believe that the exclusion of the specified concept from the Law would not affect the level of legal regulation of the safety and quality of agricultural products, and the concepts of "food product safety" and "safe food product" given in the Law form a

sufficient legal basis for the regulation of legal relations and provide an opportunity to define this or that food product as safe or dangerous.

Also, defining the concept of "unsuitable ("adulterated") food product", the legislator provides the criteria for determining such unsuitability. In particular, a food product containing a poisonous or harmful substance that makes it dangerous for human health is considered unfit (except for substances that are not added substances, if such substances are present at levels that are not considered harmful to health person). However, by adding the specified condition, the legislator creates a significant contradiction, which can be explained by the following example. Agricultural products (for example, grain) are transported in containers that were made using harmful (for example, toxic) substances, which created a threat to human health. According to the definitions given by the legislator, the specified container is a "dangerous factor", and the mentioned agricultural products are unusable, because, firstly, they were in a container that was partially or completely composed of harmful substances, which can make the products dangerous for human health; secondly, was in circulation in such a way or under such conditions that it could cause its contamination and danger to human health. However, the legislator specifies a condition, in compliance with which the specified agricultural products will not be considered unsuitable, namely: the substances are not poisonous or harmful, if they are present at levels that are not considered harmful to human health. That is, if the fact is established that the level of harmfulness or toxicity of substances is within the permitted limits, then under the same circumstances stipulated by us, agricultural products that were exposed to such substances can be considered suitable. However, based on the concept of "polluting substance" specified in the Law, the existence of the mentioned permitted limits is called into question. Thus, any biological substance, including organisms, microorganisms and their parts, or a chemical substance, foreign admixture or other substance that *poses a threat is recognized as a pollutant* (our italics. – V.K.) safety and suitability of the food product. Based on the above, even *the possibility* (italics ours. - V.K.) the presence of harmful or poisonous substances in a food product is unacceptable and gives such products the status of unsuitable, dangerous and

contaminated [318, p. 79]. As we can see, under such conditions, such negative consequences as unequal application of the same rule of law in the same legal relationship are quite possible; abuse by bodies that control and supervise compliance with the legislation on the safety and quality of agricultural products; manifestations of dishonest business practices or other violations of the current legislation of Ukraine on the part of economic entities during their economic activities, etc. In view of this, we consider it expedient to exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "unfit (" adulterated ") food product".

The next controversial provision appears to be the definition of the concept of "food product quality" as the degree of perfection of the properties and characteristics of a food product that can satisfy the needs (requirements) and wishes of those who consume or use this food product.

First, the concept of "perfection" in modern language means the following: the completeness of all advantages, the highest degree of any positive quality [340]; the peak of perfection, the highest limit of mastery of something [366]; the completed state of this or that phenomenon [302]; the horizon, which all the time moves into the future as one approaches it [359, p. 71].

Systematizing the specified definitions, we can reach a generalized conclusion that perfection is the state of the highest completeness, completeness of the phenomenon [321, p. 82]. Therefore, a perfect phenomenon cannot be improved, and therefore perfection cannot have any gradations, including degrees.

Secondly, the specified definition does not specify the conditions under which this or that food product should be used. For example, a person who bought tea and uses it not for its intended purpose (that is, in a way that is not generally accepted for this type of food, or not in a way that is recommended by the manufacturer of such a food product), but in order to achieve a state of narcotic intoxication Yaninya will probably say that the product she uses is *just for her* (our italics. - V.K.) is of high quality, as it is able to satisfy her needs (requirements) and wishes (in accordance with the legal norm). However, taking into account the above provisions that product safety is an

integral component of its quality, it is hardly possible to assert the quality of the specified product under the simulated conditions of its use. Therefore, we believe that the legislator in the definition of "quality of a food product" should clearly indicate the conditions under which a particular product can be recognized as high-quality. Such conditions, in particular, should be the usual (generally accepted, reasonably foreseeable) conditions of use, or the conditions recommended by the manufacturer of such a food product (that is, use (consumption) as intended). Under such circumstances, the information indicated on the food product acquires the status of a mandatory element in the mechanism of ensuring product safety and quality.

Thirdly, the specified definition of the quality of the food product does not contain any mention of its safety. As noted earlier and rightly pointed out by S. M. Romanko [361, p. 11], V. Z. Yanchuk [288, p. 255] and T. G. Kovalchuk [323, p. 25], the safety of agricultural products is one of the indicators of its quality, and therefore, dangerous agricultural products cannot be recognized as high-quality in any way. In addition, the legislator himself, indicating that a food product that does not meet the requirements established by the Law is dangerous, indirectly indicates the need, in particular, to comply with the requirements regarding the safety of the food product.

In addition, the provision of Clause 2 of Part 4 of Article 30 of the analyzed Law, which directly concerns ensuring the appropriate level of quality and safety of food products, is considered declarative and not properly implemented. Thus, according to the specified provision, a food additive is allowed for use in Ukraine under conditions, if this food additive does not represent a danger to the health of the consumer at the level of use at which it is proposed, which can be established on the basis of available scientific evidence. So, for example, food additive E 250 Sodium nitrite (sodium nitrite), according to the Resolution of the Cabinet of Ministers of Ukraine No. 12 dated 04.01.1999 "On approval of the list of food additives permitted for use in food products" [347], is permitted for use in food products in Ukraine. However, this additive is prohibited for use in the countries of the European Union. This shows that at this time there is scientific justification for the impossibility of using the specified

food additive in food products. However, despite this, contrary to the provisions of Clause 2 of Part 4 of Article 30 of the Law of Ukraine "On the Safety and Quality of Food Products", the mentioned food additive was not removed from the list of permitted use. The above shows that the provisions of the specified Law are purely declarative, as neither the grounds for determining the existence or non-existence of adequate scientific evidence regarding the safety of a certain food additive, nor the criteria for the availability of such scientific evidence are provided for.

Taking into account the above, we have every reason to assert the imperfection of the current legislation of Ukraine, which regulates public relations regarding the safety and quality of agricultural products, in connection with which we offer the following:

1. The concept of "food product quality" given in Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" should be defined as follows:

"The quality of a food product is a set of essential properties of a food product, which, under the reasonably foreseeable, usual or such conditions of use as prescribed in a regulatory legal act or contract, do not pose any or pose acceptable risks both for consumers of such a product and for the natural environment, and are able to satisfy the predetermined needs of such consumers". At the same time, the definition of the concept of "quality of agricultural products" is derived from the specified definition and identical to it [291, p. 189].

2. Exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "unfit (adulterated) food product" as something that complicates the mechanism of legal regulation of the safety and quality of agricultural products and creates the possibility of the existence of such negative consequences as unequal application of the same rule of law in the same legal relationship; abuse by bodies that control and supervise compliance with the legislation on the safety and quality of agricultural products; manifestations of dishonest business practices or other violations of the current legislation of Ukraine on the part of economic entities during their economic activities, etc.

3. Exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" the concept of "dangerous food product" as something that

complicates the mechanism of legal regulation of the safety and quality of agricultural products.

4. Amend paragraph 12 of part 1 of article 1 of the Law of Ukraine "On the Safety and Quality of Food Products" by wording it as follows: "a safe food product is a food product that is reasonably foreseeable, normal or as established in the regulatory legal act or contract, the conditions of its intended use, does not directly or indirectly pose any or acceptable risks both for consumers of such products and for the natural environment under the conditions of its production, circulation and consumption in compliance with the requirements of the current legislation of Ukraine. In any case, a food product cannot be recognized as safe if it contains poisonous, harmful, or other substances of natural or anthropogenic origin, the use or consumption of which has a harmful effect on human life and health and the state of the natural environment (viruses, disease- causing bacteria , pesticides in agricultural raw materials, food additives, dyes, medicines for animals, other biological and chemical compounds, etc.), except for those whose conditions and quantity of use are permitted by the current legislation of Ukraine, including current international treaties of Ukraine." At the same time, the definition of the concept of "safety of agricultural products" is derived from the specified definition and identical to it.

5. Taking into account the above proposals, bring the laws of Ukraine, other normative legal acts related to the safety and quality of products, in particular agricultural products, into compliance with the norms of the Law of Ukraine "On the Safety and Quality of Food Products".

However, even these measures cannot solve all the problems of legal regulation of the safety and quality of agricultural products. One should agree with the opinion that one of the possible ways to improve the legislation on the safety and quality of agricultural products may be the adoption of a single normative legal act that would comprehensively regulate the entire scope of legal relations in the specified area [341, p. 67, 334, p. 34].

Given that the legislation regulating the safety and quality of agricultural products is complex, legally heterogeneous, it includes norms of various branches of law [319,

p. 33], in order to ensure the unity and coherence of all normative legal acts in this area and bring them into a single system, it is necessary to adopt the Law of Ukraine "On the Production and Circulation of Safe and High-Quality Agricultural Products", which could have the following structure:

Preamble (Purpose of adopting the law; Scope of the law).

Section 1. General provisions (Terms and their definitions; Legislation on the safety and quality of agricultural products).

Section 2. Legal forms of regulation of requirements for agricultural products (Standardization; Certification; Compliance of agricultural products with international requirements).

Section 3. State regulation of the safety and quality of agricultural products (The concept of state regulation of the safety and quality of agricultural products; Principles of state regulation of the safety and quality of agricultural products; Participants in the process of production and circulation of agricultural products; Basic measures of state regulation of the safety and quality of agricultural products; State regulation of stage of production of agricultural products; State regulation at the stage of circulation of agricultural products; Measures to stimulate the production of safe and high-quality agricultural products; Bodies carrying out state regulation of the safety and quality of agricultural products, their competence).

Section 4. Rights and obligations of other participants in the process of production and circulation of agricultural products (List of other participants in the process of production and circulation of agricultural products (enterprises carrying out storage, protection, transportation, intermediary structures, other infrastructure); Basic rights and obligations other participants in the process of production and circulation of safe and high-quality agricultural products).

Section 5. Control and supervision of compliance with legislation on the safety and quality of agricultural products (System of bodies that control and supervise compliance with legislation on the safety and quality of agricultural products; Competence of bodies that control and supervise compliance with legislation on the safety and quality of agricultural products products).

Chapter 6. Liability for violations of the legislation on the safety and quality of agricultural products (Legislation on liability for violations of the legislation on the safety and quality of agricultural products; Types of liability for violations of the legislation on the safety and quality of agricultural products).

Section 7. Final Provisions.

Of course, we proposed only the general structure of the draft Law, but it can be taken as a basis during the development of the draft of the specified Law, since its provisions are structured in such a way as to take into account the complexity of the legislation on the safety and quality of agricultural products as much as possible, the norms of which are contained in various branches rights.

Therefore, the draft of the Law of Ukraine "On the Production and Circulation of Safe and High-Quality Agricultural Products" proposed by us is designed to eliminate the multiplicity of normative acts regulating uniform legal relations, exclude duplication of norms, eliminate gaps and conflicts, could become the basis for the development of relevant legislation, provide certain guarantees safety and quality of agricultural products, to promote proper protection of consumer rights, as well as to solve other urgent problems. At the same time, the correlation of the specified Law with the Law of Ukraine "On the Safety and Quality of Food Products" should be such that the latter Law should establish the general principles of safety and quality of all food products, while the specification of such general provisions should take place in our proposed Law.

At the same time, the adoption of the specified Law does not exclude the by-law regulation of issues of safety and quality of agricultural products.

Thus, using the already existing experience of creating regional documents aimed at ensuring the safety and quality of agricultural products (for example, the Program for the Promotion of Product Quality and Competitiveness of the Republic of Crimea for 2002-2007, the Program for the Protection of Consumer Rights for 2003-2007, etc.), we consider it is expedient to create appropriate local programs for the development of the agricultural sector, the scope of which would be extended according to territorial (by regions), geographical and climatic (mountainous, steppe,

coastal and other parts of the country, etc.) and other principles, the necessary element of which would be the promotion of production and circulation safe and high-quality agricultural products. In addition, after the implementation of the specified local programs, after analyzing the conclusions obtained as a result of their implementation, it would be appropriate, in our opinion, to develop a national program for promoting the development of production and circulation of safe and high-quality agricultural products, which would take into account the peculiarities of each individual region of the country, current legislation of Ukraine, including the requirements of international treaties, the binding consent of which was given by the Verkhovna Rada of Ukraine, as well as proposals of scientists (specialists in the field of law, economics, agriculture, etc.) and practical workers whose activities are directly or indirectly related to the issues safety and quality of agricultural products.

Conclusions

The development of views regarding the understanding of the concepts of "safety" and "quality" took place in several stages: (1) philosophical justification of the concept of "quality" and its definition as the most general concept ("quality" is a general philosophical concept); (2) justification of the concept of "quality" as a scientific category ("quality" is a special scientific concept); (3) introduction of the scientific categories "safety" and "quality" into real social relations ("safety" and "quality" are applied concepts).

All definitions of the concept of "product quality" can be classified into three groups: the first group - definitions of the economic content, which establish only requirements for the consumer value of products; the second group – determination of the legal content, establishing the need to establish product quality requirements in certain legal acts; the third group - complex definitions that take into account both the objective (need to establish requirements for product quality in certain legal acts) and the subjective (ability of products to satisfy consumer needs) side of the concept of "product quality". In our opinion, the meaning of the concept of "product quality" can

be determined most fully by taking into account the economic and legal aspects in their totality, that is, by applying a comprehensive approach.

The legal regulation of public relations arising from the safety and quality of agricultural products has undergone three stages in its development: the first stage lasted from 1923 to 1991 and was characterized by the lack of distinction between the concepts of "product safety" and "product quality", as well as one of the earliest official confirmations not only of the definition of the concept of "product quality", but also of its economic and legal features; the second stage lasted from 1991 to 2005 and was associated with the adoption of the Law of the Ukrainian SSR "On the Protection of Consumer Rights" on 12.05.1991, which was characterized by separating the concept of "product safety" and its main features from the concept of "product quality"; the third stage, which began in 2005 and continues until now, is related to the adoption of the laws of Ukraine "On the protection of consumer rights" and "On the safety and quality of food products", which not only separate the consumer's right to product safety from the right to quality products, but also more clearly distinguish the very concepts of product quality and safety, classify product defects ("defect" and "significant defect"), define the concept of "adequate product quality", point out the inexhaustibility of the list of consumer rights in this area.

The quality of agricultural products as a complex legal category has certain indicators: safety, transportability, technological, economic, aesthetic, patent-legal, biological, etc., which can be classified as follows: (1) according to the degree of obligation to take them into account when assessing the quality of agricultural products: mandatory (for example, environmental safety) and optional (for example, aesthetic indicators); (2) according to the form of manifestation: actually existing and standardized; (3) by content: quantitative (eg cost) and qualitative (eg safety); (4) depending on the stage (cycle) in which agricultural products are: production and consumer. At the same time, it should be noted that neither the specified classification criteria nor the elements of such classifications can be considered exhaustive and existing in an unchanged form, since the presence or absence of certain criteria, their

names and content may change depending on specific circumstances, including from the level of development of science and technology.

The concept of "quality" and, together with it, the concept of "safety" as its component have the following main features: (1) a set of essential product properties that are decisive for this specific product and are established in the relevant legal acts: standards, regulations, technical conditions, etc. ; (2) agricultural products may not pose any or may pose acceptable risks for the consumer under the reasonably foreseeable, usual or conditions of use of such products (product safety); (3) taking into account the impact of agricultural products on the surrounding natural environment when determining them as safe and/or high-quality, since both agricultural products and the surrounding natural environment influence each other; (4) the properties of the products are able to satisfy the predetermined needs of the consumer of such products.

Based on the results of the analysis of the Law of Ukraine "On the Safety and Quality of Food Products": (1) we suggest that the concept of "quality of a food product" given in part 1 of Article 1 of this Law be expressed as follows: "The quality of a food product is a set of essential properties of a food product a product that, under the conditions of its intended use that are reasonably foreseeable, normal, or such as are established in a regulatory legal act or contract, does not pose any or poses acceptable risks both for consumers of such a product and for the natural environment, and is able to satisfy the predetermined needs of such consumers". At the same time, the definition of the concept of "quality of agricultural products", taking into account the characteristics of agricultural products (grown as a result of the action of biological processes, has a natural origin from the earth and/or from living biological organisms, etc.), is derived from the specified definition; (2) it is seen that today there are a significant number of requirements for a food product, in particular, requirements for its safety, suitability, compliance with sanitary measures and technical regulations, quality, labeling, packaging, etc. However, it seems possible that a situation where even a slight non-compliance of an agricultural product with the requirements established by the Law, which can be eliminated without significant expenditure of time and money, will lead to the fact that such products will be recognized as

dangerous, which may cause significant economic losses to the producer (seller, consumer). such products. Taking into account the above, we believe that the exclusion of the concept of "dangerous food product" from the Law of Ukraine "On the Safety and Quality of Food Products" will not affect the level of legal regulation of the safety and quality of agricultural products, but the concepts of "food product safety" and "safe food product" given in the Law product" form a sufficient legal basis for regulating legal relations and make it possible to determine a particular food product as safe or dangerous; (3) it can be concluded that defining "unfit (adulterated) food product", the legislator specifies the criteria for determining such unfitness, including the presence of a contaminant. Even the possibility of the presence of harmful or poisonous substances in a food product is unacceptable and gives such products the status of unsuitable, dangerous and contaminated. As we can see, under such conditions, such negative consequences as unequal application of the same rule of law in the same legal relationship, etc., are quite possible, given that, in our opinion, it is necessary to exclude from Part 1 of Article 1 of the Law of Ukraine "On the Safety and Quality of Food products" concept of "unfit (adulterated) food product"; (4) we propose to amend Paragraph 12 of Part 1 of Article 1 of this Law by wording it as follows: "a safe food product is a food product that, under the reasonably foreseeable, normal or conditions established in a regulatory act or contract, intended use does not directly or indirectly pose any or acceptable risks both for consumers of such products and for the natural environment under the conditions of its production, circulation and consumption in compliance with the requirements of the current legislation of Ukraine. In any case, a food product cannot be recognized as safe if it contains poisonous, harmful or other substances of natural or anthropogenic origin, the use or consumption of which has a harmful effect on human life and health and the state of the natural environment (viruses, disease- causing bacteria, pesticides in agricultural raw materials, food additives, dyes, medicines for animals, other biological and chemical compounds, etc.), with the exception of those whose conditions and quantity of use are permitted by the current legislation of Ukraine, including current international treaties of Ukraine". At the same time, the definition of the concept of "safety of agricultural products", taking

into account the peculiarities of agricultural products (grown as a result of the action of biological processes, has a natural origin from the earth and (or) from living biological organisms, etc.), is derived from the specified definition.

In order to analyze the reasons for the unsatisfaction of certain human needs from the consumption of one or another agricultural product and the reduction of its competitiveness on the market, it is advisable to use the economic model of Gaps (GAP) as such, which takes into account not only the objective, but also the subjective characteristics of such products, that is, its ability to satisfy certain consumer needs. Moreover, according to the specified model, an agricultural product is of high quality if there is no gap between the perception of the product and the expectations regarding this product. The existence of the specified gap arises due to certain reasons (so-called "Discontinuities").

