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ADAPTATION OF UKRAINIAN LEGISLATION TO EU REQUIREMENTS

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Manhora T., Dzeveliuk A., Manhora V., Kahliak I., Tomliak T., Demianchuk Y., Semeniuk O., Pravdiuk A., Skichko I., Pohuliaiev O.

ADAPTATION OF UKRAINIAN LEGISLATION TO EU REQUIREMENTS

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ANNOTATION

The collective monograph is devoted to the trends of the modern development of the Ukrainian legal society. The research uses an interdisciplinary and legislative approach, which allows to analyze and characterize various aspects, parties and approaches regarding the development and further prospects of social and legal processes in Ukraine, as well as to obtain socially important, legal scientific results.

The subject of scientific interests of **Tamila Manhora** and **Andrii Dzeveliuk** became large-scale acute trends in the modern era of globalization, the issue of cross-border migration, which is caused primarily by its influence on the development of one of the types of international crime, in addition to drug and arms trade - human trafficking. Peculiarities of criminal liability for this type of shadow process are considered. The direct definition of the concept of "trafficking in human beings" is characterized and its characteristic varieties are considered. The current state of legislation regarding this problem is analyzed. The regulatory support for countering this negative phenomenon, as well as the institutional support for countering it, are being studied. The criminal liability for this illegal action has been specified. And also the issue of human trafficking as a form of organized criminal activity is separately investigated.

The chapter by **Volodymir Manhora** and **Inna Kahliak** is devoted to the topic of business contracts in modern social and legal conditions. The expediency of the classification of business contracts has been determined. Their current distribution was carried out in order to determine the place of this or that contract in the general system of economic and legal relations, and their main functional purpose was clarified. The newest form of economic contracts - electronic ones - is characterized. It has been established that the division of this type of contracts into types can be carried out according to various qualification criteria, which is due to the continuous evolution of economic turnover.

Creation of a harmonious and effective system of economic legislation is one of the most important areas of development of the legal system of Ukraine in the context of adaptation to the legislation of the European Union.

According to **Taisa Tomliak's** scientific research, modern evidence of judicial practice of national courts and the European Court of Human Rights proves that judicial bodies have the largest number of cases related to the protection of the rights, freedoms and best interests of the child. It is the judicial bodies that protect the best interests of children, therefore, such a judicial mechanism must be effective and efficient. The mechanism of the legal issue under consideration has its own specifics. Considering the special status of the child as a vulnerable category and the broader concept of the best interests of the child than the rights of the child in general, this issue requires special protection and proper legal protection.

Yurii Demianchuk and **Oksana Semeniuk** consider the issue of the normative and legal basis of the prevention of corruption in Ukraine in relation to the requirements of the European Union. As a method of scientific research, it plays an extremely important role in learning the essence of social phenomena and processes. The expediency of the raised topic is stated as one of the universal methods in the plan of transforming the future, because it is impossible to carry out social transformations without having a proper innovative project. The considered legal model of combating corruption motivates the desire to get into power structures for reasons of personal safety and impunity. Therefore, it includes the processes of the degradation of power and its consistent corruption in Ukraine to the requirements of the European Union.

According to **Andrii Pravdiuk**, information is a productive force and a commodity, simultaneously being a means of protection and attack in defense of state, corporate and personal interests of subjects of power relations. Starting from the time of the first attempts to scientifically understand the concept, essence and meaning of information in society, the problem of the right to access to information has been the object of considerable attention of representatives of various scientific fields - historical, socio-psychological, philosophical, legal, technical, etc. However, despite the different level of coverage of the problem from the point of view of informativeness

and source support, they do not exhaust the topic of research, but on the contrary, in the modern conditions of the formation of the national and global information space, they enrich and update it.

The purpose of **Irina Skichko's** research is to analyze the state of adaptation of the legislation of Ukraine to the legislation of the European Union in the context of the actually implemented and planned. The author emphasizes that despite Ukraine's active 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, the application for Ukraine's membership in the European Union was submitted only during a full-scale military intrusion. This situation is explained by the large amount of unfinished rule-making work to adapt Ukrainian legislation to European legislation. Even despite the constant obstacles on the way to adaptation, as of February 2023, Ukraine has fulfilled 72% of the obligations stipulated in the Association Agreement with the European Union. Considering the above, it is relevant to review the current and future steps taken regarding this adaptation.

Oleksandr Pohuliaiev makes an attempt to analyze the historical process of unification of legal institutions of European states. According to the author, this process can serve as an example for Ukraine and other countries that intend to join the European Union. Treaties regulating relations between Ukraine and the EU have been reviewed. Ukraine's fulfillment of requirements for deepened political and legal integration into the European family is analyzed.

European integration is a natural and logical path for the European Ukrainian nation. Other alternatives are absent or unprofitable. It has been proven that membership in the European Union contributes to the improvement of quality standards of all state institutions and modernizes the country's legal system. Since the second half of the 20th century, integration processes have intensified all over the world.

The content of the collective monograph corresponds to the direction of scientific work of the Department of Law of Vinnytsia National Agrarian University. The monograph is the result of the initiative theme "Legal regulation of social relations

in the conditions of martial law and post-war reconstruction of Ukraine in the conditions of European integration". State registration number 0123U100675. The head of the topic is Candidate of Law Sciences Associate Professor Manhora T.V.). The monograph uses: legal, social and legislative research methods, statistical analysis, legal approach of national and international practice.

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1. Combating human trafficking: features of criminal liability

Abstract

In the modern era of globalization, the issue of cross-border migration is becoming increasingly acute, which is caused, first of all, by its influence on the development of one of the types of international crime, in addition to drug and arms trade, which is human trafficking. Thus, the German researcher Leo Keidel considers human trafficking as one of the main activities of criminal groups, which ranks 5th in the hierarchy of criminal activity in Germany [1, p. 48]. This is certainly a violation of all human rights and freedoms enshrined in the Universal Declaration of Human Rights adopted by the UN General Assembly. The greatest concern is the increase in the volume of illegal export of women and children from their native countries abroad for the purposes of sexual exploitation and forced labor. According to some data, the total number of people around the world who fall into slavery every year is 1 million people, and the profits of criminal groups are 3.5 billion dollars annually [1, p. 48]. Meanwhile, underground prostitution contributes to the spread of sexually transmitted infections, including AIDS. Recently, there are also cases of people being used for organ transplantation, because the lack of donor material and its high cost attract criminal structures.

Since Russia launched a full-scale war, humanitarian workers and volunteers have reported cases of human trafficking at Ukraine's borders. During conflicts, people are often captured and sold.The UN Commission on Combating International Crime considers human trafficking to be the third largest form of organized crime, second only to illegal drug and arms trafficking. According to the Commission's estimates, the annual profits of this transnational business amount to 12 billion dollars. USA. The Center for Human Security (Vancouver, Canada), taking into account internal human trafficking in various countries, estimates the number of victims of this crime at 4 million people. The International Labor Organization estimates that approximately 1.2 million children worldwide are trafficked each year, mostly for commercial sexual

exploitation or forced labor. The annual report of the US State Department on human trafficking notes the degree of progress of measures to combat human trafficking in Ukraine. One of the latest reports states that "Ukraine is a country of origin, transit and is gradually becoming a country of destination for men, women and children subjected to forced labor and sexual exploitation. Ukrainians become victims of human trafficking in Ukraine, as well as in Russia, Poland, Iraq, Spain, Turkey, Cyprus, the Seychelles, Portugal, the Czech Republic, Israel, Italy, the United Arab Emirates, Montenegro, Great Britain, Kazakhstan and Tunisia. Citizens of foreign countries, in particular Moldova, Uzbekistan, Pakistan, Cameroon and Azerbaijan, were subjected to forced labor in Ukraine" [2, p. 10].During the period from 2012 to 2018, the Ministry of Social Policy established the status of a person who suffered from human trafficking for 629 persons (623 - citizens of Ukraine, 6 - foreigners), of which 269 - women, 291 - men, 69 - children (27 boys, 42 girls)) [3].

Various aspects of human trafficking have been repeatedly studied in legal literature, in particular by such authors as K. Dyadyur, G. Zharovska, O. Kraevska, B. Lyzogub, N. Lukacs, M. Fialka and others. At the same time, it should be recognized that the conducted studies do not exhaust all the problems in this area, as a number of debatable issues remain, in particular, regarding the strengthening of criminal liability for human trafficking.

1.1 Concept and types of "human trafficking"

The slave trade is flourishing in the world. It is not about the terrible period of slavery in ancient times. Among the most important violations of human rights in the modern world, the crime that has many names remains relevant: "white slavery", "human trafficking", "human smuggling".

Human trafficking is one of the fastest growing areas of criminal business in the world. It brings in millions of profits, gradually displacing the arms and drug trade. This industry is dominated by well-organized criminal syndicates, and the profits are used to finance other types of criminal activity, including drug and arms trafficking.

According to expert estimates, every year 800,000 to 900,000 people become victims of human trafficking all over the world, and most of them are women and children [2, p. 8]. So, for some it is "big business", for others it is the collapse of hopes and hopes for a better future.

Our state is a country from which, as a rule, "live goods" are exported to world "markets" - to Turkey, Italy, Poland, Spain, Germany, Hungary, the Czech Republic, Greece, the Russian Federation, the United Arab Emirates, Israel, the United States of America and other countries.

Human trafficking in Ukraine appeared as a result of the increase in unemployment, the decrease in allocations for social protection programs, and the impoverishment of the population. The low standard of living pushes citizens to look for work abroad, even without knowledge of local legislation, language, qualifications, on illegal terms, which at the same time causes them to fall into risk groups. Thus, human trafficking is a significant public danger.The negative impact of this phenomenon causes the destruction of social morality, contributes to the degradation and alienation of a person, the loss of family ties, a dangerous "addiction" to a negative phenomenon, the appearance of depressive syndromes and suicidal tendencies, the growth of aggressiveness and cruelty, the spread of sexually transmitted diseases, and AIDS In recent years, there has been an increase in the phenomenon of child trafficking for the purpose of using them for forced labor, begging, sexual exploitation, drug distribution, and other forms of criminal activity.

According to the results of a representative population survey commissioned by the International Organization for Migration (IOM), the share of those who work abroad unofficially is about 41% of all citizens of Ukraine who work abroad [2, p. 8]. Most of them leave on tourist or private visas, work without the necessary documents, which significantly reduces their legal protection and causes them to fall into the sphere of interests of human traffickers. Therefore, the task of national significance is the fight against this phenomenon, the protection of Ukrainian citizens abroad.

This phenomenon can be effectively counteracted only under the conditions of using a systemic approach, coordinating the activities of all interested parties -

governmental and non-governmental organizations, social protection agencies, migration services, etc.

All over the world, human trafficking is considered one of the most serious crimes against a person.

On November 15, 2000, the UN Commission on Human Rights recognized human trafficking as a modern form of slavery. The UN General Assembly adopted Resolution 55/25, which contains the Protocol to prevent and stop trafficking in persons, especially women and children, and to punish it, which complements the UN Convention against Transnational Organized Crime [4]. In this document, for the first time, an international definition of the concept of "trafficking in human beings" is given. Human trafficking is the exploitative recruitment, movement, transfer, harboring or obtaining of persons through the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability, or through bribery, payments or benefits, to obtain the consent of a person who controls another person [4]. Exploitation includes, at a minimum, exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or removal of organs (Article 3(a) of the Protocol to Prevent and Suppress Trafficking in Persons, Especially Women and children, and the punishment for it, which complements the United Nations Convention against Transnational Organized Crime). At the same time, the consent of the victim of human trafficking to the planned exploitation is not taken into account, if any of the specified measures of influence were used in relation to her [2, p. 9].

The Council of Europe gives the following definition: "trafficking in human beings is an illegal act carried out by a person who intentionally or unintentionally induces a citizen of a third country to leave for another country, by using deception or another form of violence, or by abusing the dependent position of this citizen or his administrative status ". Human trafficking is one of the modern forms of slavery, which includes domestic slavery, forced marriages, debt bondage, forced employment in prostitution or participation in the production of pornographic products, intolerable forms of labor, etc. [3].

In 1998, the Verkhovna Rada of Ukraine introduced an amendment to the Criminal Code of Ukraine establishing criminal liability for human trafficking (Article 124-1), and in 2001 a new Criminal Code of Ukraine was adopted, which included a separate article 149 "Trafficking in human beings or other an illegal agreement against a person". Amendments to the Criminal Code of Ukraine regarding the improvement of responsibility for human trafficking were adopted in 2006 [5].

The Criminal Code of Ukraine dated April 5, 2001 defines the concept of human trafficking by listing the acts included in it. Thus, in accordance with Article 149 of the Criminal Code, human trafficking means: 1) sale or other paid transfer of a person. A sale is a contract (agreement), according to which one person (the seller) transfers a stipulated thing (and in this case, a person) into the actual illegal ownership of another person (the buyer), and the latter undertakes to pay for it a certain amount of money, stipulated by by agreement of the parties [6].Other transfer for payment should be understood as the actual illegal transfer of ownership of a person to another person as a result of a mining contract, pledge or other contracts, according to which a person is provided for exploitation for a material reward in the form of values or services of a material nature; 2) execution of any other illegal agreement related to a person's legal or illegal movement with or without his consent across the state border of Ukraine for further sale or other transfer to another person. Such agreements include those agreements as a result of which a person is transferred to another person free of charge (donation, free exploitation), as well as actions arising from the person who receives a "live commodity" - purchase, receipt of a person as a result of exchange, hiring, pledge or other agreement. For this form of human trafficking, the goal is mandatory: further sale or other transfer to another person. Moreover, the guilty party must be aware that the person is being handed over to another person precisely for this purpose [3].

According to the Law of Ukraine "On Combating Human Trafficking" dated November 20, 2011, human trafficking is the execution of an illegal agreement, the object of which is a person, as well as the recruitment, transfer, hiding, transfer or receipt of a person, committed for the purpose of exploitation, in including sexual, with the use of deception, fraud, blackmail, the vulnerable state of a person or with the use

or threat of use of violence, with the use of an official position or material or other dependence on another person, which are recognized as a crime according to the Criminal Code of Ukraine [7].Recently, the term "trafficking" has been increasingly used, which also means human trafficking and slavery. Accordingly, the word "trafficker" appeared. Traffickers are those who are involved in criminal business: recruitment agents who lure victims with false promises, employees of employment firms, carriers and couriers, sellers and buyers of "live goods", etc. [2, p. 10]. Therefore, human trafficking is an illegal, moreover, a criminal activity, the basis of which is violence against a person.

Human trafficking takes many forms, including forced labor, slavery, practices similar to slavery, sexual exploitation, use in the porn industry, forced pregnancy, organ harvesting, human experimentation, use in begging, involvement in criminal activity, use in armed conflicts, adoption (adoption) for profit, sale of a child [3].

Depending on the purpose, human trafficking can be divided into:

1) trafficking in women and children for the purpose of using them for sexual purposes (for the production of pornographic materials or prostitution);

2) human trafficking for the purpose of exploiting their labor;

3) human trafficking for the purpose of debt bondage;

4) human trafficking for use in armed conflicts;

5) trade for the purpose of involvement in criminal activity;

6) trafficking of children for the purpose of adoption (adoption) for commercial purposes [8, p. 23].

Depending on the place of residence of the "buyer", two types of human trafficking can be distinguished:

1) intrastate (sale or other payment transfer of a person);

2) interstate or transnational (the execution of any illegal agreement with respect to a person, related to legal or illegal movement with or without his consent across the state border of Ukraine for the purpose specified in Article 149 of the Criminal Code of Ukraine) [3].

In practice, human trafficking is carried out by committing a number of actions, which together make up its concept. In most cases, well-organized criminal groups are engaged in human trafficking, the transnational character of which makes these crimes almost unpunishable from a practical point of view, and the presence of the mandatory goal of subsequent sale or other transfer to another person (when moving across the state border of Ukraine) and the necessary requirement of awareness of the guilty the further purpose of such activity (sexual exploitation, involvement in criminal activity, use in the porn business, and others provided for in Article 149 of the Criminal Code of Ukraine) further complicates the process of proof.

1.2 International and national legislation on combating human trafficking

The first international treaty was the International Treaty on Combating the Trade in White Slaves of May 18, 1904 (Paris) [9, p. 83]. The main emphasis was placed on the protection of victims, and not on the punishment of criminals.

The Convention for the Suppression of the White Slave Trade was adopted on May 4, 1910. In it, trafficking in women and girls was considered a criminal offense. In the future, the cooperation of the states continued within the framework of the League of Nations. The Geneva Convention on the Prohibition of Trafficking in Women and Children was adopted in 1921. In accordance with the terms of the Convention, states undertook to take all necessary measures to search for and punish persons involved in child trafficking.

Since human trafficking is recognized as an international problem, it cannot be solved at the level of one Ukraine. Such a struggle requires both national and international joint actions and cooperation - it is necessary to use joint efforts to break this chain of violence committed for the purpose of labor and sexual exploitation. To combat human trafficking and illegal migration from Ukraine, our state has fully joined international documents aimed at combating human trafficking and discrimination against women.Including:

- the 1949 UN Convention on the Suppression of Trafficking in Human Beings and the Exploitation of Prostitution by Third Parties, which significantly expanded the

range of actions considered criminal in the areas of human trafficking and sexual exploitation [10];

- The UN Convention on the Elimination of All Forms of Discrimination against Women of 1979, the sixth article of which requires states to adopt and implement relevant laws that will contribute to the cessation of all types of trafficking in women;

- The 1993 UN Declaration on the Elimination of Violence against Women, in which the sale of women, their exploitation and forced prostitution are clearly named as a type of violence against women that states are obliged to eradicate [11].

In 1997, the European Ministerial Conference was held in The Hague (Netherlands), which was held under the leadership of the European Union. The Hague Ministerial Declaration of European Recommendations on Effective Measures to Prevent and Combat Trafficking in Women for the Purpose of Sexual Exploitation was adopted there.

Therefore, international legal documents to which Ukraine has joined require our state to adopt and implement relevant laws that will contribute to the cessation of all types of human trafficking, and especially women. Evaluating Ukraine's efforts in the fight against human trafficking, it should be noted that our state was one of the first in Europe to adopt the Law on Criminal Liability for the said crime.Criminal liability for human trafficking was established by the Law of Ukraine dated March 24, 1998 by supplementing the Criminal Code of Ukraine of 1960 with a new article 1241, where the criminal law definition of "human trafficking" was applied for the first time. As a result of further changes caused, in particular, by joining the above-mentioned conventions, today criminal responsibility for this crime is provided for in Article 149 "Trafficking in persons or other illegal agreement regarding the transfer of a person" of the Criminal Code of Ukraine of 2001 [6]. The mentioned article was significantly revised and brought as close as possible to the provisions of the UN Convention against Transnational Organized Crime [4]. Article 146 of the Criminal Code of Ukraine provides for criminal liability for illegal deprivation of liberty or abduction of a person in the form of restriction of liberty for a term of up to three years or imprisonment for the same term [6].

Exploitation of child labor is prohibited in Ukraine under the threat of criminal punishment. Thus, Article 150 of the Criminal Code of Ukraine recognizes as a crime the exploitation of children who have not reached the age at which employment is permitted by law, by using their labor for profit. Part two of Article 303 of the Criminal Code of Ukraine provides for liability for coercion or involvement in prostitution [6].

Evidence of the international community's concern for the current situation is a number of conventions, pacts and protocols for the settlement of this issue. Among them are such as:

- Convention on Combating Trafficking in Human Beings and Exploitation of Prostitution by Third Parties, adopted by the UN General Assembly on December 2, 1949. Consolidates the provisions of other international treaties on this issue, adopted since 1904. Its main task is to determine effective measures to fight against all forms of trafficking in women and exploitation of prostitution. For the first time in the history of international treaties, this Convention declared prostitution and human trafficking to be acts incompatible with the dignity and value of the human personality, which endanger the well-being of individuals, families and society [12].

- International Covenant on Civil and Political Rights, New York, December 16, 1966. It is an addition to the Universal Declaration of Human Rights; defends the right to life and states that no person should be subjected to trials, forced labor and unlawful detention or suppression of such freedoms as freedom of movement, expression and association with others [13].

- Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, New York, 12/18/1979. The most comprehensive act on women's rights, which defines legislative obligations aimed at eliminating discrimination against women [14].

- In 1997, the Hague Ministerial Conference was held, at which the Declaration of European recommendations on effective measures to prevent the fight against trafficking in women for the purpose of their sexual exploitation was adopted. Its purpose is to support further actions to prevent human trafficking, as well as to provide the necessary assistance to victims of trafficking. This Declaration calls on EU member

states to provide or consider appointing national rapporteurs to provide relevant national governments with information on the extent of trafficking in women, measures to prevent and combat trafficking in women.

- The document on Joint Action of the Council of Europe from 1997 lists additional types of punishment and measures of an administrative nature, such as the confiscation and confiscation of income and property of a trafficker and the closure of institutions that participated in human trafficking. Obliges EU member states to impose administrative or criminal liability for crimes committed on behalf of a legal entity without taking into account the criminal liability of individuals who became accomplices or instigators of the crime [1, p. 49].

Currently, the Framework Decision of the Council of Europe on human trafficking is in effect at the EU level. Its goal is the unification of national criminal legislation to ensure an effective fight against human trafficking.It complements the instruments already adopted by the Council of Europe, such as the Joint Actions of 1996, 1998 and 2000, as well as the STOP programs (aimed mainly at the development of an interdisciplinary approach involving all stakeholders and paying great attention to the very important role of non-governmental organizations) and DAPHNE (specially developed to support the activities of non-governmental organizations in the field of protection of women and children victims of violence.

- The UN Convention against Transnational Organized Crime, New York, November 15, 2000, aims to promote international cooperation to prevent and fight against transnational organized crime. Provides law enforcement agencies and the judiciary with unique means of combating this problem [4].

- The Protocol on Prevention and Prevention of Trafficking in Human Beings, Especially Women and Children, and its Punishment is an addition to the aforementioned Convention. For the first time gives an international definition of the concept of "trafficking in human beings"; serves to prevent, fight and consolidate international cooperation in the fight against this crime; defines common terminology, harmonizes laws and practices applied in different countries. An indispensable attribute

of human trafficking is gaining control over a person (for example, through the seizure of documents) for the purpose of exploitation [15].

The growth of this phenomenon is influenced by the following factors:

- globalization of the economy and increased labor mobility (migration);
- growing demand for so-called "private services" in developed countries;
- increasing level of unemployment among women;
- increase in the number of the population living below the poverty line in developing countries;
- an increase in the number of people using the Internet, which is almost not controlled from the point of view of the law and is often used for criminal purposes [1, p. 49].

To date, seven criteria have been established by which the activities of the governments of various states are evaluated.Including:

- does the government make active efforts to investigate and prosecute acts of human trafficking on the territory of its state;
- does it protect victims of the slave trade;
- whether it conducts public education campaigns to prevent human trafficking;
- whether it cooperates with other states;
- whether he makes efforts to prosecute state officials who are involved in the slave trade, whether he facilitates it, etc.

Based on these criteria, the countries of the world are divided into three categories:

1) which fully comply with them (from the post-Soviet states, only Latvia was included);

2) which do not fully comply, but try to comply (most post-Soviet states are in this group);

3) whose governments do not fully comply with the minimum standards and do not make significant efforts (Kyrgyzstan, Armenia, Tajikistan, Belarus, Russia, Afghanistan, Iran, Saudi Arabia, Greece, Indonesia) [16, p. 23]. In our opinion, it would be appropriate for international organizations to introduce certain sanctions for

those countries that do not meet the specified criteria. Among such sanctions can be used, such as, for example, restrictions on the provision of material aid, investments, loans by developed countries to developing countries.

Therefore, international organizations, governments of countries, including Ukraine, are working on the creation of legislation on countermeasures by people. The imperfection of the legal framework regarding human trafficking requires the adoption of new normative legal acts, as well as amendments to the current legislation.

1.3 International organizations and state structures involved in combating human trafficking

The first significant steps to combat human trafficking at the international level were made only in the 20th century. by such non-governmental organizations as the International Federation of Abolitionists and the London Committee for the Detection and Elimination of Trafficking in English Girls [9, p. 82]. The activities of the International Catholic Union were also carried out in this direction: it founded in 1896 a number of institutions for the protection of young girls in Freiburg, Switzerland. In addition to these organizations, the English National Vigilance Associations (National Vigilance Associations) were active, on the initiative of which in 1899 the International Congress for the Prevention of Trafficking in Women was convened. During the work of the Congress, a decision was made to create a National Committee for Combating Trafficking in Women in each country. The Congress laid the foundations for the formation of international cooperation of states, as well as non-governmental organizations in the fight against trafficking in women [9, p. 83].

Real measures against the spread of trafficking in women have been proposed by a non-governmental organization - the World Alliance Against Trafficking in Women (Thailand). In cooperation with an international legal group, Standards for the provision of humanitarian assistance to persons who have become objects of trade were developed.

At the beginning of the 21st century, human trafficking is becoming a global challenge. At the current stage, the fight against human trafficking is observed at all

levels: global (UN and its structures, Interpol), regional (OSCE, Council of Europe, EU) and state (state countermeasures). The nation-states faced with the problems that have intensified in the last fifteen years cannot cope with them on their own.International organizations, whose system is coordinated by the UN, came to the rescue.

The United Nations has established the Commission on Crime Prevention and Criminal Justice, the Special Working Group of the Commission on Combating Human Trafficking (hereinafter: the Working Group), the position of the UN Special Rapporteur on combating violence against women and the Office of the UN High Commissioner for Human Rights. Within the framework of the United Nations, overall responsibility for the study of slavery in all its aspects is borne by the Working Group on Modern Forms of Slavery [9, p. 83-84].

All these structures work together to include issues related to human trafficking in international, regional and national initiatives to combat this phenomenon and monitor it. In addition, the UN Office for Drug Control and Crime Prevention is working on the "Global Program to Combat Trafficking in Persons", which focuses on the role of criminal groups in the illegal trafficking of drugs and people, as well as on the development of measures to implementation of criminal justice. Specialized UN bodies, such as the International Children's Fund (UNICEF, IMCER), UNHCR and UNDP have also begun to pay attention to the problem of human trafficking in connection with their educational and charitable initiatives and development programs.

The Council of Europe addresses the issue of human trafficking directly or indirectly through a number of its committees and programmes. Among them is the long-term activity of a multi-vector group of specialists chaired by a representative of the Coordinating Committee on Equality of Men and Women (CDEG). Since 1997, this group has been involved in a number of initiatives to combat human trafficking "for the purpose of sexual exploitation", including the preparation of recommendations for the Committee of Ministers and member states of the Council of Europe, which are due to be released soon.

The EU has significantly intensified its activities in the field of prevention of human trafficking. The integration processes taking place in the EU encourage its institutions to direct their efforts to the development of effective mechanisms for preventing and countering human trafficking, as well as creating a positive climate for in-depth study of this problem. Signed on December 13, 2007, the Lisbon Treaty on the Principles of the Functioning of the European Union contains important new provisions that strengthen the EU in the fight against international cross-border crime and, in particular, human trafficking.

The modern EU institutional mechanism for combating human trafficking is a system of EU bodies, as well as acts adopted by these bodies. It is called to realize the values of the EU, realize its goals, serve its interests, as well as the interests of its citizens and member states, ensure consistency, effectiveness and continuity of its policies and actions (Article 13 DCS).The EU institutional mechanism for combating human trafficking has a complex structure, the basis of its organizational structure is the European Parliament, the European Council, the Council, the Commission, the European Coordinator for Combating Human Trafficking, the EU Expert Group on Human Trafficking, Europol, Eurojust, the European Judicial Network, the Eurojust Network . The main EU institution in combating human trafficking is the European Commission, which makes decisions and introduces initiatives in this area.

The problem of human trafficking, in particular - trafficking in women, has been raised many times in the context of OSCE activities since the early 1990s, when the OSCE participating states undertook to combat this phenomenon, including it in the Moscow Document (1991). The Parliamentary Assembly of the OSCE in 1996 expressed serious concern about the extent of human trafficking in the OSCE region and beyond, recognized the connection of this phenomenon with the economic problems of the transition period and the growth of organized crime (Stockholm Declaration of 1996). During the OSCE Seminar on the Human Dimension (1997) and the Conference on the Human Dimension (1998), NGOs and several participating countries identified human trafficking and violence against women as phenomena that have an extremely negative

impact on the fate of women, so in 1998 the Council of Ministers The OSCE also called human trafficking a new security threat that requires close attention.

Despite these measures, the OSCE has only recently taken concrete steps in the field of combating human trafficking. Note that in 1999The Office on Drugs and Human Trafficking (ODINR) supported three projects aimed at combating human trafficking, two of which were extended in 2000. In April 1999, thanks to the funding of the United States, within the framework of ODINR, the position of Adviser on the problem of human trafficking was established, whose task is to help the OSCE in determining the main areas of activity to combat this phenomenon, which would not be a simple duplication of the efforts of other organizations, but as well as assistance to the OSCE in the development of the OSCE Plan of Actions and Initiatives for 2000.

Several OSCE missions in the field have also dealt with the problem of human trafficking, mostly at the level of providing support in individual cases. OSCE missions in Albania, Bosnia and Herzegovina report on cases of human trafficking, and mission members have begun coordinating efforts with other international organizations. The most important OSCE document adopted to prevent the phenomenon of human trafficking is the Action Plan to Combat Human Trafficking, adopted at the Maastricht Council of Ministers by 55 OSCE foreign ministers in December 2003.

As for the International Organization for Migration (IOM), it includes 100 missions from different countries of the world. The organization's activities are mainly focused on conducting research on the main areas of migration, including the trafficking of women from Central and Eastern Europe.

A major contribution to the fight against human trafficking has been made within the framework of the International Labor Organization (ILO). Governments submit reports to the ILO on the steps they take to comply with these international legal documents. Reports are studied by the Committee of Experts on the Application of Conventions and Recommendations, as well as by the International Labor Conference. Any problems are considered before the final solution. The ILO also actively implements technical assistance programs in the fight against child labor, bonded labor and other unacceptable forms of exploitation. The ILO provides information to the Working Group

on Modern Forms of Slavery; in turn, the work of the Working Group highlights how the ILO conventions are maintained and those cases when the ILO can provide assistance in solving problems [9, p. 84].A significant contribution to combating human trafficking belongs to the World Health Organization (WHO). During the Working Group hearings, WHO representatives testified that sexual exploitation, debt bondage, child trafficking and the practice of apartheid pose serious risks to the mental and social development of abused children. Sexual exploitation also increases the risk of spreading human immunodeficiency virus (HIV) and AIDS. In addition to assisting in the study of the problem of child prostitution and the development of approaches to the prevention and treatment of diseases, WHO and its regional institutions provide technical assistance in the implementation of specific projects. In particular, the WHO is developing guidelines on the issue of trafficking in human organs for the purpose of transplantation.

Slavery and slavery-like practices are the subject of many meetings and reports held under the auspices of UNESCO. For example, UNESCO funds research by the International Catholic Children's Bureau on protecting minors from pornography.

FAO deals with issues of child bondage and debt bondage in connection with existing forms of land tenure. FAO's activities aimed at increasing people's activity and providing assistance to small farmers' organizations are seen as an effective tool against debt bondage.

The UN Children's Fund - UNICEF - plays a significant role in the implementation of international strategies related to modern forms of slavery.One of the permanent groups of the Office of the United Nations High Commissioner for Refugees (UNHCR) monitors the situation of refugee children and deals with the specific problems they face. The guidelines for UNHCR field offices on refugee children cover the issue of involvement in armed conflicts and the adoption of minor homeless children.

The UN Commission on the Status of Women is constantly paying close attention to issues such as slavery that primarily affect women. This was reflected in the debates, conclusions and recommendations of the world conferences within the United Nations Decade of Women in Mexico City, Copenhagen and Nairobi. The Commission provides information to the Working Group on Modern Forms of Slavery.

The United Nations Division of Crime Prevention and Criminal Justice, in its research on child abuse, including the trafficking and sale of children, identifies four possible countermeasures through the use of the justice mechanism. These include crime prevention, treatment and reparation for victims, legal sanctions against alleged criminals and the treatment of criminals, and the restoration of their identity.

The International Criminal Police Organization (Interpol) holds conferences dedicated to the problem of human trafficking and tries to support and coordinate the efforts of law enforcement agencies of various countries to combat the phenomenon of trafficking in women and children. Interpol provides the Working Group with information on practices similar to slavery within the framework of the agreement with the United Nations [17].

The activities of non-governmental organizations and mass media as channels through which society receives information about the problem are effective in combating human trafficking.

In general, the global anti-trafficking mechanism is of fundamental political importance. Efforts of individual countries to combat human trafficking on their own are ineffective without coordinated international efforts.Since the problem has reached global proportions, all countries involved in this activity must work together, pooling their efforts. After all, the current mechanism of countermeasures has many shortcomings. In addition to the imperfection of the legal framework for combating human trafficking, and in some countries - its complete absence, there are a number of international and political factors of the low effectiveness of the mechanism for combating human trafficking.

In particular, a unified approach to solving the problem has not yet been developed at the international level. Interstate cooperation remains insufficiently effective, primarily in relation to the protection of victims. Joint measures (for example, between the police of Poland and Germany, Austria and the Czech Republic) are mostly based on personal connections. Efforts are not coordinated at the global or national levels. Only in some countries there are interdepartmental bodies that are engaged in the development of recommendations regarding changes in the current

legislation, and also ensure the coordination of actions between law enforcement, migration authorities, employment services, social services and foreign affairs departments. Awareness of the problem of human trafficking remains low. Programs and procedures for the extradition of perpetrators of victims of human trafficking need to be coordinated, as today the case is mostly resolved by their arrest and deportation. There is a lack of qualified workers in the system of law enforcement agencies, migration services and other institutions whose competence includes countering human trafficking and providing assistance to victims of this crime [9, p. 87].Article 5 of the Law of Ukraine "On Combating Human Trafficking" defines the entities that carry out measures in the field of combating human trafficking:

- central bodies of executive power;
- local bodies of executive power;
- foreign diplomatic institutions of Ukraine;
- institutions for assistance to persons affected by human trafficking;
- local governments;
- enterprises, institutions, organizations regardless of the form of ownership (with consent);
- public organizations (with consent);
- individual citizens (with consent) [7].

But, according to M. Fialka, to understand the provisions of part 2 of Art. 13 of the Law is needed much more broadly than simply as subjects implementing measures in the field of combating human trafficking [18, p. 131].

Bodies or institutions that meet the needs of victims of human trafficking in Ukraine are: Ministry of Social Policy; Ministry of Internal Affairs; Ministry of International Affairs; Department of Justice; Ministry of Health; Ministry of Education and Science; Ministry of International Affairs; Administration of the State Border Service; State Migration Service; State Employment Service; other central bodies of executive power; Security Service; The Council of Ministers of the Autonomous Republic of Crimea, regional, Kyiv and Sevastopol city state administrations; institutions for assistance to persons affected by human trafficking; healthcare

institutions; local governments; international, public organizations, individuals and legal entities.