It is necessary not only to develop and implement a national program to promote the development of production and circulation of safe and high-quality agricultural products, but also relevant local programs for the development of the agricultural sector, the scope of which would be extended by territorial (by regions), geographical and climatic (mountain, steppe, coastal and other parts of the country, etc.) and other principles, a necessary element of which would be to promote the production and circulation of safe and high-quality agricultural products.

Considering the fact that the legislation regulating the safety and quality of agricultural products is legally heterogeneous, contains norms of different branches of law, in order to ensure the unity and coherence of all normative legal acts in this area and to bring them into a single system, the adoption of the Law is necessary of Ukraine "On the production and circulation of safe and high-quality agricultural products" as a comprehensive regulatory act that regulates social relations that arise, change and cease in the process of production and circulation of agricultural products.

The introduction of legal and economic mechanisms for the activity of systemic (complex) agricultural enterprises in Ukraine, which could fully serve the entire food cycle - development or selection (selection and hybridization), cultivation, harvesting, primary processing, storage, transportation, implementation, consumption, and

therefore create the most favorable conditions for ensuring a high level of safety and quality of agricultural products. In other words, it is necessary to ensure the conditions for the existence of technological unity throughout the entire "life" of the product - from its development to final consumption, which is impossible without the unification of subjects involved in the production of such products.

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9. Constitutional obligation of citizens to pay taxes in Ukraine and the EU

Annotation

In connection with the war, the economy of Ukraine found itself in a deep recession. At this time of extremely difficult tests for our country and society, the constitutional duty of every citizen to pay taxes should be considered in a completely new context. The highest manifestation of patriotism is always, and especially during war, the payment of taxes.

In 1996, the Verkhovna Rada of Ukraine, expressing the sovereign will of the citizens of our country and relying on the centuries-old history of Ukrainian state-building, on world experience, adopted the Basic Law of Ukraine — the Constitution, which became a real and effective basis for building an independent democratic state as a full member of the world community.

The Constitution entered public life as the main talisman of statehood and democracy, a guarantor of the independence and unity of Ukraine. Its supreme legal power, the rule of law, political, economic and ideological diversity are the fundamental principles on which the present and the future of the Ukrainian people are based.

The Constitution as the fundamental source of tax law contains legal principles that determine the normative regulation of central and local taxes and are basic for procedural tax legislation; establishes the legal basis of the tax activity of the state and the competence of central and local bodies in the field of tax relations.

One of the constitutional duties of citizens of Ukraine is the duty of everyone to pay taxes and fees in the manner and amounts established by law, as well as to submit declarations of their property status and income for the past year to the tax inspectorate at their place of residence every year in the manner established by law (Article 67 of the Constitution of Ukraine).

The stability of the budget system of our country is provided by taxpayers, and most of them are aware of the importance of declaring income as fulfilling their duty to pay taxes to the state and society.

The tax system of any country is a collection of taxes and fees that go to the budget of such a country. The peculiarity of the tax system of the EU countries is that, on the one hand, the current tax system should be sufficient to provide the necessary funds for the revenue part of the national budget of each country, and on the other hand, to avoid disparities in the level of tax revenues between individual EU countries.

Legal enforcement of constitutional obligations in the EU countries is due to the need to improve the constitutional and legal regulation of social relations in Ukraine, which arise when a person and a citizen fulfill constitutional obligations, taking into account such factors as the irreversibility of Ukraine's European and Euro-Atlantic course, which contributed establishing a course for the transformation of public life, which consists in reforming the provisions of national legislation, as well as in the emergence of effective mechanisms of legal regulation of legal relations that take place in one or another sphere of public life. At the same time, at the current stage, the development of social relations in the field of taxation is characterized by considerable dynamism and contradictory processes, radical changes, which are mediated by numerous social,

Introduction

The rights, freedoms and duties of a person and a citizen are the highest social value. They are inextricably linked with the concepts of democracy, the rule of law, civil society and are a necessary and integral element of the legal status of a person, an important condition for ensuring the stability of the development of social relations. At the same time, legal obligations are one of the means of the state's performance of its functions and are intended to contribute to the protection of the constitutional order, the rights and freedoms of man and citizen, to ensure the economic security of the state, legality and law and order. Enshrining the European integration course in the Basic Law also creates urgent problems regarding its constitutionalization, that is, the problems of forming and developing an effective constitutional and legal mechanism

for regulating state actions and social relations in the direction of acquiring membership in the Union. taxes, fees and other mandatory payments are the financial basis of the functioning of the state, because they provide a significant part of the revenues of the state and local budgets, as a result of the mobilization of funds for the financing of state and municipal expenses. In addition, taxes in market economic systems also serve as an effective tool for the economic and legal regulation of social relations, and therefore, taxes and fees play an important role both in ensuring the financial and political stability of the state, and in ensuring the growth of the social well-being of the population in Ukraine. Ensuring the voluntary fulfillment of the tax obligation as a result of the taxpayer's awareness of the importance of taxes for social development is impossible without a clear conviction in the fairness of the tax system, ensuring an optimal balance of the interests of the taxpayer and the state, moderate tax pressure, as well as honest and transparent use of budget funds. First of all, we must have an understanding of the essence of the legal consciousness of taxpayers, through which the perception of legal reality in tax relations takes place - the attitude to the tax system, the rights and obligations of subjects of tax relations, other legal phenomena in the field of taxation. The taxpayer must have his own views, ideas, values, beliefs that contribute to the understanding of legal reality and determine his readiness for certain legal behavior. rights and obligations of subjects of tax relations, other legal phenomena in the field of taxation. The taxpayer must have his own views, ideas, values, beliefs that contribute to the understanding of legal reality and determine his readiness for certain legal behavior. rights and obligations of subjects of tax relations, other legal phenomena in the field of taxation. The taxpayer must have his own views, ideas, values, beliefs that contribute to the understanding of legal reality and determine his readiness for certain legal behavior.

This will be conditioned by the need to form a whole legal culture among subjects of tax legal relations, when their legal consciousness will not be individual or even group, but rather social in nature, will concern not only taxpayers, but also other subjects of tax legal relations, who represent the state

9.1 Legal obligations of a person and a citizen in Ukraine and the European Union

The process of building a modern legal state requires the achievement of certain socially significant goals, through the creation of effective means capable of ensuring general public interests. In particular, one of these means is the definition and consolidation of the legal obligations of a person and a citizen, which provide for the onset of legal liability in case of their non-compliance, that is, non-fulfillment or improper fulfillment. It is legal duties that are a form of expressing the responsibility of a person and a citizen to society and the state.

As for the concept of "legal obligations", these are legally established and protected by the state requirements that apply to every person and citizen. They are connected with the necessity of their participation in ensuring the interests of society, the state and other persons.

In the explanatory dictionary of the Ukrainian language, the category "obligation" is defined as something that must be unconditionally followed, that must be fulfilled without fail in accordance with the requirements of society or based on one's own conscience [381, p. 548].

In the explanatory dictionary of V. I. Dahl, this category means everything that is due, everything that lies on someone, that someone must fulfill and observe, is obliged to. A person has duties to himself (personal), duty to his neighbor, his state or public duty, and, ultimately, spiritual [382, p. 640].

So, for example, P. Klöppel argued that any duty is, in fact, a moral duty. Legal norms confer legal obligations only on state bodies. Duties of subjects are the result of life phenomena (actions, events, states) and cultural norms affecting them; legal duties become legal because and to the extent that they are recognized by the state in the current law, especially by state courts. Legal duties are legally important duties, Max Meyer believed [383, p. 504].

As emphasized in the Great Ukrainian Legal Encyclopedia, a legal obligation is a means of concretizing an objective obligation that does not depend on the subject's will and consciousness and does not belong to him. Legal obligation in the objective

and subjective sense is legal in nature, provides legal regulation, is established by the state; has a defined content and legal force and generates legal consequences. Legal obligation in the objective sense is determined by the objective conditions of the development of society, which have an economic, political or social nature; is established by norms of a general nature; extends its effect to a certain sphere of social relations, etc. [384, p. 377].

The Universal Declaration of Human Rights of 1948 (Part 2 of Article 29) and, accordingly, Article 23 of the Constitution of Ukraine of 1996 establishes that every person has the right to free development of his personality, provided that the rights and freedoms of other people are not violated, and has obligations to the society in which the free and comprehensive development of his personality is ensured. That is, a person is endowed not only with rights and freedoms that provide him with certain opportunities to acquire, own, use and dispose of political, economic, social and other benefits, but also with obligations, compliance with which is an indispensable condition for achieving the corresponding goals. As B. Ebzeev noted: "Obligations are as necessary an element of legal regulation as rights, they are immanent in any legal order and bind both the democratic social legal state and the individual".

The Constitution of Ukraine of 1996 enshrined the duties of a person and a citizen together with rights and freedoms in the second chapter - "Rights, freedoms and duties of a person and a citizen" - and thereby contributed to the implementation of the principle of the unity of rights and duties. In the current Basic Law, the constitutional status of a person is characterized by the features of the liberal concept of the rights and freedoms of a person and a citizen. As you know, under the conditions of application of the liberal (Western) concept of rights and freedoms, constitutional obligations are formulated in a limited way. Accordingly, the number of established duties of a person and a citizen in the current Constitution of Ukraine, in particular 9 of them, compared to the previous Constitution of the Ukrainian SSR of 1978 p., where their number was 16, has greatly decreased. We are not just talking about total changes in the number of duties, which are enshrined in the constitutions at various stages of the state's development. Such a process is a legal reflection of a new stage in the

constitutional regulation of relations between society, the state and a person, a citizen. Perhaps this is also due to the fact that constitutional obligations are extremely difficult to formulate, since it is difficult to separate them from other social and, above all, moral norms. At the same time, their value lies in the fact that they act as a necessary structural element of the process of legal regulation, a form of interconnection of public and personal interests, an important structural element of the constitutional status of a person, in connection with which each duty must be considered separately, as well as in the system of all the constitutional rights, freedoms, and obligations provided for by the Basic Law [386]. Such a process is a legal reflection of a new stage in the constitutional regulation of relations between society, the state and a person, a citizen. Perhaps this is also due to the fact that constitutional obligations are extremely difficult to formulate, since it is difficult to separate them from other social and, above all, moral norms. At the same time, their value lies in the fact that they act as a necessary structural element of the process of legal regulation, a form of interconnection of public and personal interests, an important structural element of the constitutional status of a person, in connection with which each duty must be considered separately, as well as in the system of all the constitutional rights, freedoms, and obligations provided for by the Basic Law [386]. Such a process is a legal reflection of a new stage in the constitutional regulation of relations between society, the state and a person, a citizen. Perhaps this is also due to the fact that constitutional obligations are extremely difficult to formulate, since it is difficult to separate them from other social and, above all, moral norms. At the same time, their value lies in the fact that they act as a necessary structural element of the process of legal regulation, a form of interconnection of public and personal interests, an important structural element of the constitutional status of a person, in connection with which each duty must be considered separately, as well as in the system of all the constitutional rights, freedoms, and obligations provided for by the Basic Law [386]. Perhaps this is also due to the fact that constitutional obligations are extremely difficult to formulate, since it is difficult to separate them from other social and, above all, moral norms. At the same time, their value lies in the fact that they act as a necessary structural element of the process of legal regulation, a form of

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As noted by I.R. Yurchak, legal duties are a necessary component of the optimal interaction of the state, law and personality, without which neither a balanced legal system, nor effective legal regulation, nor a clear legal order, nor other conditions and manifestations of social life are possible. It is no accident that legal obligations are an element of the legal status of a person and a citizen. Legal obligations not only fix standards of behavior that are considered mandatory, useful, and expedient for the normal life of society, but also reveal the basic principles of the relationship between the state and the individual [387, p. 4].

An important and, in fact, final component of the constitutional and legal status of a person and a citizen, which determines the basis of relations between a person and the state, are the constitutional duties of a person and a citizen in Ukraine [388, p. 271]. The main duty of the state in accordance with Art. 3 of the Constitution of Ukraine is the establishment and provision of the rights and freedoms of a person and a citizen [389], and, accordingly, the creation of an effective constitutional and legal mechanism for ensuring the constitutional duties of a person and a citizen, because, as Professor V. Fedorenko rightly emphasizes, "obligations directly related "related to human rights and freedoms" [390, p. 271].

In particular, Clause 1 of Art. 92 of the Basic Law of Ukraine contains the instruction that the basic duties of a citizen are determined by laws. In addition, there

are direct references to the need to establish a legally defined procedure for their implementation1. The Constitution of the Ukrainian SSR contained a provision that the duties of citizens to ensure the country's security and strengthen its defense capabilities are determined by the legislation of Ukraine (Article 30).

These novelties are quite significant given the fact that the basic duties of a person and a citizen are implemented with the help of laws adopted by the Verkhovna Rada of Ukraine.

In addition to the Constitution of Ukraine, the Tax Code of Ukraine of 2010, the Family Code of Ukraine of 2002, the Land Code of Ukraine of 2001, the Forest Code of Ukraine of 1994, the Law of Ukraine "On education", Law of Ukraine "On general secondary education", Law of Ukraine "On defense of Ukraine", Law of Ukraine "On general military duty and military service", Law of Ukraine "On alternative (non-military) service", Law of Ukraine "On security natural environment", the Law of Ukraine "On Culture" and other legal acts.

These legal acts have a clear hierarchy. Therefore, depending on the legal force, they have a main or auxiliary character. Thus, the 1996 Constitution is the key source of defining basic duties in Ukraine. This document occupies the first place in the hierarchy of obligations, as it has the highest legal force and defines the range of basic obligations, which are further interpreted and supplemented at the level of industry legislation, including the mechanism of their implementation.

At the same time, it is the Constitution of Ukraine that enshrines the list of basic duties of a person and a citizen.

In particular, among them: the duty of parents to maintain children until they reach adulthood (Article 51); the duty of adult children to take care of their disabled parents (Article 51); the duty of everyone to obtain a full general secondary education (Article 53); the duty of citizens to protect the Motherland, its independence and territorial integrity (Article 65); the duty of citizens to respect the state symbols of Ukraine (Article 65); the duty of citizens to perform military service, in accordance with the law (Article 65); the duty of everyone not to cause damage to nature, cultural heritage, to compensate for the damages caused by him (Article 66); the duty of

everyone to pay taxes and fees in the manner and amounts established by law (Article 67); the duty of citizens to annually submit declarations of their property status and income for the past year to the tax inspectorates at their place of residence in accordance with the procedure established by law (Article 67);

Ukraine must implement EU legislation that regulates legal relations between the EU and a person and an EU citizen in connection with their performance of their duties for the purpose of implementing the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand, and the Action Plan for the implementation of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand, approved by the resolution of the Cabinet of Ministers of Ukraine dated October 25 .2017 No. 1106 [391]. This, in turn, actualizes the issue of the list of duties of a person and an EU citizen in accordance with EU law and in accordance with the legislation of Ukraine, as well as the issue of their classification.

Thus, the duties of a person and a citizen are the core of an individual's legal status along with his rights. They are an indicator of the evolution of the constitutional values of the EU member states. L. Deshko rightly points out that the constitutional values of the EU member states have influenced the norms of EU law that regulate social relations that arise when fulfilling the duties of a person and a citizen in the EU [392].

Indeed, "integration processes in Europe put on the agenda the problem of forming a new identity - European identity, which is the basis of European unification, an important component of the integration of individual countries into the European Commonwealth" [393].

Determining the legal status of a person in different countries has its own characteristics. In most countries of the world, a normative legal act has been adopted, which has the highest legal force and defines the range of basic rights, freedoms and obligations. However, the form and essence of the models of legal support and

realization of the legal duties of a person and a citizen in the Romano-Germanic, Anglo-Saxon, religious, traditional and socialist legal families have peculiarities.

In particular, the French Republic has certain peculiarities, since the current constitution of this country focuses on establishing the duties of the President of the Republic, the Parliament, and the Constitutional Council, rather than the duties of citizens.

At the same time, it is worth noting that the Constitution of the Fifth Republic of October 4, 1958 was adopted with the aim of ensuring political stability in the country, which was in systematic political and governmental crises after the Second World War. However, despite the prominent role of the specified document in world constitutionalism, the text of the Basic Law of the French Republic does not contain a section that would determine the legal status of a person, at the same time, there is a reference to acts that determine such status. Thus, in the preamble of the Constitution of the French Republic of 1958, it is stated that the French people solemnly declare their commitment to human rights and the principles of national sovereignty, defined by the Declaration of the Rights of Man and Citizen of 1789, confirmed and supplemented by the preamble of the Constitution of 1946, as well as rights and obligations , defined in the Environmental Charter of 2004 [394, p. 6].

Therefore, according to the preamble of the current Constitution of the French Republic (or the so-called Fifth Republic) dated October 4, 1958, the principles set forth in the Declaration of the Rights of Man and Citizen of 1789 have the highest legal force. In confirmation of this fact, on July 16, 1971, the Constitutional Council of France recognized this document as legally binding.

The Declaration of the Rights of Man and Citizen of 1789 includes seventeen articles that define the natural and inalienable rights of a person, as well as the obligation to ensure these rights with the help of equal law for all [395]. This document is also called the Charter of Personal Freedom, as it enshrines the most important personal rights and freedoms, in particular, freedom of conscience, the right to resist oppression, etc. At the same time, the definition of freedom and the possible limits of its limitation are revealed, namely: "you can do anything that does not harm third

parties." Sovereignty of the nation, separation of powers, the need for public authority, recognition by law of the expression of the highest will of the people are recognized as guarantees of the exercise of fundamental rights and freedoms.

The mechanism for ensuring and implementing the duties of a person in France is defined only at the level of industry legislation. For example, the tax obligation stipulated by the fourth article of the General Tax Code of April 6, 1950 (Code general des impots) [396]. This normative legal act is comprehensive and contains provisions relating to the mechanism of payment of income tax, value added tax, registration fee, local taxes and other direct and indirect taxes levied by the state and local authorities, as well as the application of responsibility in in case of violation of the tax obligation. In addition, it has four main appendices: to the provisions of state administration, to decrees in the State Council, for simple instructions, and for orders. At the same time, in the late 1970s, it was decided to abolish the rules, relating to legal proceedings and recovery, resulting in their compilation in the 1981 Book of Fiscal Procedures (Livredesprocedures fiscales) [397]. Thus, the main substantive and procedural rules of French tax law are concentrated in a single codified act.

Foreign systems of direct taxation of the incomes of natural persons already have a time-tested practice of formation and development based on the deep awareness of each tax payer of his constitutional duty to pay taxes. Thus, the essence of the category "tax" has an ambiguous interpretation in different countries: in Germany, it is the support that citizens provide to the state; in Great Britain it is a duty to the state; in the US, tax is understood as a fee; in France – as a mandatory fee [398].

At the same time, in France, the resolution of disputes arising between the tax authority and the taxpayer is structured in the form of an exchange of opinions, that is, each party proves its right, and the tax authority is obliged to provide a written response to any requests of the taxpayer, which it is entitled to use for your protection. The activities of the General Tax Administration of the French Republic are aimed at raising the level of explanatory work among taxpayers, in particular, informing citizens about various tax services through a network of telephone reference services. At the same time, information points operate in most city halls, as well as in public

organizations, television broadcasts with answers to questions about taxation are widely practiced, tax guides for entrepreneurs, reviews of tax legislation are published. The practice of holding consultation meetings with taxpayers is quite stable [399, p. 28]. That is, measures are being taken to increase the level of voluntary tax compliance by French citizens.