The above-mentioned bodies and institutions are subjects of the National Cooperation Mechanism in the field of combating human trafficking. Therefore, the Law in Clause 1, Part 2, Art. 13 indicates that the National Mechanism defines entities that meet the needs of persons affected by human trafficking.

The need for temporary shelter and provision of food is realized in institutions of assistance to persons affected by human trafficking, namely: in centers of social services for families, children and youth; in social service centers (provision of social services); in centers of social and psychological rehabilitation of children and shelters for children.

The activities of the State Employment Service are aimed at realizing the need for material assistance, the need for permanent or temporary employment, and the need for self-employment.Within her competence, she:

- promotes employment and employment of persons affected by human trafficking, as well as provides services for professional training, retraining, advanced training and professional orientation;

- contributes to the resolution of issues related to the provision of unemployment benefits to persons who have suffered from human trafficking on the grounds and in the manner prescribed by current legislation;

- with the consent of persons affected by human trafficking, involves them in participating in paid public works;

- in the preparation of programs for the employment of the population, it provides for measures to promote the employment of persons affected by human trafficking, ensures the implementation of the specified programs;

- exercises other powers provided for by law within the scope of competence.

The needs for legal assistance are mostly met by the Ministry of Internal Affairs of Ukraine, namely:

- provides assistance in obtaining passports, registration at the place of residence (stay) of persons affected by human trafficking;

- within the scope of competence, assists foreigners who have suffered from human trafficking in returning to their country of origin;

- guarantees the safety of persons recognized as victims of human trafficking, witnesses and other persons participating in criminal proceedings in cases related to human trafficking;

- ensures the restoration of the rights of victims of human trafficking;

- carries out, within the scope of competence, other powers stipulated by the legislation regarding the protection of the rights and legitimate interests of persons affected by human trafficking.The Ministry of Health meets the needs for medical and medical advisory assistance:

- organizes qualified examination and treatment of persons affected by human trafficking; provides counseling by medical workers in health care institutions for persons affected by human trafficking;

- provides solutions to issues related to the provision of necessary medical assistance to foreigners and stateless persons who have suffered from human trafficking and are in the territory of Ukraine;

- recommends sanatorium-resort treatment to persons affected by human trafficking in sanatorium-resort institutions of the health care system if there are medical indications;

- exercises other powers provided for by law within the scope of competence.

Implementation of the need for education, qualification or requalification is entrusted to the Ministry of Education and Science, which provides

- preparation of social and psychological rehabilitation programs for pupils and students affected by human trafficking;

- ensures the work of a psychological service in the education system with children of preschool and school age and students from persons who have suffered from human trafficking;

- monitors visits by affected persons to educational institutions;

- promotes the involvement of pupils and students who have suffered from human trafficking in community and group work in general education, extracurricular, vocational and technical and higher educational institutions;

- organizes training of specialists of bodies, services, institutions, institutions for children, as well as persons who are constantly in contact with children in the spheres of education, sports, culture and recreation, on the issues of identifying and providing assistance to children affected by human trafficking;

- provides consultations to persons affected by human trafficking regarding their exercise of the right to education and promotes the exercise of such a right;

- exercises other powers provided for by law within the scope of competence.Ensuring the need to return to the country of origin (for foreigners or stateless persons) is carried out by the State Migration Service. Within its powers, this body carries out:

- issuing to foreigners and stateless persons documents for temporary stay or permanent residence in Ukraine, as well as travel abroad, student tickets to foreign students and stateless persons who have suffered from human trafficking;

- implements measures for the repatriation of foreigners and stateless persons who have suffered from human trafficking.

At the same time, it is necessary to take into account the victim's needs for safety and protection.

The fight against human trafficking as a complex illegal phenomenon, which also contributes to the spread of other serious crimes, requires above all a combination of efforts of state bodies aimed at increasing the effectiveness of the organization and interaction between them [18, p. 133].

A clear distribution of functions and powers of state authorities should ensure orderliness and coherence of actions within the structure of the national mechanism for combating human trafficking.

It should be noted that the effectiveness of activities aimed at combating human trafficking is inextricably linked with the issue of close cooperation of state bodies in the specified area. In addition, combating this negative phenomenon requires a

comprehensive approach through the joint efforts of public organizations and governments, at the level of the relevant state bodies of the countries from which the victims are taken, and those countries where they are transported for further exploitation.The practice of state bodies requires an active search for ways to improve such interaction.

As part of this, the main directions of interaction of countermeasures subjects are outlined:

- information provision of authorities and management on issues related to human trafficking;

- prevention of causes and conditions that contribute to human trafficking;

- participation in interdepartmental preventive operations aimed at identifying and preventing the involvement, movement across the state border or transit through the territory of Ukraine of potential victims of human trafficking;

- control over migration processes within the scope of competence defined by Ukrainian legislation in the field of combating human trafficking;

- preparation of proposals for improving Ukrainian legislation in the field of combating human trafficking.

In this area, the main forms of interaction of state authorities are distinguished, namely:

- mutual information,

- conducting joint meetings, classes, briefings,

- counseling,

- joint planning,

- joint implementation of specific activities with the involvement of forces and means of cooperating bodies, units, etc.

The Ministry of Social Policy of Ukraine was designated as the national coordinator in the field of combating human trafficking by the Decree of the President of Ukraine dated August 5, 2020 No. 306/2020 [19].Given that human trafficking is a particularly dangerous crime, which is a gross violation of human rights, and the issue of human trafficking remains relevant in Ukraine, new types of human trafficking are

emerging, the number of cases of internal human trafficking is increasing, while the number of cases of commercial sexual exploitation of children is not decreasing , and the number of similar offers on the Internet is even increasing, on June 22, 2011, the All-Ukrainian Coalition of Public Organizations to Combat Human Trafficking was created in the city of Kyiv [20].

It was created by public organizations that work in the field of protecting the rights of victims of human trafficking in Ukraine, namely the Mykolaiv Foundation "Lyubystok", the Vinnytsia public organization "Progressive Women", the Ternopil City Women's Club "Revival of the Nation", the Public Movement "Vira, Hope, Lyubov" of Odesa, Kharkiv City Organization of the International Organization "Women's Community", Kherson Regional Center "Successful Woman", Kharkiv Regional Public Organization "Your Right", Sevastopol City Youth Public Organization "Youth Center of Women's Initiatives", public organization " Anima" in the city of Yuzhne, public organization "Espero" in the city of Khmelnytskyi, Transcarpathian public women's organization "Vesta", Chernivtsi regional public youth association "Svemjini", Vinnytsia regional human rights organization "Source of Hope", Dnipropetrovsk regional public organization "Promin" , Western Ukrainian Center "Women's Prospects", International Charitable Foundation "Caritas Uk Rainy", Charitable Foundation "Caritas Ivano-Frankivsk UGCC" [20].Therefore, the fact of the spread of the phenomenon of human trafficking in the 21st century, as one of the types of transnational criminal activity, challenged the entire world community, nullifying basic human rights and freedoms and generally accepted norms and principles of international law. Measures to combat this phenomenon should be based on a comprehensive approach and be implemented by consolidating the efforts of government structures, international organizations, and every individual member of society, both in countries of origin and countries of destination and transit. The basis for combating human trafficking should be the coordinated activity of all anti-trafficking subjects of international organizations, state structures, and public organizations.

1.4 "Human trafficking" as a form of organized criminal activity

The UN Convention against Transnational Organized Crime states that human trafficking is an act committed for the purpose of exploiting, recruiting, transporting, transferring, harboring or obtaining people through the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power or vulnerability or by bribery in the form of payments or benefits to obtain the consent of a person who controls another person. Exploitation includes, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or organ harvesting [4].

The definition of the concept of "human trafficking" consists of three independent parts: 1) criminal actions; 2) the means used to commit these actions; 3) goals (operation).

The application of this definition requires the presence of at least one element in each of these three groups: the act (action) of recruiting, transporting, transferring, harboring or receiving people; using threats, force or other forms of coercion, kidnapping, fraud, deception, abuse of power or using a vulnerable position, or offering payments or benefits to a person who has control over the victim; for the purposes of exploitation, which includes the exploitation of prostitution and other forms of sexual exploitation, forced labor or services, slavery or slavery-like practices, as well as organ harvesting [21, p. 375].

If we turn to the national criminal legislation, then this crime in accordance with Part 1 of Art.149 of the Criminal Code of Ukraine is the recruitment, transfer, hiding, transfer or receipt of a person committed for the purpose of exploitation, using deception, blackmail or the vulnerable state of a person [6]. Exploitation of a person should be understood as all forms of sexual exploitation, use in the porn business, forced labor or forced provision of services, slavery or customs similar to slavery, servitude, involvement in debt bondage, removal of organs, conducting experiments on a person without his consent, adoption (adoption) for profit, forced pregnancy, involvement in criminal activities, use in armed conflicts, etc. [6].

We can agree with the opinion of Y. G. Lizogub that this article of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon that is human trafficking [22].

The question of how to distinguish illegal exploitation of a person from completely legal exploitation (which will necessarily take place if a person works or provides services for hire) seems to be fundamental, when, for example, this transfer is carried out by commercial firms from full-time employment legal basis.

According to H. P. Zharovska, the following should be considered the grounds for such a distinction:

1. Legal legal status of the person, organization, which carries out legal movement, and the absence of such status, if it is about human trafficking.

2. A legal legal agreement with the person who is the subject of the transfer, and the absence of such an agreement in the case of human trafficking.

3.Further legal status of the person in the country of displacement, lack of such status in the case of human trafficking.

4. The purpose of relocation can be exclusively legal activity permitted by the laws of Ukraine, and participation in illegal criminal business, if it is about human trafficking [21, p. 375].

At the same time, the absence of any sign of legality seems to give grounds for asserting that in this particular case it is about human trafficking.

In Art. 1 of the Law of Ukraine "On Combating Human Trafficking" human trafficking is defined as the execution of an illegal agreement, the object of which is a person, as well as the recruitment, movement, hiding, transfer or receipt of a person, committed for the purpose of exploitation, including sexual, with the use of deception , fraud, blackmail, the vulnerable state of a person or with the use or threat of use of violence, with the use of an official position or material or other dependence on another person, which is recognized as a crime according to the Criminal Code of Ukraine [7].

At the same time, it should be understood that the use of "forceful" methods of coercion, as well as deception, fraud, etc., cannot be considered the main feature of human trafficking.

There are well-known cases when individuals agreed to participate in these crimes voluntarily, when there was no question of any form of coercion. Therefore, let us correct the definition given in the law, noting that human trafficking should be considered any movement of a person for the purpose of his further exploitation, including sexual, for the purpose of obtaining profit by the organizers of such movement, which is carried out both on a voluntary contractual basis, as well as with the use of fraud, blackmail, the vulnerable state of a person, etc. [21, p. 376].

This definition makes it possible to distinguish the following signs of a crime that is recognized as human trafficking: compulsory transfer of a person, presence of further exploitation, profit-making by persons who organized such transfer, while the sign of means of influence on a person is secondary to the above-mentioned signs.

Analyzing the chosen form of transnational criminal activity, one should recognize its "technological" and orderliness, which gives reason to consider this crime clearly structured and organized.

Research by H. P. Zharovska shows that the mechanism of human trafficking involves the movement of victims after concluding illegal agreements or agreements (or for the purpose of concluding such agreements) to other countries, where they are exploited.On their way to their place of exploitation, victims of trafficking may pass through one or more transit regions, where they may be resold, temporarily exploited, or hidden in transit or transshipment facilities.

A human trafficking channel, in which individual stages are implemented by one criminal organization, we will call a "monochannel", if different criminal organizations operate in the channel, then it should be considered a "polychannel".

A typical scheme of organized criminal activity in monochannel is quite simple:

- the first stage – involvement of victims in the field of human trafficking (recruitment, kidnapping, etc.);

- the second stage – moving (legal or illegal) victims to the place of exploitation;

- the third stage – direct exploitation of victims of human trafficking [21, p. 376].

The activities of the criminal organizations that created the polychannel are more complex and sophisticated. In the structure of the activity of the "polychannel" of

human trafficking, a number of stages that successively replace each other should be distinguished:

– the first stage – attraction (recruitment, kidnapping, etc.) of victims, their transportation and sale to criminal organizations specializing in the second and third stages;

- the second stage - mediation during human trafficking. It involves buying victims from criminal groups that specialize in the first stage and reselling them at a higher price to criminal organizations that specialize in the third stage. This phase is not mandatory and depends on the organization of a specific channel;

- the third stage - buying victims of human trafficking from criminal organizations specializing in the first and second stages, and direct exploitation of the victims. Depending on the degree of openness of activities of criminal organizations, a distinction should be made between overt and covert recruitment of persons for human trafficking. During the implementation of human trafficking in public form in order to find victims, as well as consumers of their services, various methods of public advertising are used, when criminal organizations use the mass media to make appropriate offers to an unspecified circle of persons.

In order to hide the criminal nature of the activity in such cases, criminal organizations are forced to use various methods of covering up criminal activity, using offices, various interview methods, legal selection technologies, castings, etc. Loud means of finding victims are characteristic of such types of illegal activities as prostitution and illegal employment.

In an informal form, the search for potential victims is carried out without any advertising, usually in an environment where information about potential victims can be found or collected, for example, in databases or card files of medical institutions, boarding schools, maternity homes, employment agencies in the environment of persons who engaged in prostitution, vagrancy, job search, etc.

Unspoken means of finding victims are characteristic of such violent types of human exploitation as the production of video productions with scenes of real violence and torture, sexual exploitation in the form of sadomasochism, removal of organs and

tissues, as well as conducting medical and other experiments on humans. At the same time, possession of potential victims is often carried out in the form of kidnapping, in some cases, the search for victims is carried out on the prior order of criminal counterpart organizations (intermediaries or exploiters). Due to the fact that the subjects of human trafficking "involve" only pre-selected persons in it and, as a rule, avoid contacts with random acquaintances, the implementation of operational and investigative measures is problematic, which makes the fight against this type of transnational crime difficult and unpredictable from the point of view of obtaining real results, which puts this type of crime in a number of particularly dangerous transnational crimes [21, p. 376].

One of the important features of the investigation of criminal cases of human trafficking is that the subjects of countermeasures can be not only the perpetrators, but also the victims themselves.Such opposition can be expressed in various forms of obstructing the investigation: from active actions to conceal or destroy traces of a crime to such passive forms as refusal to submit a statement, evasion of giving statements exposing human traffickers, or participation in other investigative actions, as well as operatively - search activities.

An analysis of the prerequisites for providing resistance on the part of the victim allows us to identify the following typical reasons that encourage victims of human trafficking to engage in similar behavior:

1) reluctance to disclose information degrading the honor and dignity of the victim, including the type of activity he had to engage in during exploitation. This especially applies to persons who were engaged in prostitution; 2) fear of retaliation by human traffickers;

3) submission to one's fate, apathy to the surrounding reality;

4) lifestyles incompatible with the idea of cooperation with law enforcement agencies;

5) loyal attitude towards human traffickers;

6) the influence of certain psychological factors, including reluctance to initiate negative memories of the experience;

7) the desire to hide from the law enforcement agencies committed offenses, including crimes, to commit which they were pushed by human traffickers. Such offenses can include illegal crossing of the state border, use of known forged documents, prostitution, possession (use) of narcotic substances, violation of the migration legislation of the host country or the established regime of residence there [23, p.104]

Thus, human trafficking and human exploitation in the 21st century is actually a form of slavery, a phenomenon that our ancestors overcame a century ago. This anti-social phenomenon finally transformed into a separate type of highly organized criminal business, which nowadays represents a threat to the national security of all countries of the civilized world.

1.5 Criminal responsibility for human trafficking

Currently, the only article that provides for punishment for criminal offenses - human trafficking - or other illegal agreement against a person is Article 149 of the Criminal Code of Ukraine. For the first time, criminal responsibility for human trafficking was established by the Law of Ukraine of March 24, 1998 No. 210/98 of the Supreme Court, according to which the Criminal Code of Ukraine was supplemented by Article 124-1 "Human Trafficking". Over the years of this norm, its wording was changed four times, which in itself creates difficulties during its application in practice [24, p. 266].

The regulatory framework for combating human trafficking in force in Ukraine, which consists of national and international legislation, needs to be supplemented and clarified, although it is generally suitable for creating an effective mechanism for combating human trafficking.

In accordance with the national criminal legislation, this crime, according to Part 1 of Art. 149 of the Criminal Code of Ukraine, is the recruitment, transfer, hiding, transfer or receipt of a person committed for the purpose of exploitation, using deception, blackmail or the vulnerable state of a person [6].

Qualifying circumstances in the investigated composition of the crime are the trafficking of minors, in relation to several persons, or repeatedly, or with a prior conspiracy by a group of persons, or an official using an official position, or a person on whom the victim was financially or otherwise dependent, or combined with violence, which is not dangerous for the life or health of the victim or his relatives, or with the threat of using such violence.Especially qualifying circumstances are actions committed against a minor, or by an organized group, or combined with violence dangerous to the life or health of the victim or his relatives, or with the threat of such violence, or if they caused serious consequences [6].

The legislator at the disposal of Art. 149 of the Criminal Code of Ukraine applies the term "trafficking in human beings", but the current norms of criminal law do not contain a clear definition of this term. In judicial practice and the criminal-legal characteristics of human trafficking, which is carried out by scientists, the concept of human trafficking is equated with the sale and purchase of a person as a commodity.

There are rare cases when courts interpret human trafficking as a sale and purchase in a civil law context and actually apply a civil law analysis of the transaction of sale to this legal relationship, indicating the presence of essential conditions and obligations that are decisive in civil law relations In practice, during the commission of a crime, according to Art. 149 of the Criminal Code of Ukraine, purchase and sale in the classical civil law sense may not take place, but the fact of the transfer of a person (or management of a person) is decisive for solving cases of human trafficking, regardless of the occurrence of other obligations inherent in the purchase and sale transaction, such as the price, availability and form of payment for the transfer of a person (debt bondage involves payment by working out).

The legislator considers freedom (will), honor or dignity of a person to be the object of human trafficking. Mandatory feature of the composition of the crime provided for in Art. 149 of the Criminal Code of Ukraine, is the subject of a crime.

Mandatory feature of the composition of the crime provided for in Art.149 of the Criminal Code of Ukraine, is the subject of a crime. The object of this crime is a person. Neither a human corpse nor its organs (tissues) are the subject of the specified crime.

Therefore, attempts to commit acts provided for in Art. 149 of the Criminal Code of Ukraine, in relation to a dead person, can only be qualified as attempted human trafficking (in case the guilty parties do not realize that the person who is the subject of the transaction has died). A woman making any illegal deals with her unborn child during pregnancy does not constitute a completed crime and can only be qualified as attempted human trafficking [25, p. 20]. The objective side of the composition of the crime is almost the most important element of the composition of the crime for practical purposes. By studying the objective side, a conclusion is made about the content of other elements of the composition of the crime, and any conclusion in a criminal case can be made exclusively based on the material traces that the crime leaves behind in real reality. In law enforcement practice, law enforcement officers first of all establish the objective side of the composition of the crime [26, p. 116]. This crime can take the following forms:

1) human trafficking;

2) implementation of another illegal agreement, the object of which is a person;

3) recruitment;

4) displacement;

5) hiding;

6) transmission;

7) receiving a person.

Given the public danger of such a crime as human trafficking (buying and selling), it is sufficient to establish the fact of an agreement to sell a person under certain conditions and the very fact of transferring a person (or managing a person). Current legislation does not require a mandatory condition for the qualification of a crime under Art. 149 of the Criminal Code of Ukraine - establishment of a one-time transfer (payment) of funds for a human commodity, since the purchase and sale can take place with a deferred payment or criminals can agree on the payment of funds from the sale of a person within a certain time, during which the victim will be able to work off part of the funds [6] .

Human trafficking, regardless of the form of its external manifestation, can only be committed with direct intent. The presence of the victim's consent indicates the absence of a direct intention to commit human trafficking, and therefore, the absence of the composition of the crime in general. Certain difficulties arise when resolving the issue of participants - subjects of the crime provided for in Art. 149 of the Criminal Code of Ukraine. It is about the fact that the purchase and sale of a person is possible only between the recruiter and the person who will carry out the exploitation, or human trafficking can also take place between other subjects, since in many cases the courts are faced with the fact that in criminal offenses there was no buyer [6].

In such a case, when the recruiter in the future himself exploits the victim, criminal liability is not excluded and must be brought under Art. 149 of the Criminal Code of Ukraine for recruiting, moving, transferring, hiding, obtaining a person, committed for the purpose of exploitation, using one of the methods of influence [6].

The main problems in preventing and detecting this type of crime are that not all victims are able or willing to seek protection of their rights. Many victims simply do not know where to turn for help. Very often, the fact that the law enforcement agencies of foreign countries refuse to cooperate with the law enforcement agencies of Ukraine also serves as an obstacle.

The real numbers of victims of the slave trade are an order of magnitude higher than those provided by international organizations. To fight human trafficking in Ukraine, as well as in the whole world, cooperation of states in this area, improvement of the legislative framework, development of the potential of the criminal justice system in Ukraine, in particular the police, investigators, prosecutors and judicial bodies, is necessary. The state's fight against such social phenomena as poverty and ignorance is also necessary.The state must provide social protection, psychological and financial assistance to the victims, as well as provide jobs for the country's population.

The most effective way to prevent human trafficking is for governments to create broad flows of legal and legal migration. Getting most migrants to use official channels will help governments more accurately detect, isolate and stop the use of illegal

methods. In addition, legal migration flows can have positive consequences for society in general.

Therefore, the norm of Art. 149 of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon - human trafficking. Draft Law No. 5134 "On Amendments to the Criminal Code of Ukraine on Strengthening Criminal Liability for Human Trafficking" was developed [27]. Draft Law No. 5134 provides for:

- strengthening of criminal responsibility for human trafficking in Article 149 of the Criminal Code of Ukraine: increasing the minimum term of imprisonment in Part 2 of Article 149 up to six years;

- responsibility for recruiting, moving, hiding, transferring or receiving a person, regardless of the presence of this person's consent to exploitation, if coercion, kidnapping, deception, blackmail, material or other dependence of the victim, his vulnerable state or bribery of a third party were used for him supervises the victim to obtain consent for his exploitation;

- inclusion in Art. 149 of the Criminal Code of Ukraine of such a form of criminal act as "execution of another illegal agreement, the object of which is a person."These are actions aimed at the transfer or receipt of a person without the purpose of exploitation: donation, lease, provision for free use, transfer of a person to pay off a debt, in particular, the sale of a newborn child.

The adoption of the relevant law will strengthen criminal liability for human trafficking and bring the Criminal Code of Ukraine into line with international legislation.

Therefore, human trafficking is an unacceptable social phenomenon that must be resolutely opposed. Combating this phenomenon requires the development of effective methods both at the state and international levels. Therefore, it is necessary to carry out a more thorough implementation of the norms of international law to the legislation of Ukraine, including implementing the norms of international conventions regarding the specified problem. It is this that will make it possible to more rationally apply the current legislation to oppose people. In view of the above, it becomes clear

that Ukraine has a rather large range of problems related to countering and preventing human trafficking or other illegal transactions involving a person, starting with the detection of such an illegal act. The regulatory and legal framework formed in Ukraine to combat this type of transnational crime needs further improvement in accordance with international requirements and standards for ensuring the rights of each person and monitoring the implementation of legislation on their protection. After all, incorrect classification of criminal acts can lead to more frequent violations of the rights and freedoms of citizens.

CONCLUSIONS

Human trafficking is the exploitative recruitment, movement, transfer, harboring or obtaining of persons through the threat or use of force or other forms of coercion, kidnapping, fraud, deception, abuse of power or vulnerability, or through bribery, payments or benefits , to obtain the consent of a person who controls another person.

Human trafficking is a global problem. Its use in criminal business is one of the complex social problems of Ukrainian society. The regulatory and legal framework formed in Ukraine to combat this type of transnational crime needs further improvement in accordance with international requirements and standards for ensuring the rights of each person and monitoring the implementation of legislation on their protection.

The norm of Art. 149 of the Criminal Code of Ukraine needs improvement, as it does not provide a full understanding of the criminal phenomenon - human trafficking. Adoption of draft Law No. 5134 "On Amendments to the Criminal Code of Ukraine on Strengthening Criminal Liability for Human Trafficking" will allow strengthening criminal liability for human trafficking and bring the Criminal Code of Ukraine into compliance with international legislation.

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2. Peculiarities of the classification of business contracts in modern conditions

The development of trade, sales of industrial products, supply of necessary raw materials, materials and equipment to business entities, provision of various services in the field of service to individuals and legal entities requires the regulation of contractual relations, the business contract is the main legal document that regulates the relations of parties, participants in economic legal relations and is one of the main reasons for the emergence of economic obligations.

Creation of a harmonious and effective system of economic legislation is one of the most important areas of development of the legal system of Ukraine in the context of adaptation to the legislation of the European Union.

Numerous business contracts have both common properties and certain differences that allow them to be distinguished from each other. In order to correctly navigate the wide variety of economic contracts, it is advisable to classify them. Classification is also necessary for educational purposes and for practical reasons - in order to identify trends in the regulation of a certain type of contractual relations and their application in law-making and law-enforcement activities.

The classification of business contracts is needed to solve problems of a threefold nature: methodical (convenience of study); theoretical (selection of material for scientific analysis and synthesis); practical (use of the achieved results for further development of the process of functional specialization of legal regulation of contractual relations, streamlining and facilitation of law enforcement activities). Conducting the classification of economic contracts allows to determine the place occupied by this or that contract in the general system of economic contracts, to find out its main functional purpose, to ensure adequate legal regulation of the relevant economic and contractual relations, and to clearly outline the range of norms that regulate them (which significantly facilitates the work of law enforcement bodies and the participants of the contractual process themselves) [1, p. 64].

During the classification of contracts, the final result should be a system of contracts with a clear hierarchy of system features: contracts combined into certain groups at each subsequent level of classification should reflect the features of the previous ones and, in addition, have additional specifics. Accordingly, when different categories are in a relationship of hierarchical subordination (one category acts as a subcategory of others), then the rules specific to each of these categories must accumulate, but with the caveat that in times of conflict, the special rules will prevail over the general ones. Ensuring a hierarchy of classification features requires a clear understanding of classification units (in our case, contractual groups), which are the type, type (subtype), type of contract. It is these concepts that reflect the step-by-step principle of system construction: type is a generic concept; species – an element resulting from the division of a type; subspecies - as a result of the division of the species; within different contract types (subtypes), types of contracts can be distinguished as more elementary structural units, which retain specific characteristics, but have their own specificity.It should be noted that at the doctrinal level, there is no single point of view regarding the criterion of contract typification. Some scientists believe that the type of contract reflects the most general essential features of relations mediated by a certain contractual grouping; the second are convinced that this is not enough, because, first of all, the final legal result must be taken into account; others generally equate the concepts of "type" and "type" of contract, etc. In addition, legal literature has always paid great attention to which factors should be taken as the basis for building a contractual system: economic or legal. Some authors insisted that treaties should be classified on economic grounds; the second - purely legal; others suggested using complex criteria that combine both economic and legal features [1, p. 64].

The diversity of economic activity determines the existence of a wide range of economic contracts. Each business contract is characterized by the general features of this legal category, and features specific to this type of business contract [2, p. 263].

Business contracts can be divided into certain types according to various criteria:

1. Depending on the nature of the distribution of rights and obligations between the participants, all contracts are divided into bilateral and unilateral.

A contract is one-sided if one party undertakes an obligation to the other party to perform certain actions or to refrain from them, and the second party is given only the right of claim, without the occurrence of a counter-obligation to the first party.

A contract is bilateral if both parties to the contract have rights and obligations.

The general provisions on the contract are applied to contracts concluded by more than two parties (multilateral contracts), if this does not contradict the multilateral nature of these contracts.

One-sided ones include, mainly, commission, gift, and loan contracts. One-sided contracts must be distinguished from unilateral agreements. The latter do not refer to contracts, because their execution does not require the agreement of the parties, but the will of one party is sufficient.

Bilateral agreements are the most widespread type of agreements; they are contracts of purchase and sale, supply, contract, property hire, insurance, copyright, etc.For example, the expression of will of one party (the buyer) to buy property and the opposite (that is, the opposite in content) expression of will of the other party (the seller) to sell the property is a bilateral sale agreement or contract of sale.

Separately, multilateral agreements are distinguished, which consist of mutually agreed expressions of will (actions) of three or more parties. Moreover, the rights and obligations under the agreement arise for all its participants at the same time. So, a multilateral agreement is an agreement (agreement) in which more than two parties participate. An example can be an agreement between several enterprises on joint activity for the construction of a building. In some multilateral agreements, the expressions of will coincide in content (for example, all participants in the agreement on joint activities undertake to contribute the same amount of money and perform all work in equal amounts), but for a multilateral agreement, this feature is not necessary, because the parties Different types of participation can also provide for it. A multilateral agreement, in which there must be at least three parties, must be distinguished from a bilateral agreement with the participation of several persons on each side (for example, a contract for the sale of a house, in which two sellers participate, on the one hand, and three buyers - on the another).

2. According to the ratio of the rights and obligations of the parties arising from the agreement, they are divided into paid and unpaid. An agreement in which the provision of property by one party (transfer of money or property, performance of works, provision of services) is matched by a reciprocal obligation of the other party is called a paid agreement. Only two-way deals can be paid, as one-way deals are always free. Payment of the agreement may be expressed in the transfer of money, things (property), performance of works or provision of services and established by law or agreement of the parties, resulting from the essence of the agreements. Yes, purchase and sale agreements, supply agreements, etc. by their nature, they are always paid, and the contract of donation, free use of property, on the other hand, is always free of charge.

In gratuitous agreements, the provision of one party does not have counter-satisfaction, provision. In such agreements, the obligation to perform actions of a property nature rests only on one party, which is not entitled to demand counter-property provision. This happens under a donation agreement, when the thing is transferred to the ownership of another party, under an agreement on the free use of property, under a preservation agreement, under an assignment agreement, under a loan agreement, etc.

The payment or non-payment of certain transactions is determined by law or may be established by agreement of the parties. Thus, according to the law, a loan agreement between individuals is free of charge, unlike a bank loan agreement. In a contract or custody order, the parties establish its payment or non-payment by their agreement.

3. Depending on the moment from which agreements are considered concluded, they are divided into consensual, real and formal.A consensual agreement is considered concluded from the moment the parties reach an agreement, that is, the parties must agree on their expression of will aimed at establishing, changing or terminating the legal relationship. At the moment when the agreement is reached, the agreement is considered concluded, and its parties have the corresponding rights and obligations. So, to conclude a sales contract, it is necessary for the parties to agree on the object and price of the thing. If the law requires that the expression of will be expressed in a

certain form, then the agreement is considered concluded only if this form is observed.

One agreement of the parties is not enough for a real agreement. A real agreement is considered to be concluded when the parties reach an agreement on all essential terms and the thing is handed over by one party to another. Loan, transportation, donation contracts belong to real transactions. Thus, the obligation to return the debt to the borrower arises only after reaching an agreement with the lender on the amount, the term of return and transfer of this negotiated amount. Also, an example of a real agreement is a custody agreement, because the rights and obligations of the custodian arise from the moment a certain thing is transferred to him for safekeeping.

Contracts are called formal, the conclusion of which requires registration in the form proposed by law: written or notarial (for example, lease, donation). Both a consensual and a real contract can be formal.

4. Depending on the nature of the legal consequences generated by the contract, it is necessary to distinguish between final and preliminary contracts.

The final contract gives the parties rights and obligations aimed at achieving the goals and defines all the terms of the contract.A preliminary contract is a contract in which the parties undertake to enter into a contract in the future (the main contract) within a certain period of time (at a certain time) on the terms established by the previous contract.

The essential terms of the main contract, which are not established by the previous contract, are agreed upon in the order established by the parties in the previous contract, if such order is not established by acts of civil legislation.

The preliminary contract is concluded in the form established for the main contract, and if the form of the main contract is not established, in written form. The preliminary contract must contain conditions that allow establishing the subject, as well as other essential conditions of the main contract, in particular, the term in which the parties undertake to conclude the main contract. If such a term is not specified in the preliminary contract, the main contract shall be concluded within a year from the moment of conclusion of the preliminary contract. If the main contract is not concluded within the above-mentioned period and none of the parties makes an offer to conclude

such a contract (offer) to the other party, the preliminary contract ceases to be effective. A preliminary contract must be distinguished from agreements of intent that take place in practice. In the specified agreements on intentions, only the desire of the parties to enter into contractual relations in the future is recorded. However, the agreement on intentions itself does not give rise to the rights and obligations of the parties, unless otherwise specified in it. Therefore, the refusal of one of the participants of the agreement about the intention to enter into the contract stipulated by such an agreement does not entail any legal consequences for him and can only affect his business reputation.

A contract of intent (protocol of intent, etc.), if it does not contain the will of the parties to give it the force of a previous contract, is not considered a previous contract.This type of contract is most widespread in foreign trade.

5. Depending on the basis of conclusion, all contracts are divided into free and binding. Free contracts are such contracts, the conclusion of which depends entirely on the discretion of the parties. The conclusion of binding contracts, as their name implies, is binding for one or both parties. Most contracts are free in nature. They are concluded at the will of the parties, which fully meets the needs of the development of the market economy. However, in the conditions of an economically developed society, there are also binding contracts. The obligation to enter into a contract may result from a normative act. For example, by virtue of a direct instruction of the law, a bank is obliged to conclude a bank account agreement with a client who has applied to open an account.

Among binding contracts, public contracts are of particular importance. A public contract is a contract in which one party - an entrepreneur - has undertaken the obligation to sell goods, perform work or provide services to anyone who applies to him (retail trade, transportation by public transport, communication services, medical, hotel, banking services, etc.).

The terms of the public contract are set the same for all consumers, except for those to whom the relevant benefits are granted by law.The nature of a public contract implies the imposition of three prohibitions specified in the Civil Code on a

commercial organization participating in it:

- an entrepreneur does not have the right to give preference to one consumer over another regarding the conclusion of a public contract, unless otherwise established by law;

- the entrepreneur does not have the right to refuse to enter into a public contract if he has the opportunity to provide the consumer with the appropriate goods (works, services);

- in the case of an unreasonable refusal of the entrepreneur to enter into a public contract, he must compensate the losses caused to the consumer by such refusal.

Acts of civil legislation may establish rules that are binding on the parties when concluding and performing a public contract.

The terms of a public contract, which contradict the second part of this article and the rules binding on the parties when concluding and executing a public contract, are null and void.