According to scientists, the German model of legal provision and implementation of legal duties of a person and a citizen, compared to the French one, is characterized by the consolidation of the legal position of the individual in the current Constitution of the Federal Republic of Germany of 1949 (The Basic Law for the Federal Republic of Germany) [400]. Provisions on the rights, freedoms and responsibilities of a person are contained in the first chapter of the Basic Law of the Federal Republic of Germany, which is entitled: "Fundamental rights", but the responsibilities of a person are also mentioned in other chapters of the specified document. At the same time, the provisions of the Basic Law of Germany, as well as the Constitution of France, contain references to legal acts that determine the rights and obligations of a person, in particular, it is established that the general norms of international law are an integral part of federal law and, at the same time,

Thus, the experience of Great Britain is instructive regarding the construction of a model of legal provision and implementation of legal obligations of a person and a citizen.In this country, there is no systematic statement of the rights, freedoms, and responsibilities of a person and a citizen, since legal relations regarding them are regulated by statutes, court precedents, and legal customs, while special attention is paid to ensuring effective judicial protection of rights and freedoms.

As you know, Great Britain does not have a single Basic Law, such as the Constitution, which would establish a certain range of duties of a person and a citizen. At the same time, the British Constitution has a combined, unsystematized form, consisting of two parts - written and unwritten, which are set forth in various sources.

The absence of a written constitution in the country causes peculiarities of the legal regulation of the duties of a person and a citizen. In practice, the rights of the British are regulated both by statutory law (the Great Charter of Freedoms of 1215

[401], the Bill of Rights of 1689 [402], etc.), and by precedent law and legal customs. In British law, there is no universally accepted classification of a person's legal duties into constitutional (primary) and branch (derivative). First of all, all duties are individual and based on the principle "everyone can do what is not prohibited by law." So, for example, regarding the characteristics of income taxation in Great Britain, we note that for all taxpayers, the amount of tax liability differs depending on whether the taxpayer is a resident or non-resident of Great Britain. Regarding this tax, a modular system of tax organization is also applied, which provides for different taxation rules for different categories of income. Usually, when paying this tax, it is allowed to take into account expenses related to receiving income, management expenses, etc. The specificity of the legal regulation of income taxation in Great Britain at the moment is that the annual budget law becomes a significant source of its regulation.

Therefore, depending on the country's membership of the legal system, models of legal support and implementation of legal obligations of a person and a citizen acquire their own characteristics. In particular, some legal systems are characterized by the absence of a clear legal regulation of models of legal support and implementation of the legal duties of a person and a citizen. However, in some countries, at the legislative level, the range of basic duties is defined, as well as the mechanism of their provision and implementation, by establishing guarantees of such performance, including the imposition of relevant duties on the state.

It is also characteristic of the absence or presence of a codified act that would determine the range of basic duties of a person, the priority of rights over duties in the legal status of a person, as well as the creation of a thorough mechanism for the performance of duties by officials and the provision of responsibility for their non-fulfilment in legal act, which has the highest legal force.

9.2 Administration of local taxes and fees in European countries

Today, most Western European states are abandoning the unitary state model by introducing decentralization. Taking into account the fact that "in a unitary state, only the central government has the right to make political decisions, the latter is extremely ineffective, because under such conditions, regional interests and needs are not taken into account, as a result, this can contribute to economic decline and the growth of discontent" [403, p. 32–33].

The path of fiscal decentralization was and is now being passed by European countries, whose experience should be studied and taken into account in the process of solving the issue of decentralization of power in Ukraine.

The study of foreign, first of all, European experience will contribute to the formation of its effective system, to overcome negative trends existing in Ukraine, to eliminate legal conflicts and irregularities.

The number of local taxes and fees, which constitute the main revenue part of local budgets in foreign countries, varies significantly - from 3, as in Great Britain, to 100, as in the Kingdom of Belgium. Their specific weight in the total revenues of local budgets reaches 46% in Germany, 61% - in Sweden, 37% - in Great Britain, 31% - in Spain, etc. The local taxation systems of the countries of the united Europe differ from each other. Their formation was historically carried out under the influence of a large number of various factors and, as rightly noted by I.S. Volokhova, is not a model of practical implementation of scientific criteria and principles of taxation [404, p.44]. The formation of tax administration models in different states is influenced by various objective reasons: peculiarities of legal systems, political and legal ideas dominant in the state, traditions of tax and management practice and legal behavior, etc. Their research is particularly relevant for Ukraine. After all, taking into account its geopolitical location on the eastern borders of the united Europe, Ukraine's strategic interest in building relations with the EU based on the principles of integration, European models of tax administration, including local taxes, naturally form a considerable scientific interest for the domestic scientific community.

The analysis of the experience of implementing the policy of applying benefits in local tax and fee administration systems deserves special attention. In this regard, the opinion of A.V. seems to be correct. Denisova that the analysis of such experience in relation to the preferential regime and its effectiveness in the tax system has both practical and scientific significance [405, p.56].

The French Republic is one of the founding and most influential members of the European Union, which is part of the "Big Seven" states and the group of the most developed countries of the world of the Organization for Economic Cooperation and Development. The tax system of France at the central, regional and local levels includes 214 taxes, fees, mandatory and so-called parafiscal payments [406]. At the same time, it should be noted that contrary to the long-standing tradition of centralized management since the beginning of the 80s of the XX century. the government of the Republic pursues a policy of decentralization to expand the rights of local self-government bodies, redistributing tax revenues [407, p. 27].

At the beginning of the XXI century. France has a system of 16 local election taxes, namely: land tax on built-up plots; land tax on undeveloped plots; tax (fee) for cleaning territories; housing tax; professional tax; fee for the maintenance of the agricultural chamber; fee for the maintenance of the Chamber of Commerce and Industry; fee for the maintenance of the Chamber of Crafts; local mine development fee; fee for installation of electric lighting; fee for used equipment; tax on the sale of buildings; collection from motor vehicles; tax on exceeding the permissible limit of building density; tax on exceeding the employment limit of the territory; fee for landscaping [408, p. 188].

T.V. Tuchak, having studied the system of administration of local taxes and fees in France, notes that the main ones are: tourist tax, family tax (consists of three taxes: on housing, land tax on houses and buildings, land tax), profession tax, collection tax territories, tax on the use of communications, tax on the sale of houses. In general, local taxes make up 30% of the total tax burden, and they fill 40% of local budgets. Four of the local taxes are direct taxes: on land under development; on undeveloped land; for

accommodation; to the profession They are the basis of the local taxation system [409, p. 153].

Tax rates on real estate (French: taille reelle) within the limits set by the central government are determined by local self-government bodies in annual budgets. So, tax on land under development, literally - land tax on immovable property (French: taxe foncière sur les propriétés bâties), is paid by the owners of plots of land built up with residential (houses, apartments) and business premises (shops, warehouses, various buildings).

The tax base is 50% of the cadastral value of real estate, which corresponds to the national average rent assessment of building objects with an annual adjustment for the inflation index, and 80% of the cadastral value of undeveloped land plots. Real estate is periodically reassessed, as a rule, below the real market value of the property. Since the administration of local taxes is centralized in France, 2.5% of the amount collected from this tax is transferred to the state budget as compensation for fiscal and administrative costs [409].

Privileges when paying land tax are used by the elderly and disabled persons with limited livelihood opportunities. The tax is paid once a year before January 1 of the tax year [410, p.122-123]. Taxe foncière sur les pro-priétés non bâties (French: taxe foncière sur les pro-priétés non bâties) applies to the owners and usufructuary of land. Since the area of such lands in France is small, the revenues to local budgets from its management are also small. The tax base at the level of 80% of the appraised (cadastral) value is determined by municipalities at the same time as the tax rate [410, p. 124].

The administration of this tax takes into account: zoning of the entire territory of the state, including overseas departments, into 28 agglomerations with more than 50,000 inhabitants, defined as so-called "stressed areas", with a particularly unbalanced land market; zoning to speed up construction projects, defined by the Urban Planning Code, and zoning to increase the cadastral rental value of the land plot for development (to encourage building densification) [411].

Housing tax (French taxe d'habitation) is payable by owners and tenants of residential premises (individual houses and apartments). The object of taxation is

premises, based on their cadastral value, including such property as parking lots, gardens, garages, utility rooms, etc. belonging to the house/apartment. The obligation to pay this tax rests with the persons who occupy it as of January 1 of the year for which the tax is paid. Uninhabited (except emergency) houses and apartments are also subject to taxation, if they remain uninhabited for five or more years [410, p.124]. People who are exempt from paying tax: who receive social assistance for the elderly (Aspa) [412], who have reached the age of 60 and who are widowed or have a disability. The amount of tax is reduced by 10% for each of the first 2 existing dependents and by 15% for each of the following dependents. Municipalities have the right to increase the housing tax in the case of two or more residential real estate objects [413]. The taxe d'habitation includes an audiovisual fee (French redevance audiovisuelle) for the use of television, and persons older than 75 years are exempt from this fee [410, p.124-125].

The business tax, or professional tax (French: taxe professionnelle), was one of the four direct local taxes. In 2010, it, along with other local taxes that relied on individuals and legal entities carrying out professional activities, was replaced by the territorial economic contribution (French: contribution économique territoriale, CET) to strengthen the competitiveness of business entities [414].

As for the powers of local self-government bodies in France, they have the right to introduce other taxes and fees for the lighting of public spaces, for the improvement of the territory; fees for motor vehicles; for the development of deposits, etc. The rates of local taxes, which are within their competence, are determined by the authorities independently during the formation of the budget for the coming year, but within the limits established by the Act of the National Assembly of the maximum level [415]. We consider the experience of tax administration in France to be positive in that the fiscal authorities, in addition to receiving and informing visitors, they provide services to payers through a network of telephone reference services. In addition, information points operate in most city halls and public organizations. Television broadcasts are widely practiced, in which representatives of tax authorities answer taxpayers'

questions related to practical taxation, the main tax office of France issues tax guides for entrepreneurs, reviews of tax legislation [416, p. 98].

In addition, we consider the institute of tax mediators (French: Médiateur du ministère, Défenseur des droits Le Médiateur de la République et de l'Economie et des Finances) [417] to be effective in the procedure for the administration of taxes and fees of the French Republic [417], which are involved in solving public legal disputes arising between subjects of tax administration, including local ones, and the payer.

To detect tax offenses, French tax inspectors willingly use informal sources of information, in particular anonymous letters, testimony of neighbors, informants. The tax administration officially rewards informants, but only after they have collected from the non-payer the amount he owes, together with fines [418]. Administrative and legal coercion for violation of tax legislation is characterized by a whole system of fines ranging from 40 to 80% of the amount of assessed tax and the possibility of undisputed writing off the tax debt from the payer's account [419, p. 356].

In the Kingdom of Spain, the tax system consists of three levels: state, regional and local (municipal). The regional government is authorized to regulate taxes, change rates, introduce new local taxes. Local taxes in Spain include: Real estate tax (Spanish: Impuesto Sobre Bienes Inmuebles), which is calculated taking into account the valuation of the property carried out by the Cadastre Office. The rates of this tax from 0.4% to 1.1% of the cadastral value are regulated by municipalities;

Tax on economic activity, which is calculated on the basis of a special calculation module. The object of taxation is legal and natural persons engaged in entrepreneurial activity. The amount of the tax depends on: a specific type of activity; of the municipal coefficient of the situational index (that is, the location of the business entity); Property tax, which includes: real estate, vehicles (depending on the type and capacity of the vehicle), deposits in banks, etc., jewelry, antiques, works of art. The tax rate is from 0.2% to 2.5% per year on a progressive scale; Tax on the growing value of land plots, which is paid in the event of alienation of the land plot to another owner.

Tax on the provision of public services. For example, for garbage removal, construction of public buildings. Taxation is carried out on the basis of a catalog issued

annually by the Ministry of Finance; Special taxes, which compensate for the cost of services of an individual nature. For example, the cost of paving the sidewalk is distributed among the residents of nearby buildings [409];

Fees and contributions, which are established by municipalities as compensation for services, as a result of which the taxpayer receives additional income. Lists of these fees and contributions are published annually [420, p. 90]. These fees include a tourist tax from 0.5 to 2.5 Euro depending on the hotel class and region, which is charged to tourists staying in hotels for seven nights [421].

The main regulatory act of Spain aimed at regulating local taxes and fees is the Law "On Local Finances", according to which the first three taxes are universally obligatory, and the other two can be applied at the discretion of local authorities. In all cases, local authorities independently determine the amount of tax rates, but within the limits established by law [422, p.164].

The administration of local taxes and fees in Spain is carried out by a single tax administration body - the Tax Agency of Spain. A special tax court has been created to resolve tax cases in Spain [423].

In the Republic of Poland, local taxes and fees are regulated by the Law "On Revenues of Territorial Self-Government Bodies", according to Article 4 of which the sources of revenue for commune budgets are:

1) income from taxes: real estate tax, vehicle tax, tax on civil actions, inheritance and donation tax, agrarian and forest tax, tax card; 2) income from fees: stamp, market, local, resort, operational, collection from dog owners, established on the basis of separate norms [424, p. 521-522].

There is also a tax in the commune, which is paid in the form of a "tax card", it is actually the equivalent of our single tax. In a certain percentage ratio, the shares from the personal income tax (PIT) and from the profits of enterprises are credited to the budgets of communes, counties and voivodships.

Among this variety of taxes, the largest share in local budgets is the income from the real estate tax and the share of personal income tax [425]. The administration of the above-mentioned taxes in Poland is handled by a whole system of specially

authorized bodies of public administration. A prominent place in it is occupied by the Ministry of Finance of the Republic of Poland (Polish: Ministerstwo Finansów – Krajowa Administracja Skarbowa), a government institution whose competence mostly includes coordination in the field of finance and the administration of taxes and fees [426].

The direct administration of taxes and fees, including local ones, is carried out by special bodies in the system of the Ministry of Finance of the Republic of Poland - the Chambers of the Treasury Administration (pol. Izba Administracji Skarbowej), territorial specialized state bodies that perform tasks related to the administration of taxes, fees, non-tax budgetary obligations by protecting the interests of the treasury and protecting the customs territory of the European Union, as well as ensuring proper service and support of taxpayers, as well as service and support of entrepreneurs in the proper execution of customs duties [427].

In addition, at the level of voivodeship, poviat and commune local self-government bodies, it is possible to create auxiliary structures for tax administration and tax revenue control. Their purpose is to verify the fulfillment by controlled persons of their obligations in accordance with the provisions of tax legislation [428, p. 124].

The Federal Republic of Germany enshrined in Article 106 of the Constitution a comprehensive list of all types of taxes that can be levied on the territory of the state and the system of distribution of income from all types of taxes between budgets of different levels [429]. At the same time, the clear constitutional regulation of taxes does not prevent German tax law from being one of the most confusing in the world. Similar tax diversity is not observed in any other European state.

Taxes in Germany are divided into four types - federal, state, communal and joint. The first three are charged by a specific entity. Joint taxes are distributed among the budgets of the state, lands and local communities. Federal lands, of which there are 16, receive property tax, inheritance tax, automobile tax, taxes on commodity-monetary and property relations, beer tax and gambling house tax. In addition, lands collect the so-called tax on lottery and bookmaker winnings. Territorial communities form their budgets at the expense of land tax, industrial tax, beverage tax and taxes on

consumption and luxury items, which include dog tax, hunting tax, second residence tax and a tax on entertainment enterprises and entertainment establishments [430].

Industrial tax (German: Gewersteuer) in Germany is one of the main local taxes. According to the income component of the industrial tax, in addition to the profit, an amount equal to 0.5% of the amount of interest for the use of long-term loans of a capital nature is subject to taxation. Losses received from the activities of other enterprises are also taken into account (with the taxpayer's equity participation in it). A number of deductions are provided: 1.2% of the value of land plots, profit amounts received from the activities of other enterprises, as well as from the activities of foreign branches. In addition, the tax is differentiated depending on the subject of payment – an individual or a legal entity, for which different tax-free minimums are established [431].

Part of the industrial tax is transferred to the federal budget, in return, municipal bodies receive part of the income tax. Thus, the tax distribution scheme forms the prerequisites for self-sufficiency and financial independence of territories [432, p. 112].

Land tax (German: Grundsteuer) is imposed on the owners of plots of land, including those with buildings on them, at rates of 1-2% of the assessed value of real estate. The amount of land tax depends on the location of the plot, its size, i.e. the greater its appraised value, the greater the amount of land tax. The basis of taxation of this tax is the single estimated value of the real estate object [433, p. 191].

The dog tax (German: Hundesteuer) was introduced by the Bundestag in 2002 as an implementation of the state's policy to protect homeless animals, along with a package of other laws aimed at preventing animal cruelty. The tax has both a regulatory direction - to increase the economic burden on people who keep pets, making them more responsible, and an economic direction - to direct additional funds to finance the costs of protecting homeless animals. The amount of the tax directly depends on the breed of the dog and the community, its owner expresses . Yes, in Munich the tax payment is equal to 100 euros per year for one dog. If it belongs to the hunting or

fighting breed, then 800 euros per year. In Lower Saxony, the annual tax is equal to 70 euros, and for fighting breeds - at least 613 euros.

The complexity of the national tax system led to the emergence of a special institute of tax consultants (German: Steuerberater), who, along with fiscal authorities, are involved in the process of administering taxes and fees, which is why practically no one in Germany does their own tax accounting.

To work as a tax consultant, it is necessary to obtain a license, for which, in addition to the appropriate education and passing qualifying exams, it is necessary to have at least 3 years of experience in state financial structures and undergo an internship with a licensed tax consultant. The function of a tax consultant includes the processing of primary documentation, calculation of direct and indirect taxes, payroll taxes, and reporting. At the same time, unified computer programs are used, which are connected to the database of financial management, which allows most reports to be submitted via the Internet [435].

Tax diversity in the Federal Republic of Germany is not an obstacle to ensuring a high rate of collection of local taxes and fees. This is due to a number of factors. First of all, compliance with tax discipline, which is due to the inclination of German citizens to order; professionalism of employees of fiscal bodies; detailed tax legislation; active participation in tax administration by tax consultants who minimize the occurrence of conflicts between taxpayers and tax authorities regarding the content of tax legislation. The main common principle in the administration of local taxes and fees in European countries is the principle of service activity. However, the application of this principle does not exclude the possibility of limiting certain rights and freedoms: the inviolability of housing, the secrecy of correspondence, and others.

The uniqueness of each investigated system of local taxation is characterized by various factors, namely: the number of local taxes and fees, objects of taxation, the amount of tax rates and methods of their calculation, the scope of fiscal competences of controlling bodies depending on the level of taxes, etc. The only thing they have in common is the stability of tax legislation and its immutability over a long period of

time, which, in our opinion, is the most valuable positive experience necessary for use in the practice of domestic tax administration.