In relations under a public contract (retail purchase and sale, energy supply, rental, housing and construction contract, bank deposit, insurance, preservation, etc.) with the participation of citizens, in addition to the general provisions and norms on contracts of the appropriate type, the laws on protection of consumer rights and other legal acts of Ukraine adopted in accordance with them.

6. Depending on the circle of persons who can demand the performance of the contract, they are divided into those concluded for the benefit of their participants and those concluded for the benefit of third parties.

As a rule, contracts are concluded for the benefit of their participants, and the right to demand the performance of such contracts belongs only to their participants. At the same time, there are also contracts in favor of persons who did not participate in their conclusion, but have the right to demand their implementation.

A contract for the benefit of a third party is a contract in which the debtor is obliged to fulfill his obligation for the benefit of a third party, which may or may not be established in the contract. Performance of a contract for the benefit of a third party may be demanded by both the person who concluded the contract and the third party

for whose benefit performance is provided, unless otherwise established by the contract or the law or does not follow from the essence of the contract.

From the moment a third party expresses its intention to exercise its right, the parties cannot terminate or change the contract without the consent of the third person, unless otherwise established by the contract or law.

A contract for the benefit of a third party is, for example, a contract of cargo transportation. In it, the third person is the consignee. His right to claim against the carrier in some cases (in case of total loss of the cargo) does not exclude the same claim from the consignor of the cargo, who concluded the contract, but in other cases (delayed delivery) - it is excluded.

Sometimes, under a contract for the benefit of a third party, this person bears certain obligations. Thus, the consignee under the contract of carriage, having the right to demand the release of the cargo by the carrier, at the same time is obliged to accept the cargo arriving at his address and pay the corresponding payments and fees.

If the third party waived the right granted to him on the basis of the contract, the party that entered into the contract in favor of the third party may exercise this right himself, unless otherwise follows from the essence of the contract.

7. Depending on the method of conclusion, mutual agreements and accession agreements are distinguished. When concluding mutually agreed contracts, their conditions are established by all parties participating in the contract. When concluding accession agreements, their conditions are established by one of the parties in forms or other standard forms, and it can be concluded only by the accession of the other party to the proposed agreement as a whole. The other party cannot offer its terms of the contract.

The accession agreement can be changed or terminated at the request of the party that joined, if it is deprived of the rights that it normally had, and also if the agreement excludes or limits the liability of the other party for breach of obligation or contains other conditions, obviously burdensome to the acceding party. The acceding party must prove that, based on its interests, it would not have accepted these conditions if it had the opportunity to participate in determining the terms of the contract.

If the demand for change or termination of the contract is presented by the party that joined it in connection with its business activities, the party that submitted the contract for joining can refuse to satisfy these requirements if it proves that the party that joined, knew or could have known, under what conditions she joined the contract [3, p. 373].

8. Planned and regulated contracts are distinguished according to the grounds for the emergence of contractual obligations.

Planned contracts - concluded on the basis of an accepted state order in cases where such acceptance is mandatory for certain subjects: state-owned enterprises, monopolistic enterprises and enterprises that function mainly on the basis of state ownership;

Regulated contracts are concluded freely, at the discretion of the participants in economic relations [4].

9. Based on the mutual position of the parties in contractual relations, business contracts are divided into vertical and horizontal contracts.

Vertical - concluded between unequal entities - the economic management body and the enterprise subordinate to it (for example, a state contract); certain terms of the contract are binding for the subordinate party and cannot be corrected even with the use of a court procedure (pre-contractual dispute).

Horizontal - concluded between equal subjects, while all the terms of the contract are mutually agreed upon by the parties, and in the event of a dispute, they can go to court.

10. According to the terms of validity, they are divided into long-term, medium-term, short-term and one-time contracts. Long-term contracts - concluded for a period of more than 5 years (for example, concession contracts, a lease contract for an integral property complex of the enterprise); in such contracts, organizational elements prevail over property ones. Medium-term contracts - valid from one to 5 years (for example, subcontracts for capital construction); organizational elements in similar contracts are balanced with property elements).

Short-term contracts - valid for up to one year; property elements prevail in these

contracts.

One-off contracts - concluded for one business transaction, usually contain only property elements [5, p. 222; 2, p. 264].

11. According to the set of criteria (economic content and legal features), business contracts can be divided into the following groups:

- contracts for the sale of property (purchase and sale, deliveries, mines, contracting of agricultural products, provision of electricity, gas, water, etc.);

- contracts for transfer of property for use (free use of property, rent, leasing);

- contractual agreements (contract for capital construction, contract for the execution of design and research, research and development and other works);

- transport contracts (transportation of goods, towing, time charter, delivery and collection of wagons, operation of the railway access track, etc.);

- contracts for the provision of banking services (contracts for settlement and cash service, bank lending, factoring, etc.);

- contracts for the provision of other services (regarding the protection of objects, storage of property, etc.);

- agreements on joint activity - agreements on cooperation, on joint investment activity, on the establishment of a corporate-type economic organization operating on the basis of a charter (joint-stock company, limited liability company, additional liability company, statutory economic association), etc. .;

- founding agreements (agreements that play the role of a founding document of a corporate-type business organization - general partnership, limited partnership, contractual business associations - association, corporation).

12. According to the duration of application in the field of management (entrepreneurship), the following can be distinguished:

- traditional contracts - used for many centuries (sales, contract, joint activity, transportation contracts);

- new contracts - the appearance of which during the last century was caused by the complication of economic life (leasing contract, factoring contract, agency contracts, etc.) [4, p. 264].

13. According to the degree of complexity, the following are distinguished:

- simple contracts - contain signs of the same type of contract, they include most traditional contracts, including sales, transportation, contracting, property lease;

- complex (complex) contracts - imply the presence of features of several of the aforementioned contracts (factoring contract, consignment contract, leasing contract, concession contract, etc.).

14. Depending on the role in establishing business relations, the following are distinguished:

- general agreements (framework contracts) - determine the main participants of contractual relations and the parameters of their subsequent contractual relations (general contracting agreements, commercial concession agreement);

- subcontracts - concluded on the basis of general contracts (subcontracting contracts) or framework contracts (for example, a commercial subconcession contract).

15.According to the possibility or impossibility of adjusting the contractual terms, business contracts can be divided into:

- non-adjusted contracts - one or two parties to the contractual relationship are deprived of the possibility of adjusting the predetermined terms of the contract; they include standard contracts (approved by the Cabinet of Ministers of Ukraine or, in cases provided by law, by another state authority) and accession contracts (the content of the contract is determined by one of the parties without the right of the other to insist on its change; for example, contracts for the purchase and sale of shares in the process of open subscription for shares;

- adjusted contracts - terms of the contract through free expression of will (the parties have the right at their own discretion to agree to any terms of the contract, if it does not contradict the law), including with the use of exemplary contracts of a recommendatory nature [2, p. 225].

16. In the event that preliminary negotiations are used to establish a business relationship, contractual relations between their participants are drawn up using two categories of contracts:

- a preliminary agreement, which records: the intention of the parties to conclude

in the future no later than one year after the conclusion of the preliminary agreement - part 1 of Art.182 of the Economic Code of Ukraine) the main contract of certain parameters (the subject matter and other terms of the contract), the obligations of the parties to take preparatory actions aimed at ensuring the conclusion and execution of the main contract (risk insurance, preparation of relevant documentation for obtaining licenses, other permits, etc.), and also the responsibility of the parties for evading the conclusion of the main contract;

- the main contract is concluded on the terms and within the period specified in the previous contract (however, the obligation of the parties to conclude the main contract will cease if neither of them sends the draft of the main contract to the other before the end of the set period - Part 4 of Article 182 of the Economic Code of Ukraine).

17. Depending on the dominance of property or organizational elements in the business contract, the following are distinguished:

- property contracts - they include contracts in which property elements dominate (with the possible presence of organizational elements, but without the dominance of the latter). The majority of business contracts are mainly property contracts, including supplies, mines, contracting, banking services, a large part of transport, etc.;

- organizational contracts (Article 186 of the Commercial Code of Ukraine) are aimed at ensuring the organization of the economic activity of two or more participants in economic relations (business entities), although they may contain property elements (without the superiority of the latter over organizational ones). Such agreements include founding agreements, agreements on cooperation, on joint investment activities, etc. [4, p. 224].However, according to Victoria Milash, in the generally accepted classification of business contracts, too much attention is focused on the subject of the contract.

In her work, she made an attempt to give a classification of types of business contracts with the selection of such classification features that more or less reflect the specifics of business contracts.

According to V. Milash, the subject composition of the economic contract should

be used as a meaningful criterion for the classification of economic contracts.

According to the subject composition, the business contract can have five varieties:

- entrepreneurial (commercial) contract of a bilateral institutional nature;
- entrepreneurial (commercial) contract of a unilateral institutional nature;
- business (consumer) contract of a unilateral institutional nature;
- non-commercial business contract;
- an economic (organizational) normative-binding contract, the parties to which can be both economic entities and economic entities on the one hand, and bodies of state power or local self-government - on the other.

With the help of a business (commercial) contract, goods (tangible and intangible goods, works and services) are moved within the limits of commercial turnover and/or subjects of civil rights, in particular property, property rights, results of intellectual activity, are brought into the field of business activity.

At the same time, the phrase "bilateral institutional character" (an institution in the explanatory dictionary is understood as a stable association to achieve a clearly defined goal) is proposed to be understood as indicating that both parties to the contract are subjects of entrepreneurial activity, and the conclusion of such contracts is an integral part of their fishing. A simple entrepreneurial institution is a natural person - a subject of entrepreneurial activity, and a complex entrepreneurial institution is an economic organization of a commercial nature [6, p. 74]. In turn, the subjective composition of an entrepreneurial (commercial) contract of a unilateral institutional nature is presented in such a way that the subject of entrepreneurial activity acts on the side of only one party. Its counterparty can be both a non-commercial business entity, a non-business entity (legal entity), and an individual who is not an entrepreneur. Such a contract belongs to the commercial group, if the specified party enters into contractual relations not as a consumer and not for the purpose of self-investment to create the material and technical conditions of its existence, but as an investor. However, their participation in business turnover as an investor is singular (atypical for the status of such an entity). An example of such contracts are contracts for the transfer for paid use

of property rights arising from intellectual property rights, in particular a license contract, as well as contracts for the purchase of a separate security (shares, bonds, investment certificate). In addition, the specified group of contracts can include investment contracts in which the state acts on the side of the recipient in the form of state bodies (a concession contract and an agreement on the distribution of products, a lease contract for state-owned property).

With the help of a business (consumer) contract, goods are transferred from the sphere of business activity to the sphere of personal consumption or to satisfy economic needs without its further exploitation (use) in the sphere of business activity for the purpose of obtaining profit. At the same time, one of the parties to such a contract is a subject of entrepreneurial activity, and the counterparty may be an individual (consumer) who exercises his general civil capacity by entering into contractual relations, as well as non-commercial business entities, non-business entities (legal entities) or the state (government-ordered contracts), which must be considered as special consumers.

In contrast to business (consumer) contracts, the subjective composition of commercial (non-commercial) contracts always excludes an entrepreneur as a business entity that enters into contractual relations for the purpose of making a profit. The parties to a business (non-commercial) contract may be non-commercial business entities (consumer and service cooperatives, state-owned enterprises), natural persons who do not have the status of entrepreneurs, non-business entities (legal entities) [7, p. 36].

One of the parties to an economic-organizational regulatory binding contract can be a subject of organizational-economic powers. An example of the latter can be an agreement on the implementation of an investment project in special (free) economic zones, since according to it, investments are not directly implemented, but the order of future investment is established. In other words, in accordance with the specified contract, the investor undertakes to ensure the implementation of the investment project at his own risk and at his own expense in accordance with the terms of the contract, and the management body - to ensure the necessary conditions for implementation.

Business (commercial) contracts can be classified according to such substantive features as the content of the relationship it mediates and the purpose for which the party

is concluding it:

- sales contracts are contracts, mainly for the wholesale purchase and sale of goods (results of business activity) between business entities. Both the owner of the property and his commercial representative can be the seller under such contracts;

- investment contracts (of a bilateral institutional nature), in turn, may be presented:

- system contracts - one of the parties is always a professional investor.Thus, a professional investor in a systemic investment contract can be a CII asset management company, an investment bank, a business entity that implements an investment project in the territory of a free economic zone, etc.;

- non-systemic - an investor is a subject of entrepreneurial activity who is not a professional investor, i.e. does not systematically engage in investment activities, and therefore does not specialize in concluding investment contracts. In a non-systematic investment contract, the investor is a business entity for which the realization of investments is not the main type of business activity carried out by it (for example, franchising, leasing, purchase by one business entity of shares of another business entity; at the same time, it is not excluded that the conclusion of such contracts may acquire a systemic character for the investor) [9, p. 50];

- service contracts. The conclusion of such contracts in certain cases is determined by previously concluded business contracts. As a rule, production and sales or investment. Sometimes the content of the latter stipulates the conclusion of service contracts. To the group of service contracts, the author includes contracts for transport forwarding, warehousing, bank account, settlement and cash service, letter of credit, factoring, commercial risk insurance, contracts for the provision of property value assessment services, property management, in particular securities, contracts for commercial representation (agency agreements, consignment agreements, commission agreements).At the same time, some of the specified types of contracts are used to service business turnover, others can be used in the field of civil turnover. However, in the case of business service contracts, the parties to them are business entities (the exception is only founding contracts); they mediate the service of business turnover (they

are contracts of a bilateral institutional nature). Thus, the power of attorney agreement is widely used in the field of civil turnover, however, this contractual form can be used for the organization of business turnover (for example, the power of attorney agreement between a business company and its division for the transfer of property for sale);

- an organizational and business contract, by means of which business turnover is organized: economic infrastructure is created and the necessary business relations between entrepreneurs are established (without the direct creation of an economic organization). According to the subject composition, such contracts can be represented by contracts of both bilateral and unilateral institutional nature. The most vivid example of organizational and business contracts are founding contracts (at the same time, the parties to such a contract can be natural persons who do not have the status of entrepreneurs). In the author's opinion, even if a non-commercial business entity (exchanges, associations, corporations) is created with the help of such contracts, the fact that they are established for the purpose of organizing business turnover allows them to be classified as a business organizational contract. Organizational and business contracts also include contracts of a simple partnership and contracts on joint business activity; agreements on the establishment of correspondent relations between banking institutions [6, p. 73].

V. Milash also proposes the classification of business contracts according to the place of conclusion of the entrepreneurial (commercial) contract. According to this classification, it is possible to distinguish:

- exchange contracts – contracts concluded and registered on exchanges by relevant entities;

- contracts concluded within the framework of ordinary commodity markets (work and service markets);

- contracts concluded within the electronic market, i.e. through the Internet [7, p. 36]. In civil law, there are also some other types of agreements: administrative agreements that do not generate lasting consequences, such as the irrevocable transfer of a thing, payment, etc., binding agreements that entail such consequences as the temporary transfer of a thing, etc. ; fiduciary agreements (from the word fiducia - trust).

These agreements are based on trust. So, for example, the power of attorney agreement is connected with the existence of the so-called personal trust relations of the parties. The peculiarity of fiduciary agreements is that a change in the character of the parties' relationship, the loss of their fiduciary character, can lead to the unilateral termination of the relationship.

In general, the Civil Code of Ukraine provides for the following types of contractual obligations: purchase and sale, retail purchase and sale, supply, contracting of agricultural products, supply of energy and other resources through the connected network, mine, gift, rent, life estate ¬acquisition, hire (rent), rental, leasing, rental (rent) housing, loan, contract (domestic, construction, design and prospecting), performance of scientific research or research and development and technological works, services, transportation, transport forwarding, storage, insurance, commission, commission, property management, loan, credit, bank deposit, bank account, factoring, calculations, commercial concession, joint activity, disposal of property rights of intellectual property [10].

Under modern conditions, information relations gain more and more importance and become one of the most important elements of the development of economic and legal relations, one of which types are contractual relations. The development of the Internet computer network and electronic commerce leads to an increase in the number of electronic business contracts [11, p. 68].

According to Clause 5, Part 1, Art. 5 of the Law of Ukraine "On Electronic Commerce" an electronic contract is an agreement between two or more parties aimed at establishing, changing or terminating civil rights and obligations and executed in electronic form [12].

Not every electronic legal agreement requires the creation of a separate electronic contract in the form of a separate electronic document. An electronic contract can be concluded in a simplified form, or classically - in the form of a separate document.

The contract in a simplified form by exchanging, for example, e-mails and other means of electronic communication, or the contract concluded by joining it can be signed using: an electronic signature, an electronic signature with a one-time identifier, an

analogue of a handwritten signature (facsimile reproduction of the signature using mechanical means or other copying, other analogue of a handwritten signature) [13].

Demarcation of business contracts by branches of the information sphere of business helps to distinguish certain types and subtypes of relevant contracts within the framework of subtypes of subcontracts and contracts for the provision of services in the information sphere.So, for example, within the framework of the type of contracts for the provision of services, a subtype of contracts for the provision of information and information-infrastructure services is distinguished, within which the type of contracts for the provision of telecommunication services is distinguished, among which sub-types of contracts between telecommunications operators, operators and providers, etc. are distinguished. It is possible to distinguish subspecies on other grounds, for example, depending on the type of relevant services: contracts for the provision of telephone services, access to the Internet, data transmission, broadcasting of television and radio programs by technical means of broadcasting, and others [14, p. 66].

The classification of business contracts is due, first of all, to a large number of their types. In modern legal doctrine, when classifying business contracts, as a rule, the same criteria are used as in civil law. The division of business contracts into types can be carried out according to various qualification criteria, which is due to the continuous evolution of business turnover.

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3. Mechanism for legal protection of the best interests of the child

Legal protection of the best interests of the child is carried out through various mechanisms at the International and national levels. There is no definition of the best interests of the child, their types and content in both national and international law. At the same time, the consolidation at the legislative level of the fundamental rights and freedoms of the child is insufficient to properly protect, implement and protect the best interests of the child, as a broader concept than the rights and freedoms of the child.

In our view, the best interests of the child are realized only when the state, by means of a mechanism for the legal provision of the best interests of the child, creates appropriate conditions for the realization by the child personally or by a legal representative of his or her rights, freedoms and best interests.

Although the mechanism for the protection of human and Child Rights is different, we believe that the research of Ukrainian scientists in the field of the mechanism for the protection of human and civil rights is important for further research of the mechanism for the legal provision of the best interests of the child.

Thus, I. Slovskaya defines the mechanism for ensuring human rights and freedoms as a system of means and factors that provide the necessary conditions for respect for all fundamental human rights and freedoms that are derived from its dignity [1, p.15-17].

N. M. Onishchenko defines the mechanism for ensuring human rights and freedoms as a set of interrelated, interacting legal prerequisites, normative means and general social conditions that create proper legal and factual opportunities for the full exercise of human rights and freedoms [2, p. 487-488].

M. D. Savenko notes that the basis of the mechanism for ensuring human and civil rights and freedoms is made up of legal principles, norms (legal guarantees), as well as conditions and requirements for the activities of government bodies, local self-government bodies, their officials, citizens, which together ensure the observance, implementation and protection of citizens ' rights and freedoms [3, p. 74].

According to Mytnik O. V., The mechanism of protection of human and civil rights and freedoms is interpreted in the legal literature in different ways: as a system and a set of consistent actions aimed at protecting human and civil rights; as a component of the mechanism for ensuring human rights, which is measures aimed at restoring violated rights; as a system of bodies, means enshrined in the Constitution that ensure the most complete and effective protection of human and civil rights and freedoms [4, p. 53].

Shilo S. M. believes that the mechanism of protection of human and civil rights and freedoms is a system of interrelated constitutional norms that consolidate the basic rights and freedoms of citizens and establish guarantees for their implementation, as well as a system of state authorities, local self-government, and other state institutions that ensure, protect and protect the basic rights and freedoms of citizens [5, p. 271].

As a legal phenomenon, the mechanism for the protection of human rights is a system, since it consists of certain parts, such as the right to protection; the form and method of protection of rights; the process and procedure for applying to the relevant bodies, institutions and organizations. The mechanism of protection of rights as a system is characterized by dialectical interdependence of the whole and part, each element of which occupies a certain place and performs certain functions in it. Undoubtedly, the mechanism for protecting rights should be an organically holistic and logically consistent process. The essence of any mechanism for protecting rights is the sequence of human actions and achieving a certain result. Human activity in this case consists in restoring the situation that existed before the violation of a specific human right [6, p. 33]. The exercise of a person's right to protection can be carried out through various mechanisms for protecting rights. First of all, they are divided into two large groups - national and international mechanisms for the protection of rights. National (domestic) mechanisms for the protection of rights have their own characteristics in each country, while the international mechanism for the protection of Rights is the same for everyone, regardless of nationality and citizenship [6, p. 33].

Consequently, the mechanisms are divided into international and national ones. International mechanisms for the protection of rights are understood as a system of

international (interstate) bodies and organizations that act to implement international standards of human rights and freedoms or restore them in case of their violation. National mechanisms for the protection of Rights operate on the territory of a particular country. Also, mechanisms of protection of rights in Ukrainian law are classified according to branches of law, for example, the mechanism of protection of civil rights or the mechanism of protection of consumer rights, etc. [6, p. 34]

According to N. M. Opolskaya, the mechanism for ensuring the rights and freedoms of the child can be considered as a system of General Social, legal factors, means and measures that, interacting with each other, create appropriate legal and factual circumstances for the implementation, protection and protection of the rights and freedoms of the child. The task of this mechanism is to create conditions for the comprehensive development of the child, protection, protection and restoration of violated or disputed rights and freedoms, as well as the formation of a legal culture and legal awareness of each child and society as a whole. [7]

In our view, the mechanism of legal protection of the best interests of the child has its own specificity given the special status of the child as a vulnerable category and the broader concept of the best interests of the child than the rights of the child, which requires special protection and appropriate legal protection.

According to the author, the mechanism of legal provision of the best interests of the child can be divided into:

1) national and international;

2) state and non-government;

The author divides the state mechanism of legal support for the best interests of the child into: constitutional, judicial, legislative and administrative-legal.

According to Article 3 of the Convention on the rights of the child of November 20, 1989, ratified by BP Resolution № 789-XII of 27.02.91, in all actions against children, regardless of whether they are carried out by public or private social security institutions, courts, administrative or legislative bodies, priority is given to the best interests of the child. States Parties undertake to provide the child with such protection and care as is necessary for his well-being, taking into account the rights and

obligations of his parents, guardians or other persons responsible for him by law, and to this end shall take all appropriate legislative and administrative measures. States Parties shall ensure that the institutions, services and bodies responsible for the care or protection of children comply with the standards established by the competent authorities, in particular in the field of safety and health, and in terms of the number and suitability of their personnel, as well as competent supervision [8].

Ukraine, like most countries of the world, has implemented some provisions of the Convention on the rights of the child in the norms of the National Basic Law. Thus, Article 52 of the Constitution of Ukraine established equality of all children in their rights, regardless of origin, and prohibited any violence against the child and its exploitation [9]. However, the Basic Law of our state does not provide for taking into account the best interests of the child as the main principle applied in all actions against children. At the same time, the legal realities of our time show that the constitutional and legal mechanism for protecting the rights, freedoms and best interests of children in Ukraine is not effective and needs to be improved. As practice shows, judicial and administrative authorities do not always take into account their best interests when deciding cases involving children. Therefore, in our opinion, the constitutional and legal mechanism for protecting the rights, freedoms and best interests of children in Ukraine needs to be improved.

Kudryavtseva O. M. believes that the mechanism for protecting the constitutional rights of the child in Ukraine is being developed and improved by: 1) introducing international standards in the field of protecting the rights of the child; 2) preparing and adopting new legislative acts that will regulate public relations in the field of protecting the rights of the child; 3) further humanization of national legislation to ensure the rights of the child; 4) improving the competence, forms, methods of activity of authorized state bodies that are responsible for protecting the rights of the child in Ukraine; 5) Comprehensive use of the achievements of legal science to improve the current legislation and law-making practice in the field of protecting children's rights [10, p. 11].

We believe that the consolidation of the principle of legal provision of the best interests of the child in the Constitution of Ukraine is of decisive importance. With this in mind, we propose that Article 52 of the Constitution of Ukraine [9] should read as follows: "Article 52. children are equal in their rights regardless of their origin, as well as whether they were born in or out of marriage. Any abuse and exploitation of a child is punishable by law. The maintenance and upbringing of orphaned children and children deprived of parental care is entrusted to the state. The state encourages and supports charitable activities for children. In all actions against children, public or private institutions, judicial, administrative or legislative bodies, priority should be given to the best interests of the child", making appropriate changes to the Basic Law.

So, the constitutional mechanism of legal provision of the best interests of the child is a system of means defined in the Constitution and laws of Ukraine, which guarantee the creation of appropriate conditions for fulfilling the obligations assumed by the state in the field of protection and protection of constitutional rights, freedoms and best interests of the child.

According to the case-law of the national courts and the European Court of human rights, the judicial authorities account for the largest number of cases concerning the protection of the rights, freedoms and best interests of the child. It is the judicial authorities that protect the best interests of children, so such a judicial mechanism should be effective and efficient.

Article 6 of the law of Ukraine "on bodies and services for children and special institutions for children" stipulates that specially authorized judges (composition of judges) with the participation of representatives of services for children, except in cases provided for by law, consider the following cases: in relation to minors who have committed criminal offenses; in relation to minors who have committed administrative offenses aged from 16 to 18 years; on placing children aged from 11 years in reception-distributors for children; on the administrative responsibility of parents (adoptive parents) or guardians (Guardians) of minors for failure to fulfill their duties to raise and educate children; on the restriction of parents ' legal capacity, taking away children and depriving them of parental rights, eviction of persons deprived of parental rights if their

cohabitation with children in respect of whom they are deprived of parental rights is impossible; on the restoration of parental rights and resolving disputes between parents regarding the place of residence of children; on other issues related to personal, housing and property rights of minors [11].

Parts 2, 3 of Article 152 of the Family Code of Ukraine define the right of a child to apply for protection of their rights and interests to the guardianship and guardianship authority, other state authorities, local self-government bodies and public organizations, as well as directly to the court if they have reached the age of fourteen [12].

At the same time, according to Part 3 of Article 154 of the Family Code of Ukraine, parents have the right to apply for protection of the rights and interests of children even when, according to the law, they themselves have the right to apply for such protection [12].

In addition, the current legislation of Ukraine, including The Family Code of Ukraine, provides that for the protection of the rights and interests of the child, the right to apply to the court is granted:

- one of the parents who lives separately from the child and who has no arrears in the payment of alimony, has the right to apply to the court for permission to leave the child abroad without the consent of the other parent (paragraph 6 of Part 5 of Article 157 of the Family Code of Ukraine) [12];
- the second parent who lives separately has the right to apply to the court with a claim for the removal of obstacles in communication with the child and in his upbringing, in particular if the parent with whom the child lives evades the execution of the decision of the guardianship and guardianship authority and makes obstacles in communication with the Child (Part 1 of Article 159 of the Family Code of Ukraine) [12];
- one of the parents, guardian, trustee, the person in whose family the child lives, the health care institution, educational or other children's institution in which he is located, the guardianship and guardianship Authority, the prosecutor, as well as the

child himself, who has reached the age of fourteen with a claim for deprivation of parental rights (Part 1 of Article 165 of the Family Code of Ukraine[12];

- prosecutor with a claim for deprivation of parents or one of them of parental rights or for taking a child away from the mother or father without depriving them of parental rights (Part 2 of Article 170 of the Family Code of Ukraine) [12];
- when one of the parents makes transactions in relation to the property of a minor child, it is considered that he acts with the consent of the other parent. The second parent has the right to apply to the court with a request to declare the transaction invalid as concluded without his consent, if this transaction goes beyond a small household one. (Part 6 of Article 177 of the Family Code of Ukraine) [12];
- the alimony payer, in case of inappropriate spending, has the right to apply to the court with a claim for reducing the amount of alimony or for depositing part of the alimony to the child's personal account in the branch of the State Savings Bank of Ukraine. (Part 2 of Article 186 of the Family Code of Ukraine) [12];
- a sister, brother, stepmother, stepfather have the right to apply for protection of the rights and interests of minors, minors and adults disabled brothers, sisters, stepson, stepdaughter to the guardianship authority or to the court without special powers (Part 2 of Article 262 of the Family Code of Ukraine) [12].

Consequently, family law provides for the right to apply to the court for protection of children's rights personally by the child, legal representatives or the prosecutor. A separate category of cases is criminal cases involving children as an accused, witness or victim. Unfortunately, there are no separate official statistics of national courts on the number of civil, administrative and criminal cases involving children considered. However, having analyzed the Unified Register of court decisions, it can be argued that there are a large number of such cases and not always the court and participants in the trial can properly protect the best interests of the child in a procedural manner. The main reasons that lead to violations of the rights and best interests of the child in the judicial process include the lack of an effective and complete system of judicial and state bodies that can ensure the legality, validity and effectiveness of each decision against the child.

Along with this, we agree with the opinion of Kolomoets N. V., which refers to the main reasons that are the basis for leveling the process of protecting the rights of the child: 1) low level of legal culture of the population: children and their parents are mostly not aware of the norms of international and domestic legislation, which leads to a lack of understanding of the existence of certain rights, as well as awareness at the legislative level of the mechanism for their protection in case of violation or non-compliance with the norms, which leaves the problem unresolved; 2) lack of funding and material and technical support in the process of implementing the norms regulating the rights of the child in a particular sphere of Public Relations. Therefore, there is a situation in the state when there is a norm or even a law that grants a child certain rights, but there are no appropriate funds for the implementation of such a norm. In such circumstances," de jure "is the norm, but at the same time it is" dead", and the rights of the child" de facto " are not protected; 3) the lack of a clear consolidation at the legislative level and, accordingly, the distribution of powers between the relevant bodies and organizations to protect the rights of the child. We have a large number of state authorities that are supposed to protect the rights of the child, but in fact there is no one to do this work. Therefore, the lion's share of human rights functions in the field of protecting children's rights falls on non-governmental public organizations [13, p. 34].

We believe that in order to ensure an effective and efficient judicial mechanism for ensuring the best interests of the child at the state level, it is necessary to humanize the trials of children who are in contact with the law, namely:

1. Legally regulate a special non-traumatic procedure for interrogating a child in court and during pre-trial investigation. To conduct such a procedure, employees of the court, police, prosecutor's office, and lawyers must undergo advanced training to strengthen their knowledge of the procedural rights of children and the specifics of working with children.

2. Establish a clear algorithm of actions of employees of state bodies and services involved in the interrogation of the child. At the same time, questioning in any category of cases should be carried out taking into account international practices.

The need to implement such measures is due to the fact that the rights, freedoms and best interests of the child are not conditional categories, and their protection requires clear legal measures of influence on the part of the state.

An important role in ensuring the best interests of the child is played by the administrative and legal mechanism to which the author refers the activities of central state and local government bodies.

Part 1 of Article 1 of the law of Ukraine "on bodies and services for children and special institutions for children" defines that the implementation of social protection of children and Prevention of offenses among them is assigned within the limits of a certain competence to:

the central executive authority that ensures the formation of state policy in the sphere of family and children, the central executive authority that implements state policy in the sphere of family and children, the executive authority of the Autonomous Republic of Crimea in the sphere of family and children, the corresponding structural divisions of regional, Kiev and Sevastopol city, district state administrations, executive bodies of city and district councils in cities;

authorized divisions of National Police bodies;

receivers and distributors for children of the National Police bodies;

schools of social rehabilitation and vocational schools of social rehabilitation of educational institutions;

Centers for medical and social rehabilitation of children in healthcare institutions;

special educational institutions of the State Penitentiary Service of Ukraine;

shelters for children;

Centers for social and psychological rehabilitation of children;

social rehabilitation centers (children's towns) [11].

The central executive authority, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine and which ensures the formation and implementation of state policy in the field of social policy, in particular, on family and children's health and Recreation, adoption and protection of children's rights, the

implementation of state control over compliance with the requirements of legislation in the provision of social support and the observance of children's rights, is the Ministry of social policy of Ukraine (Ministry of Social Policy).

The main tasks of the Ministry of social policy of Ukraine include, in particular, ensuring the formation and implementation of state policy on family and children, health improvement and recreation of children, adoption and protection of children's rights, in the sphere of state control over compliance with the requirements of legislation in the provision of social support (state aid, benefits, housing subsidies and other payments made at the expense of the state budget, Social Services) and for the observance of children's rights (paragraph 7, 15 of subparagraph 1 of Paragraph 3 of the regulations on the Ministry of social policy of Ukraine, approved by resolution of the Cabinet of Ministers of Ukraine № 423 of June 17, 2015) [14].

According to subparagraphs 44, 55, 64 and 65 of Paragraph 3 of the regulations on the Ministry of social policy of Ukraine, approved by resolution of the Cabinet of Ministers of Ukraine № 423 of June 17, 2015, the Ministry of Social Policy in accordance with the tasks assigned to it:

defines legal, economic and organizational mechanisms that stimulate the effective operation of social service institutions, rehabilitation institutions, sanatoriums for persons with disabilities and children with disabilities, enterprises and institutions of the prosthetic industry, and ensures the optimization and development of their network;

organizes and coordinates work to provide housing for orphans and children deprived of parental care, persons from among them; Persons with visual and hearing disabilities; citizens affected by the Chernobyl disaster; military personnel dismissed or retired, registered citizens in need of better housing conditions in local self-government bodies; military personnel dismissed or retired, to move them out of closed and remote settlements of military garrisons;

ensures the functioning of the unified information and analytical system of social protection and social services of the population, as well as on its basis the unified information and analytical system of accounting and management of social sphere

funds and pension provision using an electronic social card, maintaining a centralized data bank on disability problems and a data bank on orphans and children deprived of parental care, on the families of potential adoptive parents, guardians, Guardians, foster parents, parents-educators;

keeps centralized records of orphans and children deprived of parental care who can be adopted, as well as records of foreigners and citizens of Ukraine living outside Ukraine - candidates for adoptive parents and children adopted by them[14].

According to paragraph 6 of Part 1 of Article 13 of the law of Ukraine "on local state administrations", local state administrations, within the limits and forms defined by the Constitution and laws of Ukraine, are responsible for solving the following issues: Science, Education, Culture, Health, Physical Education and sports, family, women, youth and children, approval of Ukrainian national and civil identity [15].

According to paragraph 9 of Part 1 of Article 16 of the law of Ukraine "on local state administrations", local state administrations, within the limits defined by the Constitution and laws of Ukraine, exercise state control in the relevant territories, in particular, over compliance with legislation on science, language, advertising, education, culture, health, motherhood and childhood, family, youth and children, social protection of the population, Physical Culture and Sports [15].