The differences in the organizational and legal models of the administration of local taxes and fees are due to different political and administrative traditions, forms of government, forms of tax systems, the use of different mechanisms for the distribution of powers between central and local bodies of public administration regarding the establishment of types, rates, bases and other elements of taxes, approaches to determine the essence of tax revenues and other factors [409, p. 170].

9.3 Substantial and qualitative characteristics of the field of taxation

The main way of harmonizing the tax legal norms of Ukraine and the European Union is adaptation - the process of developing and adopting normative legal acts and creating conditions for their proper implementation and application in order to gradually achieve full compliance of Ukrainian law with European law. At the same time, the state faces the need to reduce the tax burden on individuals and legal entities. Finding and creating effective legal mechanisms that will support production and entrepreneurship is the main task of the domestic legislator at today's stage [437, p. 151].

The Association Agreement between Ukraine and the European Union is a new format of relations aimed at the creation of a deep and comprehensive free trade zone "Ukraine - EU" and the gradual integration of Ukraine into the internal market of the European Union. Based on the experience of EU member states' rule-making activities, it is necessary to determine and implement the legal norms and principles of the national legal system of taxation taking into account the norms and principles of European law.

According to N. Parkhomenko, adaptation (from the Latin "adapto" - adapt) is the process of adaptation to changing conditions; in international law, adaptation is the process of bringing national legislation to the norms and standards of international law

by improving national legislation (amendments and additions, adoption of new normative legal acts), concluding or joining international treaties [438, p. 168].

The tax system of Ukraine should be harmonized with the European tax systems. In this regard, V. Yurchenko notes that the harmonization of the tax systems of the countries of the European Union and Ukraine is one of the key elements of the general process of fiscal convergence, which arose from the problems of tax competition. Sometimes it is stated that tax convergence, which is understood as the process of convergence of tax systems of countries with different levels of political and socio-cultural development, involves the development and implementation of fiscal regulation mechanisms and tools at all hierarchical levels available in the integration group [439, p. 89-90].

Thus, as a result of the economic expansion of the European Union, Ukraine gained direct access to the single, expanded, harmonized market of the European Union with more than 450 million consumers. Taking this into account, it can be argued that Ukraine, to a greater extent than other countries, will be able to receive its dividends from access to the EU single market with a high level of openness, a single list of trade rules and administrative procedures, a single customs tariff and simplified movement of goods, services, citizens and capital without any barriers [440].

Sweden, in particular, demonstrates best practice in optimizing tax relations. This is a country where taxes are a tool for fair redistribution of income. Therefore, the reform of the tax system is carried out under the slogan "a single declaration - a single account, a single payment - a single (payment) address". Each citizen of Sweden is assigned a single fiscal number (ID), which is a unified form of state population registration [438, p. 89].

International experience offers such a type of tax collection, which is carried out according to the principle of the taxpayer's nationality. The distribution of taxpayers according to this principle makes it possible to avoid double taxation, but the national interests of different countries often collide here. Thus, states in which enterprises and citizens receive the majority of profits from activities abroad and from capitals that are also located outside the state are interested in delimiting jurisdictions based on the

criterion of residence. Countries, in the economy of which the largest specific weight belongs to foreign capital, are instead interested in the criteria of jurisdiction based on the principles of non-residence.

It should be noted that the implementation of tax reforms of the European Union in Ukraine is a priority task on the path of economic development. The stimulating policy of the tax system will contribute to the development of entrepreneurship and the growth of the financial power of the state.

The irreversibility of the European integration and Euro-Atlantic vector of Ukraine contributed to the establishment of a course for the transformation of public life, which consists in reforming the provisions of national legislation, as well as in the emergence of effective mechanisms of legal regulation of legal relations that take place in one or another sphere of public life. At the same time, at the current stage, the development of social relations in the field of taxation is characterized by significant dynamism and contradictory processes, radical changes, which are mediated by numerous social, economic and political factors, as well as numerous reforms in the economic, political, legal and other spheres of social life. At the same time, thanks to the increase in the role of taxes and fees in the formation of state and local budgets, the existence of the state and the entire state mechanism is ensured,

The concept of tax liability is one of the central categories of tax law. At the same time, the obligation to pay taxes is primary and unconditional, as it follows from the norm established in Art. 67 of the Constitution of Ukraine, which stipulates that everyone is obliged to pay taxes and fees in the manner and amounts established by law, that is, without taking into account the resident status of the taxpayer and regardless of the fact of his activity. The fact of receipt of income or profit is not decisive for the purposes of taxation, because the tax obligation also has material grounds, which are connected with the presence of certain tangible assets in the taxpayer's possession (this rule applies depending on the legal nature of the object of taxation). An important issue remains to clarify the moment from which the obligation to pay tax arises,

Scientific studies, which are devoted to the problems of the institutional mechanism of ensuring taxation in Ukraine, do not lose their relevance. This is due to the fact that reformation processes are ongoing in Ukraine due to the desire for integration with the European Union. In this context, the problem of ensuring the sustainable and balanced development of the taxation sphere, which covers the entire spectrum of social relations regulated by legal norms and which arise, change and terminate during the existence of a legal relationship between taxpayers and the government sub, is particularly acute. by an entity in the form of a tax authority or between a tax authority and its territorial subdivisions in the field of state financial activity regarding the payment of taxes, fees and other mandatory payments to the state and local budgets, as well as to public trust funds, and which have a public power and property character. Undoubtedly, the sphere of taxation is the basis of the economy of any state.

First of all, it should be noted that the field of taxation is one of the subsystems of public administration [441, p. 133], within which the state implements the tax collection function for the timely filling of the revenue part of the state budget [448]. Under the specified conditions, the tax is a tool used to ensure the interaction of the state and society, the performance of a fiscal, regulatory, stimulating, informational function, the meaning and content of which is transformed under the influence of changes in modern socio-economic realities [443, p. 15, p. 18].

According to H.P. Lyashenka, the tax system is an objective reality, which is a complex, multi-level structure, which includes: tax relations between tax authorities and taxpayers, laws and regulatory acts regulating these relations; specific forms of taxation; institutions that carry out tax collection and control over their payment [444, p. 245].

V.M. Bryzhko believes that the tax system is the entire set of taxes, fees, duties and other payments collected in the prescribed manner by state bodies from taxpayers (legal entities and individuals) on the territory of the country [445, p. 149]. The tax system, on the one hand, provides the financial base of the state, and on the other hand, it acts as the main tool for the implementation of state economic policy [446, p. 10].

It is significant that before the adoption of the Tax Code of Ukraine in science, the tax system of Ukraine was mainly presented in the form of three main subsystems: taxation of legal entities, taxation of individuals, fees to state trust funds [447, p. 47].

In EU countries, taxes are classified by source as consumption taxes (VAT, excise duties, customs duties, etc.), taxes on labor income (on the income of individuals, from the wage fund and mandatory contributions to social security) and taxes on income from capital. The effective tax rate on income from capital and entrepreneurship is defined as the result of dividing the total amount of all taxes collected from the income of households and organizations from savings and investments by the amount of potentially taxable capital and income from entrepreneurship in national accounts.

The general tax rate, which shows the amount of taxes and mandatory deductions that must be paid by the company for the second year of operation, differs significantly across EU member states. In most EU member states, personal income tax is levied regardless of citizenship; the decisive factor is actual residence, according to which a distinction is made between unlimited and limited tax liability. Residents pay tax on the total income of a natural person: the total amount of income (including from work in agriculture and forestry, from industrial activity, individual labor, hired labor, capital, rental of property, etc.), reduced by tax-free amounts and other calculation. Non-residents - from income received in the host country [448, p. 5].

An important distinguishing feature of income taxation in France, Germany and Belgium is the presence of a family taxation system. The essence of the concept of family taxation boils down to the fact that the peculiarities of the property status and earnings of individuals who are in a certain degree of kinship are to be taken into account when determining the procedure for taxation, and in some cases they may be taxed jointly. As a result, for spouses, the tax is calculated in half from the total amount of income of the spouses, and then increases twice. It is easy to note that in cases where the difference in the amount of income of the spouses is significant, this form of income taxation is very beneficial for taxpayers, as it leads to significant cost savings compared to paying taxes separately under the general taxation regime [449, p.108].

An important factor in the development of tax systems in EU countries is the tendency to unify the system of indirect taxation. Article 113 of the Treaty on the Functioning of the EU (TFEU) provides for the adoption of provisions on the harmonization of the rules of member states in the field of indirect taxation (VAT and excise duties), in order to avoid the creation of obstacles to the free movement of goods and the provision of services within the internal market and the distortion of competition [450, p. 6]. The EU defines four types of transactions subject to VAT: supply of goods for commercial purposes, purchase and sale agreements within the Community, provision of services, import of goods [450, p. 35–36]. However, the procedure for paying VAT has significant differences in EU countries, which are related to the practice of tax administration and the level of economic development. In Great Britain, the taxpayer must must register as a VAT payer if the turnover exceeds 60 thousand pounds. Transactions with food products, books, fuel, gold, securities, charity and some others are taxed at a rate of 0%. The rate of 5% is set for transactions with fuel and energy used in households. The 20% rate is standard and applies to most goods and services [451]. In Spain, VAT is levied on any business that sells goods or provides services, as well as import operations. VAT returns are submitted quarterly. The standard rate is 21%. Reduced rates are set for operations with food products (10%), for housing construction, transport, and tourism services; for operations with essential goods (4%); on goods and services related to export (0%). Luxury items and cars are taxed at higher rates. Medical services, education, banking services, and charity are exempt from VAT [451].

In Italy, VAT rates are also differentiated: the basic rate is 22%; reduced rates are applied in special cases in the amount of 10% (food products, water supply, pharmaceutical products, domestic passenger transport, agricultural goods, hotel accommodation, restaurants, household waste collection), 5% (social and medical services provided by social cooperatives and their consortia) and 4% (medical equipment for the disabled, books and periodicals, social housing, agricultural goods, social services); export of goods and international transport are taxed at a zero rate. The purchase and sale of shares and bonds, land and operating enterprises, and lending

are not subject to taxation. VAT applies to all operations of a manufacturing and commercial nature in France.

The standard rate is set at 20%. Reduced rates of 2.1% and 5.5% are applied to services provided by tourist class hotels for food, books, pesticides, energy, transport. The system of preferential deductions from VAT applies to petroleum products, except for those used in the production cycle [451].

The basic VAT rate in Germany is 19%. The reduced rate is applied to transactions with basic food products, as well as book and magazine products (7%). With a small turnover, entrepreneurs pay at a rate of 80% of the basic rate, or are exempt from payment. Agricultural and forestry enterprises, exported goods, as well as domestic and international transport (with the exception of road and rail transport and some inland waterways) are exempt from VAT [452].

With the adoption of the current Tax Code of Ukraine, in accordance with the provisions of Clause 6.3 of Art. 6 of which the tax system of Ukraine consists of a set of national and local taxes and fees, which are settled in accordance with the procedure established by the Tax Code of Ukraine [453].

All activity related to the collection and payment of taxes is based on the system of regulatory acts. Therefore, the tax system can also be considered as a system of tax legislation [454, p. 17, p. 19].

There is also an opinion that the tax system is a collection of taxes, fees, other payments and contributions to the budget and state trust funds, taxpayers and bodies that control the correctness of the calculation, completeness and timeliness of their payment in the manner established by law [455].

Some scientists are of the opinion that the totality of taxes and fees (mandatory payments) to budgets and to state trust funds, which are handled in accordance with the procedure established by the laws of Ukraine, constitute the taxation system. Note that in this case, the concept of the tax system is identified with the concept of the taxation system, and the tax system is considered as a set of taxes and other mandatory payments of a tax nature (the understanding of the tax system in a narrow sense). On the other hand, the tax system contains a number of procedural relations regarding the

establishment, change and cancellation of taxes, other tax payments, ensuring their payment, organization of control and application of responsibility for violations of tax legislation. So, in a broad sense, the tax system refers to an interrelated set of significant taxation conditions valid at a specific time in a specific state. At the same time, there is no definition of the concept of "taxation system" in the current tax legislation, however, analyzing the provisions of Art. 291 of the Tax Code of Ukraine, it can be concluded that the taxation system is a certain mechanism for the payment of national and local taxes and fees and other mandatory payments [453].

It should be emphasized that the legal regulation of local taxes and fees is carried out at the state and local levels, has a two-level structure, which determines the specifics of their administration. In accordance with the Constitution of Ukraine and the norms of the PKU, the state determines an exhaustive list of local taxes and fees, establishes the basis for their collection, and grants appropriate powers to local self-government bodies. Local self-government bodies, exercising the powers granted by the state, regulate the mechanism of local taxes and fees. Regulation of local taxation is carried out, in addition to the norms of tax and budget legislation, by normative legal acts regulating local self-government in Ukraine, acts of local self-government bodies. These are, in particular, the Laws of Ukraine "On Local Self-Government in Ukraine" of 1997.

The term "sphere of taxation" meaningfully reflects the sphere of society's life, which is connected with the payment of fees, taxes and other mandatory payments to the state and local budgets. Thus, it is appropriate to assume that the sphere of taxation covers social relations that are realized in the course of implementation elements of the tax system and the taxation system. That is, the sphere of taxation covers the entire spectrum of social relations, which are called tax relations in law. At the same time, the sphere of taxation is determined by the characteristics acquired by the corresponding social relations as an object of influence of legal norms [457].

Attention to the legal nature and content of tax legal relations is explained by the increasing role of taxes and fees in the formation of state and local budgets, thanks to which the existence of the state and the entire state mechanism is ensured, the standard

of living of the population is determined, and the economic sphere of Ukraine is developed.

Meanwhile, clarifying the specifics of the development of tax legal relations, their system-forming elements, as well as the reasons for their emergence, changes and termination allows for proper regulation of the taxation sphere, as well as to assess the expediency and effectiveness of the implementation of tax system reforms in Ukraine. The above shows that the study of the essence and key features of tax legal relations and their consideration is relevant given the fact that tax legal relations are of significant importance for the development of the tax system of Ukraine. At the same time, it can be seen that the high-quality implementation of tax legal relations depends on many factors, including, on the state of scientific development of the relevant categories, on the accounting by drafters of legislative acts of existing scientific provisions, which significantly increases the level of the regulatory and legal framework.

It should be noted that in order for social relations to acquire the characteristics of tax relations, they must be regulated by legal norms. Accordingly, the scope of taxation is determined by the characteristics acquired by relevant social relations as an object of influence of legal norms. It is worth noting that the legal regulation of public relations between tax payers and a powerful entity in the form of a tax authority or between a tax authority and its territorial units in the field of state financial activity regarding the payment of taxes, fees and other mandatory payments to the state and local budgets, as well as to public trust funds, is a type of social regulation, which consists in regulating social relations with the help of legal norms.

As indicated by O.V. Dyachenko, legal regulation is an imperative-normative arrangement and organization of the activities of subjects and objects of management and the formation of a stable order of their functioning [459, p. 158].

At the same time O.I. Baik points out that the mechanism of legal regulation of the tax sphere should include elements that complement each other, interact with each other and form the basis of the conceptual and categorical apparatus of tax law. Among them: 1) tax legal relations, which are characterized by a certain uniformity of their

origin, change or termination, as well as legal consolidation of the legal status of the subjects of these legal relations; 2) tax and legal norms aimed at regulating tax legal relations; 3) responsibility for violation of legal norms, which is enshrined in tax legislation [460, p. 6]. At the same time, the opinion of I.V. is quite interesting. Yaska, by which these elements are named as the main means of legal regulation of information provision of tax administration [461, p. 66].

As stated by O.I. Baik, the norm of tax law is a systematic formation of universally binding rules (precepts) of the behavior of subjects of tax relations, operating within the limits allowed by the state, with the aim of securing and realizing rights and legitimate interests in the tax sphere [460, p. 11].

In turn, Yasko I notes that tax legal relations are a set of legal relations: on the establishment and introduction of taxes and fees; on the fulfillment by the relevant persons of their tax obligations regarding the calculation and payment of taxes or fees; tax control; regarding the protection of the rights and legitimate interests of participants in tax relations (tax payers, tax authorities, the state, etc.), i.e. arising in the process of challenging acts of tax authorities, actions (inaction) of their officials, as well as in the process of tax disputes; on prosecution for committing offenses in the field of taxation [461, p. 21].

As for the peculiarities of tax relations, V.I. Teremecki suggested that they include: the social significance of relations that arise between certain persons (legal and physical); authority of relations between subjects of tax law, which arise in connection with monetary funds and their payment into state income, as well as in connection with the acquisition of certain rights or permits (regarding fees); clear certainty, which manifests itself in the impossibility of making any changes and additions without appropriate confirmation in the tax legislation; a strictly defined composition of participants (tax payment is always made to the address); duration, which is explained both by the connection with economic relations and by the fact that, being regulated by legal norms, taxes should be collected throughout the history of social and economic life [462, p. 122].

At the same time, the application of a systemic approach and a critical analysis of the scientific work of scientists who were engaged in the development of certain aspects of tax legal relations allows us to conclude that the main features of tax legal relations include the following: 1) arise in the field of tax activity of the state as a form of implementation of financial - legal norms; 2) have a monetary value and financial certainty; 3) is a type of public-legal relations, because they aim to ensure the public interest; 4) belong to power legal relations, because the mandatory subject in such legal relations is always the state in the person of the tax authority [463, p. 141].

It is worth emphasizing that the elements of tax legal personality arise unevenly for different participants in tax legal relations. Thus, for a natural person-taxpayer, tax legal capacity arises from birth, tax legal capacity - from the moment when a person acquires the ability to receive property or income, which are the objects of taxation. As for legal entities, all elements of tax legal personality are acquired by such an entity at the same time from the moment of its registration as a taxpayer and registration with the tax authority. It is worth emphasizing the fact that it is generally accepted that three groups of participants belong to the system of subjects of tax legal relations: 1) the state in the form of authorities that establish and regulate the field of taxation; 2) tax authorities; 3) taxpayers [464, p. 17].

We emphasize that, taking into account the provisions of the Tax Code of Ukraine, it is appropriate to specify the system of subjects of tax relations as follows: 1) the state, which established the procedure for the administration of taxes and other mandatory payments. In addition, this group includes the Verkhovna Rada of the Autonomous Republic of Crimea and local self-government bodies that, within the limits of their powers, are able to independently set taxes and fees on their territory.

Yes, Art. 284 of the Tax Code of Ukraine stipulates that the Verkhovna Rada of the ARC and local self-government bodies set the rates of payment for land and benefits for the land tax paid in the relevant territory [453]; 2) control bodies, which include: tax authorities (regarding compliance with legislation on taxation issues) and customs authorities (regarding compliance with legislation on customs affairs and customs taxation); 3) taxpayers, which include individuals and legal entities, both

residents and non-residents of Ukraine; 4) persons who are indirect participants in tax legal relations, because they contribute to the implementation of the tax obligation, in particular: representatives of taxpayers, banking institutions and tax agents.

As part of the tax reform, for tax stimulation of economic development, it would be advisable to: strengthen the stimulating role of direct taxes by applying a justified differentiation of tax rates and tax benefits, adapting the experience of EU countries in the differentiation of rates to Ukrainian realities; ensure the stability of tax legislation with the most clear and consistent formation of tax law norms; eliminate deficiencies in the tax administration system and increase the transparency of control over their use; develop measures to attract the shadow sector to the open economy. The implementation of these measures will allow to increase the efficiency of the functioning of the domestic tax system, which will allow its possible activation of the economic activity of economic entities, ensuring a dynamic economic growth with an increase in the level and quality of life of the population [465, p. 157].

9.4 Modern trends in the transformation of the institutional mechanism for ensuring the sphere of taxation in Ukraine

As it has been repeatedly indicated, the field of taxation is one of the subsystems of public administration [466, p. 133], within which the state implements the tax collection function for the timely filling of the revenue part of the state budget. At the same time, the conducted research makes it possible to focus attention on the incompleteness of the construction of an optimal taxation system and tax system in Ukraine, an effective mechanism of their functioning in the conditions of Europeanization, which is reflected in a negative way in the field of taxation, which meaningfully covers the sphere of social life related to the payment of fees , taxes and other mandatory payments to the state and local budgets. And in this aspect, it is necessary to point out that an important problem of our country today is that domestic lawmakers regularly ignore the requirements of the legislation.

Yes, in accordance with the provisions of paragraphs 4.1.9 clause 4.1 of Art. 4 of the Tax Code of Ukraine, changes to any elements of taxes and fees cannot be made later than six months before the beginning of the new budget period, in which new rules and rates will apply. Taxes and fees, their rates, as well as tax benefits cannot change during the budget year [453]. Unfortunately, violations of the mentioned regulations have become regular in Ukraine, they become more significant from year to year, depriving taxpayers of the opportunity to plan their tax expenses [467]. It seems that this situation is related to the fact that the Tax Code of Ukraine establishes the above restrictions without providing for any sanctions for their violation, but this state of affairs conflicts with modern international legal practice However [468].

It is significant that the mandatory norm, which gives rise to justified "legitimate expectations" of taxpayers, is established by law. The foregoing makes it possible to assert that even though taxpayers do not have the right to sue for annulment of laws adopted in violation of the provisions of paragraphs 4.1.9 clause 4.1 of Art. 4 of the Tax Code of Ukraine, however, have the right to compensation for damages caused by the establishment of a new tax norm in violation of the specified provision, if they prove that additional costs arose as a result of violation of legitimate expectations.

In connection with this, D.O. Hetmantsev points out that in such cases the state is obliged to compensate taxpayers' losses: "Native taxpayers already have enough grounds to protect their rights, which were violated due to the state's non-compliance with paragraphs 4.1.9 clause 4.1 of Art. 4 of the Tax Code of Ukraine, directly in administrative courts by collecting damages from the state. We still do not have a similar judicial practice due to the passivity of taxpayers and the indecision of administrative courts, which are wary of applying the norms of decisions of the European Court of Human Rights in their own practice" [469].

It is impossible not to point out that para. 4.1.9 clause 4.1 of Art. 4 of the Tax Code of Ukraine sets restrictions for making changes only to provisions regulating tax elements. Other amended norms can be adopted during the entire budget year with practically no significant restrictions. However, this also creates legal uncertainty in tax relations. After all, legislators do not adhere to even these rather liberal frameworks,

and the principle of stability of tax legislation in domestic realities is, rather, a declared aspiration than an actual legal norm [468, p. 22].

Ensuring the stability of the taxation sphere is an objectively necessary vector of promoting the economic development of Ukraine. However, the constant variability of tax legislation is the main obstacle for attracting both domestic and foreign investments in the field of innovation. By changing the "rules of the game" for taxpayers, Ukraine becomes an unreliable partner and thus creates conditions not only for violation of tax legislation, but also discourages investors from investing capital in innovative projects for a certain period. After all, potential investors need a balanced and predictable tax system [468, p. 20–21].

Therefore, it is believed that the main principles of the further transformation of the institutional mechanism for ensuring the sphere of taxation in Ukraine should be: minimization of state interference in the life of society; public control of management decision-making; accountability of the subjects of public administration, which are meaningful elements of the institutional mechanism for ensuring the sphere of taxation, to civil society, which, in turn, will strengthen the transparency of the functioning of the institutional mechanism for ensuring the sphere of taxation in Ukraine; full transparency of the main reform measures and public awareness.

9.5 Peculiarities of ensuring the realization of the tax obligation in the countries of the European Union

Ukraine has determined its foreign policy vector - the acquisition of full membership in the EU. This causes the need to make appropriate changes to national legislation and the practice of its application, and unity with the EU and EU countries in constitutional values. A person, his life and health, honor and dignity, inviolability and security are recognized as the highest social value in Ukraine (Article 3 of the Constitution of Ukraine) [389].

It goes without saying that they have the same value in the EU and EU member states. But in addition to rights, a person and a citizen have responsibilities. One of them is the duty of everyone to pay taxes and fees.

According to Art. 67 of the Constitution of Ukraine: "Everyone is obliged to pay taxes and fees in the manner and amounts established by law" [389]. Thus, the state should create a regulatory and legal mechanism that will determine the procedure for paying taxes and their amount. According to the Constitution of Poland, the payment of taxes refers to public burdens and duties (it is one of the types of public burdens and duties). As in the Constitution of Ukraine, the Constitution of Poland states that these burdens and obligations must be defined in the law, that is, the state must create a certain regulatory and legal mechanism. In particular, in accordance with Art. 84 of the Constitution of the Republic of Poland: "Everyone is obliged to bear the public burdens and other duties specified in the law, including paying taxes" [470].

The obligation to participate in the payment of taxes is enshrined in the Constitution of Hungary. Yes, according to Art. 70/I of the Constitution of the Republic of Hungary: "Each citizen of the Republic of Hungary, in accordance with income and property status, is obliged to participate in the payment of taxes" [471]. In contrast to the Constitutions of Ukraine and Poland, the Constitution of Hungary states that this is the duty of citizens, that is, the circle of subjects bearing this duty in Hungary is narrower. Unlike the Constitutions of Poland and Ukraine, the Constitution of Hungary has one more feature - the emphasis on the fact that every citizen is obliged to participate in the payment of taxes precisely in accordance with income and property status.

According to Art. 53 of the Constitution of the Italian Republic: "Everyone is obliged to participate in public expenditure in accordance with their tax capabilities. The tax system is built on the principles of progressivity" [472]. Thus, in contrast to Hungary, according to the Constitution of Italy, as well as according to the Constitution of Ukraine and Poland, the range of subjects-bearers of the obligation to participate in public expenditures is wider and it is not only citizens, as stated in the Constitution of Hungary . At the same time, as in the Constitution of Hungary, the Constitution of Italy

also applies an approach according to which emphasis is placed on the tax capabilities of the bearers of this duty. The peculiarity of the constitutional and legal consolidation of this obligation in the Constitution of Italy is that the norm of Art. 53 establishes that the tax system is built precisely on the principles of progressivity,

In Art. 31 of the Constitution of the Kingdom of Spain states that: "Everyone must participate in public expenses in accordance with their economic capabilities through a fair tax system based on the principles of equality and progressive taxation, which in no case must have the character of confiscation" [473] .

We will also emphasize that the Convention on the Protection of Human Rights and Fundamental Freedoms [474], to which the above-mentioned states have joined, and, accordingly, assumed international obligations under it, is included in the regulatory and legal mechanism for ensuring the fulfillment of the obligation to pay taxes , as well as decisions of the European Court of Human Rights, which are acts of interpretation of the norms of the Convention and which are a source of law in the member states of the Council of Europe.

In the system of constitutional duties, the duty to pay taxes and fees occupies an important place, because it is taxes that occupy the largest specific weight in the structure of budget revenues and provide the possibility of mobilizing financial resources necessary for the performance of tasks and functions of the state and territorial communities.

As emphasized by K.-G. Rau, the right of the state government to impose taxes corresponds to the duty of citizens to pay them. The basis of this right and this obligation is that the person who lives in the state enjoys the benefits of the state union and many state institutions, therefore he is obliged to participate in those duties with the help of which the state acquires the means for the full manifestation of its activity [475, p. 277]. According to P.M. Rabinovych, non-fulfilment of their duties by a certain part of the members of society illegally changes their legal status to the detriment of other members, whose rights and freedoms are, accordingly, actually limited. This, in turn, disturbs the balance of interests and creates conditions for the emergence of conflicts between people. If such cases become massive, they become

the cause of global crisis phenomena in society [476, p. 287]. Certainly, non-fulfilment or improper fulfillment of the obligation to pay taxes also leads to negative consequences for the whole society. Sutyrin S.F. emphasizes that due to non-fulfilment of the obligation to pay taxes, the state does not receive funds for the budget, as a result of which the financing of state programs is reduced. Secondly, non-taxpayers are in a more favorable position compared to law-abiding taxpayers from the point of view of market competition, they can provoke other subjects of economic activity with their actions. Thirdly, if fiscal offenses are widespread, leading to a deficit in the revenue part of the budget, the state can compensate for the lack of funds by introducing new taxes and increasing the rates of existing taxes and fees. Therefore, it is in the interests of society as a whole, and of each payer in particular, that.

Therefore, any state is interested in the existence of effective and efficient means of ensuring the fulfillment of the obligation to pay taxes. However, in order to determine such means, the content of the constitutional obligation to pay taxes should first of all be revealed. At the theoretical level, there are different approaches to defining the concept of "tax liability". In particular, A. S. Barinov attributes the tax obligation to a variety of constitutional obligations and characterizes it as the obligation of individuals and organizations (tax payers) to pay legally established taxes and fees to the budgets of the budgetary system in a timely manner and in full, the content of which consists in the legally significant actions of taxpayers for the formation of the taxable base, tax calculation, tax declaration and its transfer to the corresponding budget [478, p. 11].

In accordance with Clause 36.1 of Art. 36 of the Criminal Code of Ukraine, the duty of the taxpayer to calculate, declare and/or pay the amount of tax and fee in accordance with the procedure and terms specified by the Tax and Customs Codes of Ukraine is recognized as a tax obligation.

The obligation to pay a tax or fee arises, changes or ceases upon the existence of grounds established by tax legislation, therefore the most important issue during the regulation of relations due to the payment of taxes and fees is to clarify the moment from which such an obligation arises. Normative acts regulating the procedure for

making these payments link the obligation to pay them with the occurrence of certain circumstances provided for by the Code of Ukraine and customs laws. Such a basis can be the presence of a tax payer of a taxable object or the performance of certain actions, as a result of which the tax payer has an obligation to pay tax.

These actions include:

- profit making by business entities - legal entities. In this case, such taxpayers have obligations to pay corporate income tax, which is calculated by adjusting the financial result before taxation, determined in the financial statements of the enterprise, for the differences that arise in accordance with the provisions of the Code of Ukraine (clause 134.1 of Article 134 of the Code of Ukraine of Ukraine [453]);

- receipt of income by a natural person, both a resident and a non-resident, with a source of origin from Ukraine, who must pay tax on the income of natural persons, which is calculated by reducing the total taxable income by the amount of the tax discount of the reporting year (clause 164.1 of article 164 of the Code of Ukraine of Ukraine) , the receipt of income by natural persons - subjects of entrepreneurial activity in the form of net annual taxable income, which is defined as the difference between the total taxable income (revenue in monetary and non-monetary forms) and documented expenses related to the economic activity of such a natural person-entrepreneur (Clause 177.2 of Article 177 of the Criminal Code of Ukraine [453]);

- implementation of operations for the supply of goods and services to the customs territory of Ukraine, the importation of such goods or services into the customs territory of Ukraine under the customs regime of import or re-import or export under the regime of export (re-export). After all, during the performance of the above-mentioned actions, an individual or legal entity must pay tax on added value (clause 185.1 of Article 185 of the Criminal Code of Ukraine [453]);– implementation of operations involving the importation into the customs territory of Ukraine of goods whose customs value exceeds the equivalent of 150 euros, goods or vehicles imported (forwarded) to the customs territory of Ukraine in volumes , which are subject to taxation with customs payments (Article 277 of the Code of Ukraine [479]).if a person imports such goods into the customs territory of Ukraine or sells confiscated goods,

causes the legal or physical person to pay excise tax (paragraph 213.1 of article 213 of the Criminal Code of Ukraine [453]);

- acquisition of ownership of a real estate object (residential or commercial purpose) or ownership or the right to use a plot of land, as a result of which the person becomes obligated to pay real estate tax (clause 266.2 of article 266 of the Criminal Code of Ukraine) and fees land (clause 270.1 of article 270 of the Criminal Code of Ukraine [453]); However, the tax obligation is not only related to the reasons for its occurrence, but also clearly defined by the specific terms during which it must be fulfilled. Fulfillment of the tax obligation is implemented by paying a tax, fee (compulsory payment). The fulfillment of the obligation to pay taxes and fees is based on several factors, including: the level of legal culture and tax discipline of the taxpayer; the possibility of applying state coercion in case of violation of tax legislation. Therefore, there is a need to introduce special protective measures, the content of which is determined by the specific features of the subject and method of legal regulation within certain branches of law. The mechanism for ensuring the fulfillment of the tax obligation is aimed exclusively at the payment of taxes and fees. If the tax obligation in the broad sense includes the obligation to keep tax records, pay taxes and fees, submit tax reports, then the methods of ensuring the fulfillment of the tax obligation relate to the guarantees of the implementation of the tax obligation only in the part of the payment of the amounts of taxes and fees [480]. The mechanism for ensuring the fulfillment of the tax obligation is aimed exclusively at the payment of taxes and fees. If the tax obligation in the broad sense includes the obligation to keep tax records, pay taxes and fees, submit tax reports, then the methods of ensuring the fulfillment of the tax obligation relate to the guarantees of the implementation of the tax obligation only in the part of the payment of the amounts of taxes and fees [480]. The mechanism for ensuring the fulfillment of the tax obligation is aimed exclusively at the payment of taxes and fees. If the tax obligation in the broad sense includes the obligation to keep tax records, pay taxes and fees, submit tax reports, then the methods of ensuring the fulfillment of the tax obligation relate to the guarantees of the

implementation of the tax obligation only in the part of the payment of the amounts of taxes and fees [480].

In turn, the methods that ensure the payment of tax payments provide for the payment of the amount of the payments themselves, as well as compensation for budget losses from late payment of taxes and fees (payment of fines, penalties), as well as costs for the enforcement of tax obligations.

Establishing the obligation to pay taxes is recognized as an unconditional right of the state, a component of its sovereignty. One of the defining foundations of state sovereignty is tax sovereignty, the state's ability to independently establish a tax system and implement its own tax policy. As rightly noted by N.I. Khimicheva, the ownership of tax powers (powers to establish and introduce taxes and fees) to the sovereign state gives these rights a special character, which distinguishes them from the rights of other socio-territorial entities [481, p. 67].

The optimal combination of fiscal and socio-economic functions of taxes determines the effectiveness of the chosen tax policy. The historical dynamics of the role of the state in the economy convincingly shows that the effectiveness of state regulation is directly dependent on the quality of understanding and application of the principles of formation of state expenditures in order to maintain macroeconomic and macrosocial balance and the use of taxes by the state to implement economic policy. The importance of these components is so important that fiscal policy, remaining today the main link of economic policy, caused the appearance of a virtually independent policy - tax policy. Its place and role in the structure of instruments of state regulation is determined by the state of the economic system and forms of government [482, p. 25].

The imperfection of the tax policy leads to such systemic problems in the tax system as:

1) tax arrears of taxpayers to the budget and state trust funds, which is due to: the absence of effective mechanisms that ensure the responsibility of economic entities for the fulfillment of their financial obligations; the imperfection of the system of writing off and restructuring the tax debt of enterprises to the budget; carrying out

offsets that make it unprofitable to pay taxes on time and in full; problems of certain industries (fuel and energy complex), which are the biggest debtors of the budget, in particular in terms of state regulation of energy prices;

2) budget arrears from reimbursement of value added tax. The main reasons that make it difficult for the state to fulfill its obligations to value-added tax payers are: presentation of unsubstantiated claims for reimbursement of value-added tax and underestimation of tax liability amounts; implementation of forecast indicators of value-added tax revenues to the state budget due to non-return of overpaid tax amounts to payers; deficiencies in the legal norms regulating the compensation procedure;

3) tax evasion. This problem is one of the most acute in Ukraine and one that distinguishes it from most European countries. The scale of tax evasion is affected by the high level of tax rates, uneven distribution of the tax burden; violation of the principle of equality of payers before the law; the complexity and imperfection of the legislation that regulates entrepreneurial activity, in particular the tax legislation; non-compliance with laws, ineffectiveness of state budget policy;

4) uneven tax burden, as a result of which the greatest tax burden is placed on law-abiding taxpayers deprived of tax benefits [483, p. 25].

The main goal of the tax policy of Ukraine at the current stage is the formation of a sufficient state budget and stimulation of economic growth (business activity of business entities). The main task is the effective application of the elements of the taxation system, based on the strategic priorities of the socio-economic development of Ukraine, namely: ensuring sustainable economic growth, maintaining a stable macroeconomic situation (on the basis of anticipatory development); approval of the investment and innovation model of development; social reorientation of economic policy and social responsibility of domestic business; implementation of the European integration course of Ukraine.

It is necessary to solve the existing problems of the tax system of Ukraine by consistently implementing the strategic goals of reforming the tax system of Ukraine by: increasing the competitiveness of domestic business; legalization of the shadow sector; activation of investment processes in the economy; development of simple and

understandable tax regulations for business entities; reduction of the costs of taxpayers for the calculation and payment of taxes and the state for their administration; adaptation of tax legislation of Ukraine to EU legislation; creation of conditions for voluntary compliance with tax legislation requirements by tax payers; introduction of the information and analytical system of the state tax service on a national scale; automation of taxation processes using modern technologies [482, p.25].

With the deepening of integration processes, the advantages of modern European taxation systems are becoming more and more apparent. The tax systems of the EU countries are characterized by a significant level of unification, which was the result of a long process of harmonization of tax systems. Thus, in all EU member states, the collection of such types of taxes as personal income tax, corporate income tax, and value added tax is provided for. In addition, the procedure for calculating and paying taxes, tax benefits, and the system of monitoring taxpayers by regulatory bodies are also similar. At the same time, the tax systems of the EU member states have certain features related to budgetary relations between different levels of government, economic, political and other factors [484, p. 361].

9.6 Constitutional obligation to pay taxes in the countries of the European Union

As it follows from the scientific research of domestic scientists, the need to establish a tax system at the legislative level is indicated in the constitutions of Lithuania, Slovakia, Slovenia, the Czech Republic, Estonia, Poland, Hungary, etc. Only a few countries of Eastern Europe establish the norm on the obligation to pay taxes. For example, in Art. 91 of the Constitution of Serbia establishes that the obligation to pay taxes and other fees should be general and based on the tax payer's ability to pay [485, p.123].

The Constitution of the Slovak Republic defines the content of the tax system quite succinctly, according to Article 59, it is specified that taxes and fees can be state and local. Taxes and fees are established by laws or on the basis of laws [486].

According to the Constitution of Poland, the payment of taxes refers to public burdens and duties (it is one of the types of public burdens and duties). As in the Constitution of Ukraine, the Constitution of Poland states that these burdens and obligations must be defined in the law, that is, the state must create a certain regulatory and legal mechanism. In particular, in accordance with Art. 84 of the Constitution of the Republic of Poland: "Everyone is obliged to bear the public burdens and other duties specified in the law, including paying taxes" [487].