According to Paragraph 1 of Paragraph 1, paragraphs 9, 11 of Part 1 of Article 29 of the law of Ukraine "on local state administrations", the local state administration: implements the state policy in the field of Social Security and social protection of socially vulnerable citizens - pensioners, persons with disabilities, single disabled people, orphans, children deprived of parental care, persons from among them, single mothers, large families, other citizens who, due to insufficient material security, need assistance and social support from the state; decides on the establishment of guardianship and guardianship, the creation of conditions provided for by law for the upbringing and/or placement of children who, as a result of the death of their parents, deprivation of parental rights, illness of their parents or for other reasons, were left without parental care, the protection of personal and property rights and interests of children, as well as takes other measures for the social protection of children referred

to its competence by law; carries out, in accordance with the legislation, a set of measures to provide assistance to persons and families with children in difficult life circumstances, maintenance and upbringing of children in difficult life circumstances [15].

Subparagraph 2 of paragraph "a", subparagraphs 4, 6 and 8 of Paragraph "B" of Article 32 of the law of Ukraine "on local self-government", in particular, it is determined that the executive bodies of Rural, Settlement, city councils are responsible for: their own (self-governing) powers: ensuring full general secondary, professional (vocational), professional pre-higher and higher education in state and municipal educational institutions, creating the necessary conditions for the upbringing of children and youth, the development of their abilities, labor training, professional orientation, productive work of students, assistance to the activities of preschool and extracurricular educational institutions, children's, youth and scientific and educational public associations, youth centers; delegated powers: Organization of registration of preschool and school-age children; providing schoolchildren from among orphans, children with disabilities/persons with disabilities of groups I-III, children deprived of parental care, and children from families who receive assistance in accordance with the law of Ukraine "on state social assistance to low-income families", who study in state and municipal educational institutions, with free textbooks, creating conditions for self-education; resolution in accordance with the legislation of issues on the full state maintenance of orphans and children deprived of parental care in family-type orphanages, vocational (vocational) education institutions and the maintenance of students of special educational institutions, on the provision of benefits for the maintenance of children in boarding schools of educational institutions, as well as on the payment of meals for children in educational institutions (extended day groups) [16].

Subparagraph 2, 2-1 of Paragraph "A", Part 1 of Article 34 of the law of Ukraine" on local self-government", in particular, defines that the executive bodies of Rural, Settlement, city councils are responsible for: their own (self-governing) powers: ensuring the implementation of measures provided for by law to improve the housing

and material conditions of persons with disabilities, war and Labor veterans, citizens rehabilitated as victims of political repression, military personnel, as well as military personnel dismissed or retired, families who have lost a breadwinner, large families, elderly citizens who need home care, before placing in homes persons with disabilities and elderly citizens who need it, children left without parental care, for upbringing in the family of citizens; solving in accordance with the legislation issues of providing social services to persons and families with children who are in difficult life circumstances and need outside help, ensuring the maintenance and upbringing of children who are in difficult life circumstances [16].

Paragraph 1 of Part 2 of Article 38 of the law of Ukraine "on local self-government" defines, in particular, that the jurisdiction of the executive bodies of city (with the exception of cities of district significance) councils, in addition to the powers specified in Paragraph "B" of part one of this article, includes: the formation of services for children and observation, the direction of their activities [16].

In the international mechanism of legal protection of the best interests of the child, along with the norms of international law, a special and important role in protecting the best interests of the child both at the International and national level is played by the system of international (interstate) bodies and organizations that act to implement international standards of rights, freedoms and best interests of the child or restore them in the event of their violation.

International (inter-state) bodies and organizations that are most involved in the protection of the rights, freedoms and best interests of children and adolescents in Ukraine include: the UN Committee on the rights of the child, the United Nations Children's fund (UNICEF), the UN Human Rights monitoring mission in Ukraine, the World Health Organization (WHO) and UNESCO.

According to Article 43, paragraph 1, of the Convention on the rights of the child, in order to review the progress made by states parties in fulfilling the obligations assumed under this convention, a committee on the rights of the child is established, which performs the functions provided for in the convention [8].

In March 2022, the UN Committee on the rights of the child issued a statement demanding that the Russian Federation immediately stop its aggression and military actions against Ukraine, as well as fulfill its obligations under the convention, as required by the secretary-general to comply with the Charter of the United Nations for the protection of children's rights at the highest level and as the highest priority[17]. Referring to the Preamble of the Optional Protocol to the Convention on the rights of the child on the involvement of children in armed conflict, which emphasizes that peace and security based on respect for the purposes and principles of the Charter and compliance with the relevant legal instruments are indispensable for the protection of children, in particular during armed conflicts [18].

The United Nations General Assembly, in accordance with resolution 57 (I) of 11 December 1946, established the United Nations Children's fund (UNICEF) as one of the United Nations bodies that, in accordance with this and subsequent resolutions, has been entrusted with the responsibility of meeting, by providing financial support, materials, training and advice, the emergency, long-term and permanent needs of children, and for providing services in the field of maternal and Child Health, Nutrition, and water supply, primary education and support services for women to strengthen, where necessary, measures and programmes to ensure the survival, development and protection of children in countries with which UNICEF cooperates [8].

UNICEF also cooperates in Ukraine in accordance with the main cooperation agreement between the United Nations Children's Ford and the Government of Ukraine dated September 07, 1998 (ratified on September 21, 1999) [8].

The UN Human Rights monitoring mission in Ukraine (hereinafter referred to as the HRMMU) operates on the basis of an agreement between the Government of Ukraine and the Office of the United Nations High Commissioner for Human Rights on the deployment of a short – term UN Human Rights monitoring mission in Ukraine dated July 31, 2014 [19].

The UN Human Rights monitoring mission in Ukraine embodies the mandate of the Office of the United Nations High Commissioner for human rights to protect and promote human rights for all around the world. The human rights mission monitors,

prepares public reports and advocates for the human rights situation in order to improve access to justice and bring those responsible to justice. Special attention is paid to the eastern regions and the Crimea.

According to the Preamble of the Charter (Constitution) of the World Health Organization (who) of July 22, 1946, the healthy development of the child is a factor of paramount importance; the ability to live harmoniously in an environment is the main condition for such development [20].

In accordance with paragraph (I) of Article 2 of the Charter (Constitution) of the World Health Organization (who) of July 22, 1946, the functions of the organization leading to the goal specified in the Charter will be, in particular, to promote the development of maternal and Child Health and to take measures that promote the ability to live a harmonious life in changing general environmental conditions [20].

The goal of UNESCO is to promote peace and security by promoting cooperation between nations through education, science and culture to promote universal respect for justice, for the rule of law and for Human Rights and fundamental freedoms for all peoples of the world, regardless of race, gender, language or religion, in accordance with the UN Charter. To achieve this goal, UNESCO, according to Paragraph 4 of Paragraph (B) of Part 2 of Article 1 of the UNESCO constitution of November 16, 1945 (effective date: November 04, 1946), in particular, to give a new impetus to popular education and the spread of culture by offering teaching methods that are best suited for preparing children around the world for the free expression of Will [21].

Non-governmental public organizations, both national and International, are of great importance in the development and protection of the rights, freedoms and best interests of the child. After all, such organizations are engaged in volunteer activities, conduct constant explanatory work among the population in the form of open events; provide various kinds of assistance to families with children; apply to state authorities and the court to protect the rights, freedoms and best interests of the child; develop plans, programs, concepts to protect the rights, freedoms and best interests of the child;

they cooperate with law enforcement agencies in the field of protecting children's rights, etc.

Special attention should be paid to international non-governmental organizations that also influence the development and protection of the rights, freedoms and best interests of the child in the world. Among them, it is worth highlighting:

The international protection of children is an international NGO, which is represented in 40 countries of the world, whose activities are aimed, in particular, at juvenile justice through direct intervention, as well as through lobbying, monitoring and training of specialists.

ECPAT is an international network that is represented in more than 70 countries, working to combat child prostitution, child pornography, child trafficking and sexual exploitation of children.

The NGO group monitoring the implementation of the Convention on the rights of the child is a network of more than 70 state and international NGOs whose mission is to develop, implement and monitor the implementation of the Convention on the rights of the child.

The European Youth Forum is a youth-led platform, which includes 98 National Youth Councils and international youth organizations from different European countries, which works to involve young people in child protection activities, representing and protecting their needs and interests, as well as the interests of their organizations in the direction of European institutions, the Council of Europe and the United Nations.

The European confederation of youth clubs (ECYC) is a network of youth workers ' organizations and youth clubs that carry out open youth activities and non — formal education in cooperation with 28 member organizations of the convention located in 27 European countries.

Save the children, an organization that operates in 120 countries around the world, is one of the leading organizations working to develop and protect children's rights and support children in meeting their needs. With a wide range of initiatives, from direct intervention to advocacy and representation, this organization sees a world

in which every child has the right to survival, protection, development and participation.

The international movement "Falcons" - Socialist International Education (IFM — SEI) is an international educational working movement, whose activities are aimed at developing the opportunities of children and young people, fighting for their rights through seminars and trainings, organizing international camps, conferences and campaigns aimed at providing education, advocacy and working directly with vulnerable children who find themselves in difficult life circumstances [22].

We believe that the mechanism of legal provision of the best interests of the child is the legal principles and norms of national and international legislation, as well as the activities of state authorities, local self-government bodies, international governmental and non-governmental institutions and organizations, the activities of individual citizens, which together ensure the observance, implementation and protection of the best interests of the child.

According to the author, the mechanism of legal provision of the best interests of the child is divided into:

1) national and international;

2) state and non-government;

The author divides the state mechanism of legal support for the best interests of the child into: constitutional, judicial, legislative and administrative-legal.

We believe that professional and results - oriented activities of state and local authorities, together with the work of non-state national and international institutions, will most effectively ensure the implementation of the mechanism of legal support for the best interests of the child.

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4. Regulatory and legal aspects of corruption prevention in Ukraine in accordance with the requirements of the European Union

Law-making as a method of scientific research plays an extremely important role in the knowledge of social phenomena and processes and their essence. It is a universal method also in terms of transforming the future: it is impossible to carry out social transformations without having a proper innovative project.

Modern Ukraine has become a training ground for various social experiments. Therefore, in its history, it is not difficult to find different types of anti-corruption models that meet the requirements of the European Union. 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 tough response to any deviations from accepted norms (written and unwritten) that they have allowed. This model was mostly implemented in the era of Stalinism [1].

With this approach to fighting corruption, human rights are violated, since totalitarianism is fundamentally incompatible with their observance.

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 according to the requirements of the European Union has its own fundamental feature – the implementation of responsibility is selective, in accordance with the attitudes of the „leader". For a long time, such persons were representatives of the party elite. This model was typical during the reign of Khrushchev-Brezhnev [1].

Two more features inherent in the authoritarian model should be mentioned: firstly, the rise of an official to a certain level of authority actually provides legal immunity and, secondly, money in this model plays a secondary role or has no importance at all [1].

The considered model of combating corruption motivates the desire to get into power structures for reasons of personal safety and impunity; therefore, the processes of power degradation and its successive 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 existence of this model are the time of the Provisional Government, reforms are actively taking place.

The oligarchic model of combating corruption is carried out in accordance with the clan approach – according to the principle of „one's own – another's". Since power is exercised by „teams", they protect their „own" from responsibility in all possible ways, but in relation to „strangers" they collect compromising material and try to give it a legal course. We can observe the implementation of this model today [1].

In the oligarchic model, money is extremely important, so the vast majority of issues, including in the law enforcement sphere, are settled with their help. Hence the modification of this model into a criminal one, since, as practice shows, bandits are also freed 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. Lack of control gives rise to large-scale corruption in lower power structures [1].

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 according to the requirements of the European Union 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.

Therefore, 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 the fight against corruption, 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 certainly expects the authorities to declare their intention to carry out fundamental reforms of the law enforcement system in accordance with the requirements of the European Union. 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 law enforcement agencies and the judicial system, what will be criminal justice in general and will depend on what will be our state: legal, democratic or totalitarian [2].

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 proceedings are carried out in the interests of the entire society as a whole and an individual person in particular" [3]. 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 regulatory and legal mechanism and a retrospective analysis of typical models of combating corruption, we can offer our own model of regulatory and legal support for the prevention and counteraction of corruption in the civil service system of Ukraine in accordance with the requirements of the European Union.

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.

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 [4].

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 [5]. 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 [5]. 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 that of a judge, which ensures his real independence and allows him to bring charges even against high-ranking state officials [1].

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 [2].

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, according to the level of corruption in them, occupy the „leading" places [6].

As noted in the Fundamentals of State Anti-corruption Policy 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 [7].

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 of judges and financial support of court activities [8].

Unfortunately, in the formation of the judicial branch of power, the means of corruption are quite broad in accordance with the requirements of the European Union.

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.

The corruption of judicial authorities and judges makes them especially vulnerable to corruption. 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.

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.

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.

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 [1].

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 judiciary 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 widespread corruption requires further reform of the judiciary in Ukraine to the requirements of the European Union. With an independent judicial system, under which a corrupt person who has violated the Law is promptly and effectively found guilty of committing a corruption offense, the potential attractiveness of corruption 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 and combat corruption, 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 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, in accordance with the requirements of the European Union, 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 regulatory and legal measures aimed at preventing and countering corruption in the civil service system, 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, the modern foreign experience of combating corruption proves that the above-mentioned principles are not enough, since the Western anti-corruption measures proved to be insufficiently effective and could not prevent the growth of corruption in the West either in the past or 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 legal model for preventing and countering corruption to the requirements of the European Union 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.

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:

– 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, it is worth addressing the requirements of the European Union, among the measures mentioned, to improve legislation and the legislative process, in the following areas:

– 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 and combat corruption 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 different levels of the power hierarchy, a necessary measure will be a constant review of measures to prevent and combat corruption in order to identify and abandon ineffective measures and replace them with more effective ones.

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 [9]. 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 consist in moving 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 [10].

It should be recognized that recently, in various spheres of Ukrainian society, awareness of the real danger of corruption and the need for a qualitatively new attitude to countering it is gradually maturing to the requirements of the European Union. 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 in accordance with the requirements of the European Union deserve serious criticism, the goals and objectives put forward by it were limited to half-measures and stopped halfway, and there was no significant impact of its results on the corruption situation. 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 [11].

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 in individual countries to the requirements of the European Union 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 anti-corruption, the adoption of relevant Laws and regulations [12].

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. To be effective, they must be closely combined with other forms of anti-corruption, 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 to the requirements of the European Union 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 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 and combating corruption in the civil service system of Ukraine is becoming urgent.

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 and combating 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 civil service system of Ukraine in accordance with the requirements of the European Union, 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). At the same time, all of them are controlled by the Parliamentary Committee on Prevention and Combating Corruption.

In our opinion, it is worth using foreign experience to meet the requirements of the European Union, 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.

It can also be argued that the entire set of legal means should be used to effectively counter corruption in the civil service system of Ukraine. Among the regulatory 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.

In order to further develop the mechanisms for preventing and countering corruption, we consider it necessary to supplement the Law of Ukraine „On Prevention of Corruption" with provisions on the protection of civil servants who have informed the relevant state authorities about the facts of corruption.

Thus, it is currently necessary to optimize the interaction between various law enforcement agencies involved in the anti-corruption mechanism. 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 regulatory and legal mechanism and a retrospective analysis of typical models of combating corruption, we can offer our own model of regulatory and legal support for the prevention and counteraction of corruption in the civil service system of 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.

The modern foreign experience of combating corruption in accordance with the requirements of the European Union 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 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 preventing and countering corruption to the requirements of the European Union 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.

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.

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 measures to prevent and combat corruption 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 different levels of the power hierarchy, a necessary measure will be the constant review of measures to prevent and combat corruption in order to identify and abandon ineffective measures and replace them with more effective ones according to the requirements of the European Union.

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5. Constitutional right to information in Ukraine and the EU

Abstract

The development of the information society at the present stage of active implementation of information and information and telecommunication technologies, access to cross-border information systems, availability of various types of information is a new stage in the development of human civilization. Information today is a real force that significantly affects the development of the state, society, and personality. At the same time, along with significant positive changes, new challenges and threats to the person, the state, national security, etc. are emerging.

Under these conditions, ensuring the rights and freedoms of man and citizen guaranteed by the Constitution of Ukraine in the information sphere and ensuring state independence, national security, immutability of the constitutional order of Ukraine are integrated into a complex complex of interrelated and interdependent problems that need to be effectively addressed, primarily at the legislative level. This determines interest in the chosen topic. It is worth noting that the constitutional right to information cannot be integrated into domestic legislation at the proper level without a scientific analysis of constitutional and legal norms and their constitutional regulation, analysis of the relationship between constitutional, legal and specialized regulation of the right to information [1].

Information, according to researchers, is a productive force and a commodity, while at the same time being a means of protection and attack in defending the state, corporate and personal interests of subjects of power relations. Since the first attempts at scientific understanding of the concept, essence and meaning of information in society, the problem of the right to access information has been the object of considerable attention of representatives of various scientific directions – historical, socio-psychological, philosophical, legal, technical, etc. However, despite the different level of coverage of the problem in terms of information content and source support, they do not exhaust the research topic, but on the contrary, in modern conditions of

formation of the national and global information space, it is enriched and actualized [2].

Introduction

Each state must provide the person who is on its territory with the opportunity to exercise information freedom. At the same time, the state should limit itself to the law, as well as to natural and informational human rights [3]. The rights to information play a special role in freedom of information. Establishing the interdependence of proper and possible behavior, the unity and equality of mutual rights and obligations, the right, outlining the boundaries of freedom, acts as a positive side of freedom, which eliminates arbitrariness, tyranny and oppression of the individual.

Law is a tool that, with the help of special legal methods, makes it possible to realize a person's information freedom. Being the product and result of the natural development of the whole society, the right must take into account the interests of both the whole society and the individual. The right provides a person with a number of opportunities that can be used to realize the inherent information freedom of a person [4].