The basic law of Romania is the Constitution of Romania, adopted by the Constituent Assembly of Romania on November 21, 1991. Articles 53 and 54 of the above normative legal act define that citizens are obliged to participate in public expenditures by paying taxes and fees. A legal system of taxation should ensure a fair distribution of the fiscal burden.

Any other penalties are prohibited, with the exception of those provided by the Law in emergency situations [488, p. 29]. The direct obligation to pay taxes is established in Art. 60 of the Constitution of Bulgaria and Art. 33 of the Constitution of Macedonia [485, p. 123].

According to Article 127 of the Constitution of the Republic of Lithuania, state budget revenues are generated from taxes, mandatory payments, fees, revenues from state property and other revenues. Taxes, other payments to the budget and fees are established by the laws of the Republic of Lithuania [489].

A different situation is observed with the countries of Western Europe, whose constitutions necessarily have a reference to the need to establish a tax system at the legislative level. Such countries include Austria, Belgium, Germany, Greece, Denmark, Ireland, Iceland, Spain, the Netherlands, Norway, Portugal, Finland, France, Sweden. At the same time, none of the constitutions of these countries, except for the Constitution of Spain, contains the obligation of citizens to pay taxes [490, p.123-124].

The German Constitution (Articles 105-108) directly demarcates the competence of the Federal Government and local states regarding the establishment of taxes and fees, and determines which taxes go to the federal budget and which go to local ones [491]. In the constitutional acts of individual countries, there are attempts to

explain the mandatory nature of tax collection. It is established that the alienation of property is allowed only for the purpose of the common good. It can be carried out only according to the law or on the basis of the law regulating the nature and extent of alienation. Alienation is determined by fair consideration of the interests of society and interested persons [492, p.515].

From the given analysis of the constitutions of the countries of Western Europe and part of the countries of Eastern Europe, scientists conclude that there is no direct constitutional mandate to pay taxes. Mostly at the constitutional level in these countries, the obligation to legislate the tax system is established, and only the constitutions of Bulgaria, Serbia, Macedonia, and Romania partially establish the obligation to pay taxes [490, p.126].

Having found out the content of the tax obligation, within the limits of our research it is necessary to determine the means of ensuring its implementation. According to O.V. Pokataev, if the tax obligation in a broad sense includes the obligation to keep tax records, pay taxes and fees, submit tax reports, then the methods of ensuring the fulfillment of the tax obligation relate to guarantees of the implementation of the tax obligation only in terms of the payment of taxes and fees, which is provided by additional guarantees, which force the taxpayer to fulfill the tax obligation in full and within the period established by the law. In turn, the methods of ensuring the payment of taxes and fees provide for the amount of tax payments directly, as well as compensation for budget losses from late payment of taxes and fees, as well as costs for the enforcement of the tax obligation, which is realized thanks to the charging of penalties [493, p. 106].

Analyzing the level of regulatory consolidation of mechanisms for ensuring the fulfillment of the duty to pay taxes and fees, it is necessary to emphasize that it is not determined at the level of the Constitutions of the EU countries. This is quite logical and objective, because the basic, most important norms and rules are determined at the constitutional level, and their excessive detailing is inappropriate. The mechanism of implementation of the obligation to pay taxes in European countries is fixed in the norms of domestic legislation and on a par with the norms of EU legislation [463].

Among the main mechanisms for ensuring the obligation to pay taxes in the EU countries, one can single out the legally regulated procedure for forced repayment of tax debt. A. M. Timchenko defines tax debt collection as a right-restoring measure of tax-legal coercion, which is applied exclusively by a court decision to a payer who has not fulfilled the obligation to pay tax in accordance with the requirements of tax legislation, has a tax debt, by debiting funds from his accounts, withdrawal of his cash or sale of property subject to tax lien [494, p. 8].

According to O.I. Yuryeva, the construction of the tax debt collection system is an integral part of the general taxation system in any country and must be built on the principles of a conscious attitude to the fulfillment of the duty to pay taxes and the obligation to receive payments to the state treasury, since without such component, the whole system will not work at all [495].

In particular, in Germany, tax debt minimization measures include depriving the debtor of the right to travel abroad, closing a business or canceling a license, and the taxpayer is allowed to enter into contracts with the state only on the condition that the tax debt is liquidated. The right to vote in elections, as well as to dispose of the received inheritance, comes into force only after the submission of the corresponding tax declaration [410, p. 105].

The legal systems of most foreign countries are characterized by the presence of independent sectoral institutes of responsibility in the tax field. The elements of the structure and designation of such responsibility in different countries are different (for example, in Poland, Germany, along with administrative and criminal, tax responsibility is separately distinguished, and in Greece - financial responsibility). But the only thing common to all these countries is the legislator's desire to enshrine in the tax legislation sanctions that would most effectively protect tax relations from illegal encroachments [496, p.9].

According to French law, sanctions depend on the nature of the violation and the amount of damage caused to the fiscal. Yes, if the underpayment of an individual does not exceed 5% of the declared income, the tax inspectorate is limited to a reminder about the additional payment, which must be made within 30 days.

As the seriousness of the violation increases, the amount of unpaid tax increases by 0.4%, 10%, 40%, 80%. A fine in the amount of 10,000 euros is imposed for deliberate and obvious deception of the fiscal (flagrance fiscal). Criminal tax evasion in particularly large amounts is punishable by up to five years in prison. A fine of 10% of the accrued tax is due for late filing of the declaration and/or payment of the corporate income tax [410, p. 129].

According to § 370 of the Tax Code of the Federal Republic of Germany, the display of false data related to taxation to the tax authorities, as well as the understatement of the tax base and the improper use of tax benefits, which led to the non-payment of taxes, are punishable by a fairly severe penalty in the form of a fine or imprisonment imprisonment for a term of up to 5 years, and in particularly serious cases - punishment in the form of imprisonment for a term of 6 months to 10 years. Particularly difficult cases are considered to be: significant underestimation of the object of taxation or unjustified use of tax benefits; the use of one's own position by a civil servant for such purposes.

For administrative offenses, according to § 378 of this Code, a fine of up to 5,000 euros is provided for the taxpayer or his representative [497, p. 12]. Among the means of ensuring the fulfillment of tax obligations, scientists consider penalties for late payment of taxes.

The introduction of a penalty as a coercive measure is consistent with the provision of Art. 1 of Protocol 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms, according to which the right of the state to enact such laws as it deems necessary to control the use of property in accordance with the general interest or to ensure the payment of taxes or other charges is confirmed, or fines Therefore, in cases of improper fulfillment of tax obligations by the payer, the state has the right to apply to such subjects certain measures of influence, and in particular, fines, which actually force them to act within the framework of current tax legislation [498, p.167-168].

An important safeguard against the violation of the rights of taxpayers when applying legal means to ensure the fulfillment of the tax obligation is the definition and

strict observance of the fundamental principles of the tax system, which in some EU states are enshrined at the constitutional level. The principle of the rule of law in relation to the law of the EU member states was formulated in the decision on the case "Flaminio Costa v. Enel" dated July 15, 1964. Within the framework of the EU tax policy, the operation of this principle means the formation of the same practice of considering disputes on tax issues in the event of a conflict of tax legislation norms of these of states Such situations often occur due to the lack of acts of positive law regulating specific tax relations (for example, disputes in connection with the refusal to receive benefits for cross-border income taxation). The existing conflict leads to an appeal to the ECtHR in the order of preliminary ruling procedure and interpretation of EU legal principles regarding a specific type of tax relationship. This thesis is confirmed by the broad practice of the European Union on direct taxes [499, p. 355].

Among the regulatory documents of the EU, first of all, it is worth paying attention to Council Directive 2011/16/EU of February 15, 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC [500] (hereinafter - Directive 2011/16/EU) .

Its preamble rightly states that one state cannot manage its internal tax system, especially with regard to direct taxation, without receiving information from other states [500], which requires increased cooperation in the field of administrative and legal protection of tax relations. The said directive contains the main provisions regarding the system of administrative and legal protection of tax relations in the EU, which provides for the existence and implementation of such measures as: institutional capacity, i.e. the determination of the public administration body responsible for cooperation (in the terminology of Directive 2011/16/EU – the competent authority) and a single central communications bureau; exchange of information upon request (procedures and deadlines for providing relevant information are regulated by the directive, and also indicated the possibility of conducting an administrative investigation in order to fulfill the request); administrative investigation; mandatory automatic exchange of information between competent authorities, which is carried out in relation to the income and property defined by the Directive; spontaneous exchange

of information; participation of administrative institutions and participation in administrative investigations; joint control by states on their territory of general or additional profits of one or more persons; other organizational and management activities (exchange of administrative messages, that is, information about tools and solutions related to the requested information, providing feedback on the results of using the information received upon request, sharing best practices and experiences, etc.) [500]. mandatory automatic exchange of information between competent authorities, which is carried out in relation to the income and property defined by the Directive; spontaneous exchange of information; participation of administrative institutions and participation in administrative investigations; joint control by states on their territory of general or additional profits of one or more persons; other organizational and management activities (exchange of administrative messages, that is, information about tools and solutions related to the requested information, providing feedback on the results of using the information received upon request, sharing best practices and experiences, etc.) [500]. mandatory automatic exchange of information between competent authorities, which is carried out in relation to the income and property defined by the Directive; spontaneous exchange of information; participation of administrative institutions and participation in administrative investigations; joint control by states on their territory of general or additional profits of one or more persons; other organizational and management activities (exchange of administrative messages, that is, information about tools and solutions related to the requested information, providing feedback on the results of using the information received upon request, sharing best practices and experiences, etc.) [500]. joint control by states on their territory of general or additional profits of one or more persons; other organizational and management activities (exchange of administrative messages, that is, information about tools and solutions related to the requested information, providing feedback on the results of using the information received upon request, sharing best practices and experiences, etc.) [500]. joint control by states on their territory of general or additional profits of one or more persons; other organizational and management activities (exchange of administrative messages, that is, information about tools and

solutions related to the requested information, providing feedback on the results of using the information received upon request, sharing best practices and experiences, etc.) [500].

It should be noted that a number of the above provisions, in particular in the area of conducting administrative investigations at the request of foreign states, have already been partially implemented by Law of Ukraine No. 1210 dated 16.01.2020 "On Amendments to the Tax Code of Ukraine regarding the improvement of tax administration, elimination of technical and logical inconsistencies in tax legislation" (hereinafter - Law of Ukraine No. 1210) by making changes to paragraphs 78.1.20 h. 78.1. Art. 78 of the Tax Code of Ukraine (hereinafter referred to as the Tax Code of Ukraine) and granting the right to control bodies in the field of taxation to carry out a re-examination in case of receiving information from foreign state bodies. However, the key to building an effective system of administrative and legal protection of tax relations is the further implementation of the mentioned tools in the practice of tax administration.

Regulation No. 1798/2003 was clarified by Regulation of the Council of the European Union No. 904/2010 of October 7, 2010 on administrative cooperation and combating fraud in the field of value added tax [502] (hereinafter - Regulation No. 904/2010), in particular regarding storage and exchange specific information. According to Art. 17 and 21 of Regulation No. 904/2010, each Member State must enter immediately, but in any case no later than one month after the end of the period to which the information relates, and store in the electronic system for at least five years the following information: " identification numbers of VAT payers, information on the total value of all supplies of goods and the total value of all supplies of services carried out within the Community by all operators identified for VAT purposes in the Member State, and identification numbers of named suppliers and recipients of goods and services, regardless of the country of residence" [502]. It should be noted that only information on the identification numbers of VAT payers and the total cost of goods and services is open. In order to receive a comprehensive set of data containing information about the supplier, the recipient and the full cost of the goods, services,

one of the following conditions must be met: access is provided in connection with a fraud investigation; access is through an employee of the Eurofisc international relations office; access is only available during shared business hours. Regulation No. 904/2010 also created a network for the rapid exchange of targeted information between member states - Eurofisc. that only the information on the identification numbers of VAT payers and the total cost of goods and services is open. In order to receive a comprehensive set of data containing information about the supplier, the recipient and the full cost of the goods, services, one of the following conditions must be met: access is provided in connection with a fraud investigation; access is through an employee of the Eurofisc international relations office; access is only available during shared business hours. Regulation No. 904/2010 also created a network for the rapid exchange of targeted information between member states - Eurofisc. that only the information on the identification numbers of VAT payers and the total cost of goods and services is open. In order to receive a comprehensive set of data containing information about the supplier, the recipient and the full cost of the goods, services, one of the following conditions must be met: access is provided in connection with a fraud investigation; access is through an employee of the Eurofisc international relations office; access is only available during shared business hours. Regulation No. 904/2010 also created a network for the rapid exchange of targeted information between member states - Eurofisc. access is provided in connection with a fraud investigation; access is through an employee of the Eurofisc international relations office; access is only available during shared business hours. Regulation No. 904/2010 also created a network for the rapid exchange of targeted information between member states - Eurofisc. access is provided in connection with a fraud investigation; access is through an employee of the Eurofisc international relations office; access is only available during shared business hours. Regulation No. 904/2010 also created a network for the rapid exchange of targeted information between member states - Eurofisc.

Such a network consists of working areas in which member states participate at their choice. The tax administrations of each member state appoint at least one

employee of the Eurofisc international relations body. Employees of the work area are responsible only to the national administrations. For each area, its employees appoint a coordinator who ensures the relevance and availability of information both for the employees of the work area and for other work areas of Eurofisc. The creation of the Eurofisc network ensures the satisfaction of the need for direct cooperation between territorial (in the terminology of the legislation – EU) bodies of national tax administrations, the importance and necessity of which was emphasized in Directive 2011/16/EU.

European Commission Recommendation No. 2012/772/EC of December 6, 2012 on aggressive tax planning (hereinafter - Recommendation No. 2012/772/EC) contains a number of proposals for improving national tax legislation, including the introduction of a general rule aimed at combating tax evasion, which should be formulated in the simplest way without taking into account the peculiarities inherent in the legal technique of national legislation. Recommendation No. 2012/772/EU contains a model description of the following rule: an artificial (fake) transaction, action, agreement, aid, event, etc., or their combination, which was carried out for the purpose of avoiding taxation and the result of which is the receipt of a tax benefit, should not be taken into account in in the case of determining the tax base. National authorities need to consider these arrangements for taxation purposes, referring to their economic content [503]. Recommendation No. 2012/772/EU also defines the criteria for assessing the commercial content of transactions, set out in clause 4.4., among which there are those that contain too general descriptions of the artificiality of transactions, in particular: "the legal nature of individual steps that make up the relevant mechanism is incompatible with the legal content of the mechanism in general" [503].

General formulations in the terminology of national legislation, on the one hand, violate the principle of legal certainty, on the other hand, they are introduced in connection with transnationalization and the rapid development of tax minimization and evasion schemes.

Thus, point 8 of the preamble of Recommendation No. 2012/772/EU states that: "tax planning structures are becoming more and more complex, and national legislators

often do not have enough time for an appropriate reaction, specific measures aimed at combating tax evasion , often turns out not to be enough to successfully overcome the gap with new structures of aggressive tax planning" [503]. Accordingly, it is necessary to find a balance between the general and the specific in the terminology of legislation and the adaptation of the national legal technique to the requirements of the European Union.

One of the most important tools for legally establishing the means of ensuring the fulfillment of tax obligations, not only at the EU level, but also at the international level in general, is the application of bilateral treaties on the avoidance of double taxation. As scientists note, such treaties are effective tools for reconciling contradictions between the tax systems of different states, which simultaneously solve such important tasks as, on the one hand, ensuring the fairness of taxation, preventing double taxation, promoting cross-border economic activity and attracting investments, and on the other hand, they ensure cooperation between different states in order to prevent tax losses and protect national interests [490, p. 306].

As rightly noted by I.Ya. Olender, thanks to the norms of international tax agreements, it is possible to achieve greater certainty in the fiscal regimes of different countries and to establish effective mechanisms for mutual assistance and information exchange on the activities of taxpayers, which helps to curb activities aimed at tax evasion, provides new opportunities for the development of international trade and implementation direct foreign investment. International tax treaties are especially effective when they are concluded between states with a similar level of development [504, p.379].

It is no secret that, using the contradictions in the tax legislation of different states, as well as the tools provided for by agreements on the avoidance of double taxation, unscrupulous taxpayers abused the benefits established by these agreements in order to avoid fulfilling the tax obligation [463].

To counter this phenomenon, the world community has introduced the appropriate steps of the BEPS plan (Action Plan on Base Erosion and Profit Shifting), which limit such possibilities. These steps, in particular, provide that the application of

an international treaty of Ukraine will not be allowed, if the main or predominant purpose of carrying out the corresponding economic transaction with a non-resident is to directly or indirectly obtain the advantages provided by the international treaty in the form of exemption from taxation or the application of a reduced tax rate [505, p. 98].

For the partial implementation of such measures, the Multilateral Instrument (MLI) was signed on November 24, 2016 on the implementation of measures related to taxation agreements with the aim of countering the erosion of the tax base and the removal of profits from taxation (Multilateral Instrument (MLI). The MLI Convention provides for steps to prevent abuse provisions of treaties on the avoidance of double taxation, in particular by including in the text of the preamble of tax treaties to which it applies, provisions on the intention to eliminate double taxation with respect to taxes to which this Agreement applies, but without creating opportunities for full exemption from taxation or reduction of taxation by means of tax evasion or avoidance (including by improper use of agreements in order to obtain the benefits provided for by this agreement,for obtaining indirect benefits by residents of third jurisdictions) [506].

An important aspect of determining the means of ensuring the fulfillment of tax obligations in the EU countries is the organization of tax control and the functioning of the system of bodies that carry it out. In the vast majority of EU countries, tax authorities do not have an independent status, but are part of the structure of financial authorities, in particular in Italy - the Revenue Service of the Ministry of Economy and Finance, in France - the General Directorate of Taxes of the Ministry of Finance, in Switzerland - the Federal Tax Administration of the Federal Department of Finance. In Austria, there are no tax authorities, so tax administration is carried out by financial directorates and services, which are structural subdivisions of the Ministry of Finance [507, p. 54-55]. Speaking of Ukraine, the normative consolidation of the concept of "tax control" and its interpretation are given in Art. 61 of the Tax Code of Ukraine.

It should not be overlooked that when carrying out tax control it is important to distinguish its objects and subjects. Thus, the object of tax control is the activities of taxpayers - legal entities and individuals registered with the State Tax Service of

Ukraine, tax agents and representatives of the tax payer. Along with this, speaking of subjects of tax control, we note that tax control is carried out by the bodies specified in Art. 41 of the Tax Code of Ukraine, within the limits of their powers established by the Tax Code of Ukraine. At the same time, the bodies of the Security Service of Ukraine, the National Police of Ukraine, the tax police, the prosecutor's office and their officials (officials) cannot directly participate in the inspections carried out by the controlling bodies, and carry out tax audits of business entities [453, para. 61.2–61.3 of Art. 61].

Thus, the subjects of tax control are the control bodies: 1) bodies of the State Tax Service of Ukraine - in respect of compliance with legislation on taxation (except for the cases specified in Clause 41.1.2 Clause 41.1 of Article 41 of the Tax Code of Ukraine), legislation on payment of a single contribution, as well as regarding compliance with other legislation, the control over the implementation of which is entrusted to the State Tax Service of Ukraine or its territorial bodies; 2) authorities of the State Customs Service of Ukraine - regarding compliance with the legislation on customs matters and taxation with customs duties, excise tax, value added tax, other taxes and fees, which in accordance with the tax of customs and other legislation are carried out in connection with the import (forwarding) of goods to the customs territory of Ukraine or the territory of a free customs zone or the export (forwarding) of goods from the customs territory of Ukraine or the territory of a free customs zone [453, para. 41.1.2 clause 41.1 of Art. 41, Article 61].

It should be noted that the methods of tax control are determined by Art. 62 of the Tax Code of Ukraine. Thus, tax control is carried out by: keeping records of taxpayers; information and analytical support for the activities of controlling bodies; checks and reconciliations in accordance with the requirements of the Tax Code of Ukraine, as well as checks on compliance with the legislation, the control of compliance of which is entrusted to the controlling authorities, in the manner established by the laws of Ukraine regulating the relevant sphere of legal relations; monitoring of controlled operations and survey of officials, authorized persons and/or employees of the taxpayer in accordance with Art. 39 of the Tax Code of Ukraine [453]. As noted by D.S. Vintsova, for the vast majority of the developed countries of the

world, it is characteristic to entrust the function of tax control to special bodies - tax (control) services. The latter, in turn, are most often part of the Ministry of Finance of the respective state.

This construction of the system of control bodies fully reflects their task, which is control over the proper functioning of public monetary funds. In the Russian Federation, such a body is the Federal Tax Service, in France - the General Directorate of Taxes, in Switzerland - the Federal Tax Administration, in the USA - the Internal Revenue Service. At the same time, in some countries, systems of control bodies function in the absence of a department with purely tax competence. Such states include Finland, Sweden, Germany, etc. [508, p.156-157].

The experience of Germany shows that fiscal authorities have quite broad powers. In particular, their rights include obtaining information about unscrupulous taxpayers from the prosecutor's office, police, security services and citizens. In the course of tax control, officials of fiscal authorities in Germany are given the right to seize financial reporting documents from insurance companies and banks; to carry out an investigation on the accusation of lawyers and consultants regarding the illegal protection of taxpayers who evade taxation; apply the confiscation of documents containing information on the taxpayer's financial activities. For the provision of information by the informant, which is important for the disclosure of the crime of tax evasion, the fiscal authority shall pay a reward to such an undercover employee in the amount of 10% of the amount, charged for non-payment of taxes [509, p. 82-83].

Conclusions

Integration and globalization, free trade, the development of digital technologies and the fourth industrial revolution - all these processes directly or indirectly affect national economies and their tax systems. Creation of a free trade zone, strengthening of Ukraine's foreign economic relations with the countries of the European Union, adaptation of national legislation to the principles of European law and European standards are one of the main vectors of Ukraine's foreign policy. Not only the need for a doctrinal rethinking of the legal regulation of tax administration, but also legal

practice requires the improvement of current legislation, which should contribute to the development of entrepreneurship and the encouragement of foreign investments. Today, the countries of the world have come to the conclusion that.

The creation of the European Union pushed European countries to develop uniform standards and rules of taxation. The purpose of their development was to ensure tax harmonization to the extent that it can affect the normal functioning of the Community's single market, primarily to ensure the free movement of goods, persons, services and capital between EU member states. Tax harmonization developed along with the development of economic integration. If at the stage of sectoral integration, the tax policy was supposed to prevent the replacement of customs barriers, abolished in connection with the creation of the Customs Union, with tax barriers, then with the formation of a unified budget and the growing role of taxes as a source of its filling, the processes of tax harmonization acquired a new quality .

In February 2019, changes were made to the Constitution of Ukraine related to the determination of the state's strategic course for Ukraine's full membership in the European Union.

The task of creating a democratic, social, legal state and the formation of a civil society, set in the current Constitution of Ukraine, calls for close attention to all means of legal regulation. The formation of sovereign statehood objectively requires qualitative and substantive changes in the state of social relations and connections in the system of coordinates "man - civil society - state". At the same time, along with internal factors, the attractiveness of the European integration vector for Ukraine is also determined by a number of external factors, in particular, the fact that the EU includes European countries with established traditions of constitutionalism, whose state-legal mechanisms function on a democratic basis.

The growth of the role of constitutional and legal means of influence is connected with the main trends in the development of society and the state, the deepening of their civilizational principles, based on the recognition of a person, his life, honor and dignity as the highest value. Modern political and market reforms are impossible without a comprehensive, centralized constitutional and legal provision.

Without this, it is impossible to achieve either the strengthening of the foundations of the constitutional system, the transition to a civilized, socially oriented market, or active participation in the processes of European interstate integration. Article 67 of the Constitution of Ukraine establishes the duty of everyone to pay taxes and fees in the manner and amounts established by law. Fulfillment of this constitutional obligation is ensured, in particular, by a clear mechanism for the administration of taxes and fees.

In order to ensure the order of tax collection, it is not enough to issue norms that enshrine the sovereign will, it is necessary to ensure the submission of citizens and organizations to the rules contained in them. Voluntary fulfillment by the taxpayer of his tax obligation through his own active actions without the help of state bodies is what, above all, the state strives for.

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10. Transformation of the political and legal system of France

The scientific work characterizes the historical prerequisites for the formation of modern vectors of French foreign policy, as well as the main directions of the implementation of foreign policy since 1991. At the same time, the approach of temporal differentiation and subject analysis was used, which was carried out in accordance with the periods of the reign of French presidents and in relation to the key geopolitical directions of foreign policy - European, Atlantic, Middle Eastern, African.

First of all, the topicality of the topic is due to the fact that the French Republic is one of the leading actors in the arena of international relations. Currently, world politics cannot be imagined without her active participation. The state carries out active international activities, has authority in the settlement of conflict issues, is a nuclear power, a permanent member of the UN Security Council, and is a member of NATO. It should be noted that in the conditions of modern realities and threats, its foreign policy is of particular interest.

Secondly, after the Second World War, the concept of "greatness", proclaimed by S. de Gaulle as the goal of France's foreign policy course, enabled the country to adapt to the harsh conditions of the bipolar system, to find its place in the system of the balance of power during the years of the "Cold War". In the conditions of the post-bipolar world, France continues to claim the role of the dominant state of Europe. In this regard, the topicality of the topic is due to the country's special role in the European Union. Today, the European Union is one of the main actors in international relations.

Thirdly, for domestic researchers, the topic is of particular interest, since France is one of Ukraine's key partners in Europe. Multifaceted cooperation in the fields of politics, economy, culture and humanitarian exchanges has been established between the countries. The established relationship between Ukraine and France with the development of European integration is the most significant: since the beginning of the 1990s, France, as a member of the EU, acts not only as a partner of Ukraine, but also, to some extent, as a mediator between Ukraine and the European Union. Bilateral

Ukrainian-French relations acquire special political significance in modern conditions of war.

10.1 Content and directions of French foreign policy from the end of the Cold War to 2007

After the collapse of the Soviet Union, France, like other participants in international relations, was in search of a foreign policy strategy capable of providing the country with a prominent role in the creation of a new system of international relations. With this in mind, within the framework of this unit, we decided to examine in detail the evolution of French foreign policy in the post-bipolar world. In this context, the foreign policy of France can be divided into two periods:

1. Foreign policy during the reign of F. Mitterrand (1991-1995);
2. Foreign policy of President J. Chirac (1995-2007).

Foreign policy under F. Mitterrand. After the disintegration of the Warsaw Pact and the disappearance of the "Soviet threat", France did not want to dissolve in the general mass of countries that in one way or another are objects of American policy. This position was reflected in the program document "Un nouvel horizon pour la France et le socialisme" ("New horizons for France and socialism"), which reflects new foreign policy orientations. As E. Obichkina points out, the idea was to "displace" the USA from Europe [555, p. 216]. According to F. Mitterrand, this could be done by creating a single Europe. This concept was named "Europe-state" [559].

In the early 1990s, F. Mitterrand proposed to create an autonomous European defense by 2000, but this idea did not receive development, since in May 1991, at a meeting of 15 NATO defense ministers, it was decided to create a NATO Rapid Reaction Force and a strike corps of 16 multinational divisions. Thus, the prerequisites were created for the transformation of NATO into the military basis of European security.

Another vector of French policy was the struggle to increase the importance of the Western European Union (WEU) as the "European pillar of NATO." Thus, the

Franco-German corps included military personnel from Belgium, Luxembourg, and Spain in order to turn it into a corps [540].

The policy of France in relation to the countries of the Middle East. As for the Middle East vector, on August 2, 1990, Iraq invaded Kuwait, which put French diplomacy in a difficult position. On the one hand, the status of a permanent member of the UN Security Council and Atlantic solidarity dictated the need to jointly repel the aggressor. In this case, the future of independent politics in the Middle East was called into question. On the other hand, neutrality and, as a result, maintaining one's own policy in this direction. Despite the fact that from the first moments of the crisis, the French president considered the first option unacceptable, in September 1990 he confirmed the country's readiness to participate in the operation to liberate Kuwait [555, p. 231-233].

Under the leadership of the Pentagon, France took part in Operation Desert Storm. In this regard, US leadership in the region has significantly strengthened. The laurels of the Middle East settlement went to America. As noted by V. Shadurskyi, in the future, France lost its influence in the resolution of the Arab-Israeli conflict. French (European) diplomacy was effectively excluded from this process. Thanks to the efforts of the US State Department, the Agreement between Israel and the Palestine Liberation Organization was signed (September 19, 1993). Thus, the Near and Middle East became the main area of interests of the Americans.

African vector of French politics. Characterizing the African vector, we note that in the early 1990s, the French presence in this region increased. In 1989, after the assassination of President Abalakh, the French military landed in Comoros. In 1990, an anti-government uprising began in Gabon. Considering this, France had to strengthen its presence in this area. In 1991, French paratroopers provided evacuation in Zaire, in the same year, the French had to deploy military forces in Djibouti, as the Afar rebellion began there. In 1990-1993, France participated in the settlement of the conflict in Rwanda. However, in 1994, the country had to abandon independent actions in favor of international ones. In 1992-1994, the French participated in the "Restore Hope" peacekeeping operation [528]. E.O. Obichkina notes that the powerlessness of

France was also manifested in the Algeria issue (1988-1995). Thus, by the end of F. Mitterrand's reign, France had largely lost its former greatness in the "protected zone".

Along with military aid, French policy in Africa included economic aid. The debt of African states continued to grow, so in January 1994 a decision was made to devalue the franc of the Franco-African Community by 50% [563]. In October 1995, at the General Assembly of the IMF, France agreed to subordinate state aid to African countries to the requirements of the fund and the bodies of the international monetary system of Bretton Woods [518]. This dealt a serious blow to the Franco-African partnership.

Summing up the above, we can conclude that the foreign policy course during Mitterrand's reign is characterized by continuity. The main directions, as before, are European, African, transatlantic and Middle Eastern. The priority directions are European, transatlantic, aid to developing countries. After the collapse of the Warsaw Pact and the disappearance of the "Soviet threat", the French Republic tried to "oust" the USA from Europe, but the activities to achieve this goal were largely unsuccessful. The results in the African direction were also disappointing. By the end of the head of state's rule, the country loses its former influence in the "protected zone". This was facilitated by the expansion of other states and the change of sentiment in the French political class. Policy towards Moscow is characterized by pragmatism.

It is appropriate to say that F. Mitterrand's foreign policy faced serious criticism. The tendency to condemn the foreign policy course is particularly characteristic of the mid-1990s. F. Bozo, S. Cohen in their writings, among the causes of unsuccessful foreign policy, single out - multilateralism of policy, limited funds.

Foreign policy during the administration of Zh. Chirac (1995-2007). In 1995, Zh. Shirak, the leader of the party United in Support of the Republic (OPR) was elected to the post of president. NO. Pupykin notes that Chirac's coming to power is not just a change of power. Now, after a break of almost a quarter of a century, the Gaullists have returned to power. In his election campaign, Jacques Chirac often referred to the ideological legacy of General de Gaulle, who relied on such postulates as the

independence and greatness of France, a privileged partnership with the USSR, anti-Americanism, and the construction of independent deterrent forces [559].

The new president faced the task of adapting France's foreign policy to a changing world. The new president decided to establish himself on the international scene immediately, announcing new approaches in foreign policy: strengthening the military presence in Bosnia, including the forces of separation; lifting of the moratorium on nuclear tests (1992). However, the analysis of the sources shows that the foreign policy course of the French Republic during the reign of Chirac was characterized by the following: protection of national independence, continuation of European construction and ambitions for a world role. The analysis of documents devoted to the foreign policy of the period of "coexistence" of President J. Chirac and the cabinet of L. Jospin allows us to highlight the following priorities of France's foreign policy course:

- formation of a positive image of France in the international arena;
- active participation in the construction of a "constructive multipolar world".

Transatlantic route. The American policy of J. Chirac followed the former pragmatic approaches in this direction. Y. Vedrin, upon assuming the post of Minister of Foreign Affairs, confirmed the fidelity of this position: "France should, without ambition, recognize the leadership of the United States on the world stage after the end of the Cold War [536, p. 121-123].

Chinese direction. Relations with China played an important role in Chirac's global strategy against the United States. It is no accident that the "White Paper on Defense" of 1994 took into account the threat from China [560].

During the reign of J. Chirac, profitable supply contracts were signed, moreover, France undertook to triple its trade presence in Asia. After the Kosovo crisis, another important area of French interest in China emerged. This is political cooperation on global issues within the circle of permanent members of the UN Security Council [538].

The direction of the Middle East. Characterizing the foreign policy of France in the indicated direction, we note that for J. Chirac this direction, as before, remains one

of the key ones. Chirac, being the continuation of the Gaullist policy in this region, inherited both the benefits of the support of the Arab countries and the consequences of strained relations with Israel. As E. Osypov notes, France traditionally paid a lot of attention to the Mediterranean policy, a component of which was privileged relations with Arab countries. Israel, with whom Gaullist France often has relations, became an involuntary victim of such a policy there were very serious disagreements, especially under presidents de Gaulle and Pompidou. Considering this, the French president faced a difficult task - to improve bilateral cooperation with Israel, while maintaining the previous level of contacts with the Arab world [557].

After the tragic terrorist attack in the USA (September 11, 2001), the French Republic participated in NATO military operations in Afghanistan. In the Iraqi campaign, in contrast to the events of the beginning of 1990, when France turned out to be an opponent of the USA and did not take part in military operations.

European direction. First of all, it should be noted that the issue of the European Union increasingly became an integral part of not only the foreign, but also the internal policy of France, as this issue was relevant in all political campaigns conducted in the country. On October 2, 1997, the Amsterdam Treaty of the updated text of the main Treaty on the European Council was signed in Amsterdam. On May 1, 1999, the agreement entered into force, thereby giving a powerful impetus to the process of development of the foreign policy individuality of the Union.

Regarding European security and defense, Chirac put forward an initiative to create an autonomous "military European house" within the NATO structure. Based on this strategy, Paris announced its intention to return to the Alliance, putting forward the terms of its return. However, in December 1997, negotiations between the alliance and France were interrupted. On December 4, 1998, the Franco-British declaration on European defense was signed. According to the declaration, the EU should play a "full role in the international arena".

In general, the position of President J. Chirac and the cabinet of L. Jospin regarding European integration was aimed at solving the following tasks:

- introduction and strengthening of the single European currency (euro) (January 2002);
- reform of the existing institutions of the European Union and its expansion;
- creation of a European security system.

In 2005, the French rejected the project of a single European Constitution in a referendum. The main reason is the common European population's misunderstanding of the significance of the global European project and the attitude towards a unified Europe as an "abstract and complex" mechanism that "brings more inconveniences than benefits". The vote was also influenced by the absence in the preamble of the Constitution of a passage about the "Christian roots" of Europe, which created the possibility of Turkey's acceptance into the EU in the future. This painful issue for European society affected the results of the referendum, although Chirac himself was sympathetic to Turkey's acceptance into a single Europe.

As for the relations between France and Germany, during the reign of J. Chirac, privileged relations between the states were preserved. According to the provisions of the Elysée Treaty (1963), official meetings of the heads of state were held twice a year, informal meetings - about 20 times. Meetings of parliamentarians of both states were held annually. There were also close trade and economic ties between the countries [555].

African direction. The government of L. Jospin made it clear that France intended to pay more attention to the African region, since at that time the presence of the United States in Africa had expanded significantly, therefore, in the light of the modernization of African policy, measures were taken to simplify the visa regime, the Ministry of Defense began a reform of the doctrine for the countries of Africa the continent The African policy of the socialist government was based on two principles:

- non-interference in any aspect of the activities of African countries;
- encouraging the establishment of a legal state and good governance of the country: "no interference, no indifference."

It should be added that special attention was paid to the issue of influence on Africa through the education of the African elite in French educational institutions. The gradual reduction of the French military presence on the continent begins.

2. The essence and priorities of the transformation of France's foreign policy course in 2007-2022.

In this subsection, by analogy with the previous one, the foreign policy of France can be divided into periods:

- foreign policy of N. Sarkozy (2007-2012);
- foreign policy of President F. Hollande (2012-2017);
- foreign policy of E. Macron (2017 - until today).

Foreign policy of France during the reign of N. Sarkozy (2007-2012). Elected in 2007, N. Sarkozy came to power with the idea of radical reform and modernization of the Fifth Republic. M. Weiss explains these aspirations to the president's desire to realize the idea of rapidly raising the country's prestige on the world stage [535]. In this regard, the reaction of the electronic version of the newspaper "Le Monde", which during the first two years of N. Sarkozy's presidency, noted in a special table the degree of fulfillment of the pre-election promises of the head of state [564].

Among the long-term goals of his diplomacy, Sarkozy included, first of all, ensuring the security and independence of France. At the same time, ensuring the security of France is inseparable from the security of European partners. The goals of foreign policy were also to give a new impetus to the process of European integration, restore friendly relations with the USA, create a union of Mediterranean countries, and intensify cooperation with Africa [554].

European vector. During the years of N. Sarkozy's rule, France's European policy received a new impetus. It is not by chance that the French Foreign Ministry was renamed the Ministry of Foreign and European Affairs. After N. Sarkozy assumed the post of the president of the republic, the "return of France to Europe" was put forward as a priority task. Sarkozy took a clear position regarding two cardinal issues, without the solution of which the EU's exit from the impasse was deliberately excluded. First, a compromise between the principles of supranational federation and interstate

confederation. Secondly, the need to clearly define the limits of further expansion of the EU.

Thanks to the unprecedented political activity of the newly elected president, it was possible to conclude the Lisbon Treaty by the end of 2007, which brought the EU out of the institutional crisis. True, the rosy picture of the French plan to "reset" the EU was spoiled by the failure of the referendum in Ireland, which, however, did not stop the dynamics of "European construction". On December 1, 2009, a new treaty was signed in Lisbon that corresponded to Sarkozy's initial program [538].

An important event for France's European policy was to become the country's presidency of the European Union from July 1 to December 31, 2008 [548, p. 192]. The main priorities of the French presidency (the general defense and security policy, the "Energy-Climate" package, immigration regulation, the unity of the agricultural policy) were united by the idea of Europe, which must protect its citizens from the threats and challenges of globalization. Thus, N. Sarkozy successfully combined foreign and domestic policy, finding a kind of balance between Eurosceptics and Eurooptimists in France [564]. However, the overall result of the French presidency did not live up to expectations, as the need to adopt anti-crisis measures affected the country's financial capabilities, limiting the political effectiveness of France's European policy as a whole, including its so-called fundamental structure – the Paris-Berlin tandem. In such conditions, France's leadership in the Paris-Berlin tandem, and therefore in the European Union as a whole, was called into question [535].

It should be noted that France's status as a key EU player was established during the events in South Ossetia in August 2008 and during the global financial crisis. Sarkozy's mediation mission (the Medvedev-Sarkozy plan for the settlement of the Georgian-South Ossetian conflict) was perceived for some time as a political success not only for the President of France personally, but also for the EU as a whole.

Transatlantic vector. One of the important moments of French foreign policy under N. Sarkozy was the "reset" of relations with the USA. As S. Fedorov points out, the nickname "Sarko-American" was attached to the president, because during the reign of N. Sarkozy, the foreign policy course shifted in the direction of Atlanticism.

Sarkozy explains these aspirations with the desire to end the "systemic anti-Americanism" characteristic, in his opinion, of France in recent decades. It should be noted that during that period, France managed to bring relations with the USA to a new, higher level.

The president began the process of improving relations with America by returning France to the military staff structures of the NATO joint command (April 2009). Thus, he interrupted the absence of the Fifth Republic in the military organization of the North Atlantic Alliance, which had been ongoing since 1966, and changed one of the fundamental principles of Holism. For its part, America welcomed the return of the French to the alliance, withdrawing its former objections to a European defense identity and agreeing to give France the command of the ATC in Norfolk, which caused the need for joint operations, as well as the need to create a new command occupied by Europeans on a first-come, first-served basis. regional headquarters of the alliance in Lisbon. Sarkozy's main motives in his search for closer interaction with the United States were pragmatic in nature.

HELL. Bogaturov and V.V. Averkov note that a closer Franco-American interaction has emerged only in the Middle East. The French Minister of Foreign Affairs visited Baghdad, supporting Obama's decision to determine the terms of withdrawal of the American contingent from Iraq. Similar gestures were made in Afghanistan. The parallelism of both countries' approaches to Middle Eastern affairs was most evident in connection with the problems of Lebanon - the traditional sphere of French influence in the region [514, p. 294].

However, in this period there were also objective, tactical differences between the countries. For example, in 2009, the Parisian newspaper "Le Monde" wrote that since the summer of 2009, a clear discrepancy has appeared in the public discourse of Nicolas Sarkozy and Barack Obama regarding the Islamic Republic of Iran [547]. Paris also did not support the concept of a "nuclear-free world" proposed by B. Obama. France did not show much enthusiasm for American plans to create an anti-missile defense system within NATO (2010).

Relations with the countries of the southern and eastern Mediterranean / the former "third world" (Africa, Asia, Latin America). In the course of his election campaign, N. Sarkozy relentlessly denounced the practice of secret diplomacy, clientelism, and support for corrupt dictatorial regimes flourishing under his predecessors, in particular Shirak, promising fundamental changes. With this in mind, on May 6, 2007, he made a "fraternal appeal" to all Africans, offering help in the fight against hunger, disease, poverty and wars. The start of the new African policy was the Mediterranean Union project. The author of this project was Henri Genault, a personal adviser to N. Sarkozy. Initially, this union was supposed to unite coastal countries, become a regional organization with permanent institutions, similar to the structures of the EU. However, colleagues in the EU, led by Germany, saw in the initiative of the French president a threat of splitting the European Union into regional unification, as well as France's attempt to strengthen its position in the area of its traditional influence, moreover, at the expense of the EU. "New Europe" was also not enthusiastic about the French idea, fearing the reorientation of the political vector of the Union from the eastern to the southern direction. As a result, the French project was quite negatively perceived. All EU countries joined the new union, and its official name was changed, emphasizing its connection with the Barcelona Process.

Due to the aggravation of the Palestinian-Israeli conflict, the Union for the Mediterranean did not really work, although it was premature to talk about its collapse. Not only the EU and France were interested in the organization, but primarily the countries of the southern shore of the Mediterranean Sea. Given the geopolitical and economic importance of the region, the project of French diplomacy is a win-win move, a kind of preparation for the future.

On July 24, 2017, an agreement on cooperation in the field of nuclear energy use for peaceful purposes was signed in the capital of Libya (Tripoli). Representatives of France and Libya participated in the signing of the agreement. However, France's attempt to strengthen its influence in the southern Mediterranean, rapprochement with Gaddafi was defeated: the chain reaction of revolutions that shook the Arab world did not bypass Libya either. The results of the policy in sub-Saharan Africa turned out to

be ambiguous. In 2007, the Minister of Foreign Affairs B. Kushner visited Mali, Chad and Sudan. The main task is to end mass terror against the residents of the Sudanese province of Darfur. The minister was followed by the president himself, who paid an official visit to Senegal and Gabon. It was about the relationship between economic cooperation and the contractual regulation of migrations. In 2009, the president of Gabon, Omar, died. His son Ali took the place of the head of state. Now tropical sub-Saharan Africa has returned to the times of absolute priority for France's economic and strategic interests. Against this background, on July 28, 2009, Sarkozy speaks at the University of Dakar (Senegal). The main goal is to alleviate the disappointment of Africans regarding the promises of democratization. However, given the mentality of Africans, the difficult situation in their economy, political chaos and a series of bloody conflicts, Sarkozy's speech was perceived as a tactical mistake. Moreover, the head of state was accused of having a bad attitude towards African culture, lobbying the interests of French business circles, and so on.

It should be noted that the evidence that this criticism is not without grounds was the lukewarm response to the celebration of the 50th anniversary of the declaration of independence by the French-speaking countries of Tropical Africa. Despite the fact that the parade of military units of Tropical Africa and the concert took place in France (July 14, 2010), N. Sarkozy decided to abandon the declaration of 2010 as the year of Africa [536, p. 126].

Relations with Asian countries; France-China. In November 2007, the French president, accompanied by a group of representatives of French business circles, paid a visit to China. The result of this visit was the signing of major contracts. It should be noted that two more such visits took place after this trip. While offering China its investments and high technologies, the French leadership was aware that France's capabilities were far behind those of the USA, Japan and Germany in terms of the volume of trade with the People's Republic of China. Therefore, Paris sought to initiate the development of cooperation between Beijing and the EU, using, in particular, its presidency of the European Union in the second half of 2008.

However, during 2008, Franco-Chinese relations experienced a crisis. This was caused by the clashes of positions in Africa. The Franco-Chinese conflict over the human rights issue became even more acute in connection with the riots of the indigenous population in Tibet, and then in Xinjiang, severely suppressed by the Chinese authorities. Taking this into account, Beijing postponed the next EU-China summit, scheduled for December 1, 2008, until the end of the French presidency, and the Chinese media launched a hostile campaign against Paris. Only after 2 years, the relations between the states were normalized [536, p. 129].

France-India. No less actively, Sarkozy sought to develop cooperation with another "emerging" giant of Asia - India. In 2009, a preliminary agreement was reached between the French group "Areva" and the Indian Atomic Energy Corporation on the participation of Paris in the implementation of a large-scale program for the construction of 20 nuclear power plants. At the same time, there were negotiations about equipping the Indian Air Force with French Mirage and Rafale fighter-bombers. In 2008 and 2010, Sarkozy visited India. As a result, French companies were promised an order for the construction of two power units as part of the nuclear energy development program in India.

Foreign policy of France during the reign of F. Hollande. On January 22, 2012, Hollande presented his campaign program "Change is now. My 60 promises to France", in which only 7 points are devoted to foreign policy aspects. This disparity is explained by the consequences of the financial and economic crisis of 2008. The above seven points are devoted to the importance of strengthening France's position on the world stage and the need to withdraw troops. However, the threats and challenges facing French society and the world forced the Commander-in-Chief to review/change the emphasis in some foreign policy vectors, which was reflected in the "White Paper on Defense and National Security" published by the French government on April 29, 2013. The "White Book" affects relations along the NATO-EU-France axis, where the first two actors, according to the doctrine, are elements of the unified security system of the Fifth Republic.

European direction. After winning the elections in May 2012, the leader of the French Socialists, Francois Hollande, initially made it clear that he intended to more actively seek to strengthen the country's role in the Alliance, but after coming to power, the new president actually continued his predecessor's policy towards the USA and NATO in the highest state post. A. Kurdryavtsev notes that, characterizing the further development of the EU, F. Hollande said that, first of all, the countries of the Eurozone are doomed to closer and more complex cooperation. Secondly, the future "government of the euro zone" should be concerned with the solution of the economic problems of the European Union. However, the last elections to the European Parliament in France on May 25, 2014 showed that anti-integration sentiments flourished in the country [536]. It should be noted that with the coming to power of F. Hollande, economic transformations were carried out in the field of European construction, the capabilities of the European Investment Bank (EIB) were expanded, and "Eurobonds" were put into effect. Characterizing Franco-German relations, we should note that there were serious differences between them, as the French president adhered to left-wing views, and the German chancellor represented the center-right forces. However, France and Germany needed the support of partnership relations. Events in Ukraine became a new impetus for relations. Both countries coordinated their positions in relations with the new Ukrainian government, including regarding sanctions against Russia. Moreover, the countries began to make joint visits to the CIS countries (Moldova, Georgia).

France's relations with Great Britain were on a different level. F. Hollande met several times with the prime ministers of the country. The agenda of these meetings included: economic crisis, bilateral relations, international problems, security and defense problems. The joint actions of France and Great Britain in the war with Libya also became an example of close cooperation in the military sphere. Both countries acted as a united front, putting forward joint draft resolutions in the UN Security Council regarding Syria and demanding the lifting of the embargo on the supply of arms by the European Union countries to the Syrian opposition [511].

Atlantic direction. Characterizing the Atlantic direction, we note that in December 2012, the French president agreed with the US on the withdrawal of troops

from Afghanistan. Moreover, F. Hollande supported the position of B. Obama regarding the decision to exit Europe from the crisis. K. Zuyeva says that in February 2014 F. Hollande visited the USA. Evaluating the results of the visit, the president emphasized that relations between the two countries have reached an "exceptional level of closeness and trust." F. Hollande also met with US Secretary of State John Kerry. During this meeting, a joint position on the problems of Mali and Syria was developed.

France and the countries of Africa and the Middle East. F. Hollande, who succeeded Sarkozy as president, continued the policy of his predecessor and demonstrated a serious interest in strengthening French positions, both on the African continent and in the Middle East. In 2013, an authorized operation of French troops "Serval" took place against the insurgent Tuareg and radical Islamist groups in the north of Mali. In addition to the military operations in Mali, on December 6, 2013, France launched the "Sangaris" operation in the Central African Republic in accordance with UN Security Council resolution 2134 [555, p. 204].

Next, it is necessary to say that Hollande indicated his attitude to the Palestinian-Israeli conflict. He spoke in favor of the resumption of dialogue between the Palestinians and the Israelis in order to develop the conditions for the creation of a Palestinian state. The French supported the Palestinians in the issue of recognition of the Palestinian National Autonomy as an observer state in the UN and provided them with a small amount of financial assistance.

A clear continuity with Sarkozy's policy can also be seen in the approaches to the internal political conflict in Syria. Shortly after the election of Hollande, France spoke at the UN Security Council for the adoption of sanctions against Syria and for obtaining a mandate to carry out "legal measures" to fight the government of Bashar Assad [555, p. 208].

France–China. The new French president has shown serious interest in strengthening ties with China. Showing his characteristic pragmatism, he, unlike Sarkozy, does not raise issues that are painful for the Chinese leadership about violations of the principles of democracy and human rights. On April 24-25, 2013, the French president visited Beijing. As a result of the negotiations, a number of major

economic agreements were concluded in the fields of aviation, space, agriculture, and tourism. The continuation of the development of Franco-Chinese relations was the official three-day visit of the President of the People's Republic of China Xi Jinping to Paris at the end of March 2014 [556].

Foreign policy of France under E. Macron. On August 29-31, 2017, President E. Macron confirmed the continuity of the foreign policy course of his predecessors. According to the observation of the French author F. Charillon, the foreign policy of modern France is prone to the dichotomy of "breaks" and continuity, because from the first days of his mandate, the new leader began to demonstrate certain stylistic innovations, adapting the traditional approach to making state decisions "for himself".

European vector. First of all, it should be noted that E. Macron came to the post of president together with a major European project: strengthening the French-German alliance, EU reform, transformation of labor relations within Europe and moderate protectionism in relation to French manufacturers. It should be noted that in 2016, on the eve of the election campaign, E. Macron's program book "Revolution" was published with a description of his European project, so it is not surprising that the basis of France's foreign policy course is a major consolidation with the European Union.

Without claiming to be a comprehensive, comprehensive study of E. Macron's program, let's analyze his main ideas designed to reform the EU. Guided by the desire to preserve and develop the EU, the president intends to promote the "multi-speed development" plan. This plan envisages "different-speed" development and strengthening of cooperation between the member states of the eurozone during their transfer of additional powers to the supranational level of the EU. At the same time, the scale of the problems to be solved is so significant that questions about the details, terms and scope of the future reorganization of the EU in many respects remain open.

Macron also pays attention to migration policy within the EU. The President proposes to strengthen the cooperation of the EU countries in this area: to strengthen the security of the EU borders, to increase the capacity of the EU border agency, to

create a special European police force to expel illegal immigrants from the territory of the EU countries and the European Asylum Agency [529, p. 34].

Within the framework of European policy, the French leader pays special attention to Franco-German cooperation, as this cooperation remains the engine of European construction. To give additional impetus to these ties and to mark the 55th anniversary of the Elysée Treaty in January 2018, the French president proposed to sign the new Elysée Treaty in a solemn setting. The contract was signed a year late.

It should be noted that the signing of the agreement caused criticism within France. Thus, a member of the National Assembly, one of the leaders of the right, Marie Le Pen demanded the convocation of the Constitutional Council in connection with the signing of the Franco-German treaty, which, in her opinion, does not correspond to the basic law of France. She believes that the treaty "encroaches on the sovereignty of states", effectively "sharing France's seat in the Security Council" and establishing "joint governance in Alsace".

Among other ideas of E. Macron, aimed at the development of the Franco-German partnership, is the creation of a joint Innovation Agency, as well as the completion of the harmonization of the French and German corporate taxation systems within the next four years. Macron believes that this experience can gradually be extended to all the countries of the European Union with the strengthening of control by the central EU bodies over the implementation of these general rules.

It should be noted that Macron intended to develop ties with other European Union countries, first of all, with the countries of the southern flank, which suffered from the fiscal austerity policy of Germany during the debt crisis of 2010. There was also the traditional desire of Paris to balance the course for close cooperation with Berlin through the intensification of relations with Greece, Italy, Spain, and Portugal. Thus, France seeks to slightly loosen the mutual "hug" with Berlin in order to have freedom of maneuver in Europe.

According to the results of the session of the European Council on June 22, 2017, E. Macron and his partners decided to establish the European Defense Fund with a budget of 590 million euros until 2020, and later - 1.5 billion euros. The participation

of the European Investment Bank in the work of the fund was welcomed. EU countries announced the launch of permanent and structured cooperation of an inclusive nature, it was decided to deploy permanent "tactical groups" of military personnel of EU countries. Finally, the parties agreed to strengthen the procedure for entry and exit from the EU for the purpose of internal security and the fight against terrorism. All these measures corresponded to E. Macron's program [511].

Transatlantic dialogue. The nature of relations with the United States was indicated by E. Macron even during his pre-election speeches. And later, in an interview with TF1 in October 2017, he emphasized that the USA is not just a partner, but also an ally of France [544].

In this direction, the French leader made a move that is not the most typical for French foreign policy - he showed himself as Washington's main European interlocutor. Indeed, the communication between the French and American leaders was outwardly quite friendly, which was evident during the trip of D. Trump to Paris on July 13-14, 2017 and the state visit of E. Macron to the USA on April 23-25, 2018. Various gestures were supposed to demonstrate that the president of the Fifth Republic seems to have a special influence on the master of the White House, forcing him to listen to himself.

In practice, it turned out that the benefit from these "special relations" is not as much as E. Macron would like. So, for example, he had to change his original position on the Iran nuclear deal. France stops keeping America within the framework of the status quo, offers to conclude some additional agreement, taking into account the opinion of Washington. Macron and Trump also took different positions on the issue of another nuclear program - the North Korean one. Both leaders acknowledge the dangers posed by North Korea's agenda. It should also be noted that after the visit to America, the heads of state did not report any major negotiating victories either on the issue of tariffs on steel and aluminum, or on issues of climate change. However, no one doubts the strength of the military-political alliance on both sides of the Atlantic, so France is counting on the support of American diplomacy in Africa (the Sahel region), the Indian and Pacific oceans [565].

It should also be noted that France participates in the anti-terrorist coalition led by the United States. At the same time, the French president expressed his solidarity with the existing anti-Russian campaign in the USA on the question of the Kremlin's possible interference in the US presidential elections. Macron said that France also suffered from similar interference.

France and countries of the Middle East and Africa. In recent years, Macron's most tangible foreign policy success is his intervention in the political crisis in Lebanon. The President personally conducted negotiations in Saudi Arabia and offered Lebanese Prime Minister Saad Hariri a way out of the political impasse [534].

However, E. Macron's actions in 2019 at least did not strengthen the position of Paris in the Middle East (or even weakened them again). France has not yet become a separate player in Syria, still preferring an alliance with the United States and Great Britain (tested once again in April 2018). The help of the Kurdish militia in Manbij worsened the already difficult relations with Turkey. The proposal to resume negotiations on the Iran nuclear deal did not find Tehran's understanding.

Characterizing France's relations with former colonies, especially African ones, we note that they are extremely difficult. Macron aims to work on expanding the mandate of French troops in Africa so that there is an opportunity to deal with disarmament issues.

Conclusions. Thus, the principles, directions and content of the transformation of French foreign policy after the end of the "Cold War" were revealed. The main goal of French geopolitics is to ensure the status of a great power with limited resources. The foreign policy of France is strongly connected with the ideas that originated under S. de Gaulle. "Hollism" as a political philosophy was supposed to provide Paris with a prominent place in Europe, the status of an influential partner among other powerful states and unite the French people.

Also, during the work, the main foreign policy trends of modern France were outlined and an attempt was made to forecast its future actions. For modern France, the main thing is the process of Western European integration. Paris increasingly relies on cooperation with EU partners and plays an active role in the European integration

process. Participation in European construction is traditionally one of the main priorities of French foreign policy. EU countries are the main foreign economic partners of France, ahead of the USA and China. Now more than ever, France is connected to its EU partners, and this interdependence has reached an unprecedented level. When solving all major issues, Paris relies more and more on the European Union, which allows it not only to claim a special place in Europe, but also to strengthen its positions in other foreign policy directions.

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