The set of norms that are enshrined in law and implement the information freedom of a person is called information rights. Let us pay attention to the fact that the interpretation of information human rights is often given low priority. The concept of information, in turn, is also interpreted only partially. Some researchers actually narrow the right to information to freedom of information altogether. Information rights are primarily intended to realize the information freedom of the individual, including the dissemination of information [5].

The right to information is a fundamental comprehensive human right that belongs to them from birth. The right to information is the ability to freely carry out with information any actions not prohibited by law (receipt, use, storage, distribution, transformation), if they do not harm the information security of a person, citizen, state and society.

Information relations themselves arise in all spheres of life and activity of a person or society. Specific information relations and information rights can almost

always be attributed to one of the spheres of life or the corresponding group of rights – personal, political, economic, social, cultural [6].

In the XXI century, information is the main factor in the socialization of a person, a link between a person, society and the state. Objective and timely informing of citizens by the authorities and providing the necessary information for the functioning of the state on the part of citizens, obtaining by the participants of public relations reliable and complete information about events in the country, the environment, the use of information to meet basic needs are the basis and key to the development of a democratic, rule of law, civil and information society.

The Universal Declaration of Human Rights stipulates that everyone has the right to freedom of opinion and free expression (p. 19). This right encompasses the freedom to freely hold one's beliefs and the freedom to seek, receive and disseminate information and ideas by any means and means, regardless of state borders. Resolution of the Parliamentary Assembly of the Council of Europe 1087 (1996) on the consequences of the Chornobyl disaster states that public access to clear and complete information should be considered as a fundamental human right [7].

5.1 Development of human rights in the information society

The realities of today indicate a significant increase in the possibilities of exercising constitutional rights to information and freedom of information. Citizens have the opportunity at any time and from anywhere in the world to be in information interaction both within the country and with the outside world. The information infrastructure is developing globally, so to stay away from these processes is a return to the last century. We are deeply convinced that the information vacuum, not the possibility of analyzing and disseminating information, is one hundred percent transformation of the population into a humanoid mass that does not have its own thoughts, thinking and desire for development. Citizens in such territories turn into primitive beings with minimal needs, where the only information that cannot be questioned is and what is beneficial to the ruling elite.

In our opinion, information, the development of information rights of citizens, the development of the state as an organization of power, effective management is impossible without modern communications. The information society is the reality of today, and the protection of information human rights should become one of the priorities of the state.

Throughout the history of mankind, there has always been a question of building an effective and optimal form of political organization that would meet the requirements of the time, which could develop, act effectively, taking into account the latest opportunities, innovations in all possible areas. Public communications of today is not only the exchange of science, or other knowledge, it is the exchange of information [8].

Globalization, which permeates all aspects of human activity, including the state and law, left no place for the former dominants on which the functioning of the state was based. Integration in law, which finds its manifestation in the phenomena of harmonization and unification, poses fundamentally new tasks for modern states. As a result, the modern nation-state is modified under the influence of two opposite tendencies, leading, on the one hand, to its "weakening", on the other hand, to its "strengthening". The sign of the time was communication – the acceleration of physical movement, as well as the exchange of ideas, information, valuablestyam, lifestyle models [9].

At the same time, globalization processes are changing the status of a person as a subject of legal reality. The basis of such a change is the idea of the need for human activity and purposefulness in the direction of self-realization in various spheres of individual and social life. Especially significant is the development of the sphere of human and civil rights and freedoms, the scope of which is expanding, and the content is deepening. In addition to the above, it is necessary to take into account that the modern globalization era determines the guidelines for the treatment of information. The latter mainly spreads through the Internet, which has unlimited spaces. This actively influences the sphere of values, which to a large extent are increasingly beginning to receive their substantive basis through the media, Internet channels, etc.

The maximum involvement of a modern person in the "Internet" system contributes to the expansion of virtual space, which exists in parallel with objective reality. At the same time, virtual reality is increasingly dominating. Due to such active dissemination of information, a separate legal institution is formed – information law, which provides, among other things, for the protection of personal data of a person [10].

Accordingly, the rapid development of the modern information society entails the emergence of new rights (digital) that did not exist before the advent of the Internet network and which scientists include in the list of the fourth generation of human rights. Among them, in particular: the right to access the Internet, the right to freedom of speech on the Internet, the right to be forgotten, the right to digital death and others. For example, the right to digital death is enshrined in the French Digital Republic Act of 2016. Similar to a will, a person has the right to enforce his or her will to further the fate of his personal information published online after death by the providers of the relevant services. In this way, the rights of the individual will to some extent "continue" [11].

The development of the information society at the present stage of active implementation of information and information and telecommunication technologies, access to cross-border information systems, availability of various types of information is a new stage in the development of human civilization. Information today is a real force that significantly affects the development of the state, society, and personality. At the same time, along with significant positive changes, there are new challenges and threats to humans, state security, national security, etc. [12].

In addition to rights that directly implement information freedom, there are "related rights", by which we mean a group of rights that contribute to the realization of a number of rights and freedoms, as well as information freedom of a person, information rights. This is the right to petition, appeal to state bodies, freedom of the media, the right to receive information about the state of the environment, etc. Information rights do not duplicate them, but relate as a whole and a part. This means that information rights regulate information processes in areas that are not regulated by other information laws. Information rights are organically included in the structure of

other rights and freedoms, streamline information processes. But when using all the rights related to the provision of information, it is necessary first of all to focus on the principles of information freedom of the person, which occupy a prominent place and establish the principles of using the rights associated with information processes. Since information freedom determines the totality of certain possibilities of information rights, it is about information freedom that should be discussed in modern society, it is necessary to investigate and interpret information rights from the standpoint of information freedom [13].

The right to information is a fundamental right that ensures the comprehensive development of the individual, the full functioning of the rule of law and democracy, the formation of civil society. In the modern world, the presence or absence of this right in a person is an indicator of the level of democracy of the state, the civilization of society, the observance and protection of generally recognized rights and freedoms of man and citizen [14].

Man is a free being who a priori has freedom of activity and behavior, has freedom of choice, even in relation to his own life, since he can choose between life and death. However, man as a living being cannot exist outside of society, but each individual has his own amount of freedom, so it becomes necessary to find a common dimension of civil freedom for all, within which personal freedom would be realized [15].

At all levels of life of a modern person from global politics to everyday life, over the past few decades there have been dramatic changes. In this new reality, it is critically important not only the fact of the emergence of a new information and communication field, which radically transformed the usual infrastructure of social life, but also the explosive increase in the rate of change caused by the breakthrough development of digital technologies. The uniqueness of the experienced historical moment lies in the fact that fundamental changes occur in real time, while creating both unprecedented opportunities and problems that humanity has never yet encountered in its history [16, p 23].

The powerful development of mankind (including in the scientific and technical sphere), the processes of globalization, the change of value orientations in society actively contribute to the formation of new ideas about social relations. Due to this, law as a social institution undergoes transformation, it becomes more dynamic, unified, integrated, human rights and freedoms expand, their interpretation deepens [17].

The change of values is always an evolutionary process that involves their formation depending on the historical and cultural position of a person and society of a certain era. Due to this evolution, the most effective and livable values in specific conditions retain their role, and the less "stable" ones depart. Thus, it is appropriate to note that each period of human history in the context of values isperiod of the "struggle" of traditionalism and innovation (modernity). At the same time, as noted, the negative impact of globalization on value attitudes lies in the fact that values become purely conditional, easily amenable to change. As a result, value relativism is formed, according to which all values are recognized as equivalent, and the criteria for their evaluation gradually become relative.

Under the influence of globalization, the entire system of social relations, the legal sphere and most legal phenomena are changing. Human rights are directly related to social existence, so globalization challenges also affect this institution. It is already possible to argue about the establishment of new human rights and the expansion of their content. If we consider them usingmathematical methodology, we are talking about the so-called "fourth generation" of human rights [18].

A. Vengerov notes: "The fourth generation is a legal response to the challenges of the XXI century, when it comes to the survival of mankind as a biological species, the preservation of civilization, the further cosmic socialization of mankind. A new, fourth generation of rights is being born and, accordingly, international legal procedural institutions are emerging that ensure these rights. International humanitarian law is being formed, secular humanism becomes one of the milestones in the moral development of society" [19].

If the nineteenth century was called the century of production, the twentieth century of management, then the XXI century, I.V. Aristova notes, is really the century

of information, and information processes are the subject of conscious, purposeful and scientifically based activity. At the same time, law plays a significant role in the conscious design of information processes, through which not only the prevailing relations are regulated, but also the sphere of information activity is expanded, which is caused by social needs. Thus, the right affects the implementation of information processes, defining and supporting those areas that form the information society [20].

In the information space, there are tendencies to transform the representation of the individual in its virtual form, which performs the task of the necessary adaptation in the changing information flows of the global digital space.

In the conditions of modern development of society, human digitalization is an important condition for social adaptation to new challenges of the postmodern world. The term "digital person" was first used in 2001 by the American writer Mark Prensky to refer to people born after the digital revolution who live surrounded by computers, video games, players, video cameras, mobile phones (smartphones), networks, etc., and who are used to receiving information through digital channels, and all of the above becomes an integral part of their lives. In 2007, American entrepreneurs Josh Spear and Aaron Dignan introduced the concept of Born Digital ("digital from the day of their birth"), which was later transformed into Digital Gen eration ("digital generation") [21, p 11].

According to L. Leonova, the optimal definition of globalization in the field of human rights can be the recognition of the universal status of human rights, the consolidation of human rights and freedoms and their protection at the international level. Humanity has long realized the need to consolidate basic human rights in order to ensure them by all states of the world. In turn, we want to emphasize that the information space has no borders, it is common to all mankind as a whole. We are aware that certain countries of the world are trying to isolate their citizens, to create for them a parallel information reality, such as Russia, North Korea, that over time, reliable information will become available in these countries.

In the context of today, it is worth noting that sometimes the restriction of access to information is in the nature of ensuring the national security of the state, ostracized

in the conditions of the war in Ukraine. With the introduction of martial law, Ukraine partially deviates from its obligations under Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which establishes the right to freedom of expression and access to information, guided by Article 15(1) of the Convention, which allows taking measures deviating from its obligations under the Convention in times of war or other public danger that threatens the life of the nation, but only to the extent required by the severity of the situation, and provided that such measures do not contradict itsother obligations under international law [22].

In particular, under martial law, the state may introduce the following information security measures: control over the content and dissemination of information in order to limit or prevent false information or information, the publication of which may harm human life and health, national security of the state; access to information and propaganda resources of the enemy on the territory of Ukraine is limited by Internet providers; the work of suppliers of electronic communication networks and/or services, printing companies, publishing houses, TV and radio organizations, TV and radio centers and other enterprises, institutions, organizations and institutions of culture and the media, as well as the use of local radio stations, television centers and printing houses for military needs and explanatory work among the troops and the population has been regulated; the work of receiving and transmitting radio stations of personal and collective use and the transmission of information through computer networks is prohibited [23].

The legal nature of the right to freedom is based on the understanding that every person is born free and has the right to freely choose for himself the nature and method of communication with the outside world, people, nature, to build the world that directly surrounds him, to perform at his own discretion any actions, including actions related to the collection, storage, dissemination of information, etc., which are not contrary to the law. Century. Art. 29 of the Constitution of Ukraine guarantees the right of every person to freedom, and under Art. 21 Theinstitutions of all men are free [24].

Thus, the right of a citizen to personal freedom is also understood as a secured opportunity to demand the termination of a person's actions by court if these actions

limit the personal freedom of a citizen, namely, the freedom to receive, store, distribute information. The right to personal freedom is also an appropriate measure of the permitted behavior of a citizen to dispose of himself, information known to him, his actions, etc. Freedom includes physical, economic, political and individual freedom. O.V. Kokhanovskaya also adds to this list information freedom, by which one should understand the ability to freely dispose of information known to a person [25].

Human rights are a supernormal form of human interaction, ordering of their behavior and coordination of activities, they are also a means of overcoming contradictions and conflicts. For the first time at the international level, the consolidation of information human rights took place in Art. 12, 18 and 19 of the Universal Declaration of Human Rights, which in principle is reproduced in the basic law of our state – the Constitution of Ukraine [26].

The set of norms that are enshrined in law and implement the information freedom of a person is called information rights. It is worth noting that mankind spoke about information rights in its pure form relatively recently, because they are considered the rights of the fourth generation of human rights. These rights are still often separated into a set of virtual rights. As T. Malyarenko notes. Human security and human rights are closely related. It is based on ensuring human rights, and also takes into account the human rights of the "third generation", including the right to development and the right to peace [27, p. 17].

K.R. Kalyuzhny noted that, as time and development of society, and the world as a whole, has proven, the development of information human rights is influenced by many different factors. This includes the development of fierce competition and the market for information goods and services, a significant digital divide, the clash and breaking of the legislation of countries due to the disappearance of geographical and geopolitical borders of states within the framework of information networks and many others. All these circumstances require the development of a new systematic approach to the information rights of a citizen, because they can become an important tool for the rapprochement of not only countries, but also civilizations [28, p. 56].

Information is the value of the modern world, it is created, is in circulation, is used in all spheres of activity, ensures the performance of many functions and tasks that are before different subjects of information relations.

Reflecting the real reality, it affects all areas of social and state activity. With the advent of new, information technologies based on the introduction of nanotechnology, electronic communications, telecommunications systems, information becomes a constant and necessary attribute of any social relations.

The use of digital technologies has given rise to the processes of revolutionary transformations in modern society – the so-called digital revolution, the digital transformation of social relations, which is expressed in the use of modern digital technologies in various fields of human activity and as a factor of dynamic development has led to the creation of a digital economy, the formation of digital law institutions, a new configuration of social relations based on the use of social networks, the Internet, and others. information and communication technologies [29].

Technology gives life the potential for an unprecedented flourishing. Thus, the process of including algorithms and fruits of information and communication technologies in the formal sense accumulates a variety of forecasts and observations, which justifies the degree of materiality of digitalization. Their implementation is extremely rapid and is extremely active in any industry: from management to industrial production. Automated databases and computer bots conquer markets and transform society, meanwhile they succeed in doing so due to demand and dependenceof certain areas on ICT options [30, p. 110].

In the era of post-industrial development, information becomes the determining factor of production, without which any developmentissues, both economic and legal, are leveled [31]. Information should reflect more complex, global and rapidly changing business processes, ensuring the ability of management to adequately respond to the challenges of legal and economic existence [32].

The modern world is developing very rapidly under the influence of innovations in the field ofinformation and communication technologies. The management of states,

cities and communities, communication between the authorities and residents is increasingly carried out using these technologies.

Openness, transparency, accountability of government and participation in the governance of citizens become the basis for good governance, and technologies ensure the availability and simplicity of these processes. The choice of the model of electronic democracy in cities rests directly with local governments and active citizens. These tools combine and at the same time accelerate the development of e-governance services and technologies, in particular, e-document circulation, the quality of government e-services, its transparency, accountability and efficiency [33].

In the context of technology development, it became possible to actively exercise the rights of a citizen to participate in the management of state and public affairs, control over the activities of state authorities and local governments. In addition to receiving public services in electronic form, with the help of e-government, citizens can and should use a simple and convenient way of participating in the political life of the state, which is called "electronic democracy". E-democracy does not destroy the system of representative democracy, as radical digital apologists sometimes claim. The creation of public information services has led to the emergence of phenomena that are interpreted in different ways: crowdsourcing, crowd wisdom, complicity, civic support. In turn, it is advisable to emphasize that with the emergence of crowdsoring, a way of manipulating the consciousness of citizens and the population as a whole has arisen through such a phenomenon as astroturfing. The broadest definition: imitation of a mass public initiative to create the illusion of demand from society. To do this, they use social networks, comments in the press, mass mailings, appeals, petitions (sometimes influencers and the media present astroturfing as a real initiative – consciously or unconsciously). The key tool of today's astroturfing is the digital technologies of bot farms, which simulate amassive reaction or initiative [34].

The right to information, as the right to freedom of thought, speech, to the free expression of one's views and beliefs, is an inalienable element of the human rights system, while having a great mutual influence in relation to each other. Thus, now a full-fledged human life is unthinkable without the right to freely express their thoughts,

their beliefs, without access to information, and therefore without the right to information.

Information rights today require such an interpretation, which, first of all, will take into account their main component – information freedom. If we understand, the information rights of a person are a set of norms protected by state authorities that establish the principle of equality of human rights, establish the priority of human freedom and protect human freedom in the field of receiving, producing and transmitting information. It includes both a set of information rights and the influence of human freedom, the fundamental role of information freedom in the realization of information rights [35].

Investigating the issue of information rights, we cannot ignore the problem of their protection, because the emergence of new technologies predetermines the emergence of new types of crimes and acts. The progress of society in the field of information, of course, gives countries great advantages in many spheres of public life, but this entails not only positive consequences, because the faster the information sphere develops, the more diverse problems arise, in particular offenses in the field of information and communication technologies. Such crimes take place not only at the local level, but also at the world level, which pose a threat to international information security. It should be noted that no state can fight this problem on its own, so there is a need for international cooperation on cybersecurity issues.

This problem is in the spotlight, because every year cybercrime causes very great damage to states and individuals. At the 73rd session of the UN General Assembly, Secretary-General A. Gutteresh estimated the annual losses from cybercrime in the world and at $ 1.5 trillion [36]. According to Cybersecurity Ventures, global cybercrime spending is expected to grow by 15% annually over the next 5 years and reach US$10.5 trillion per year by 2025, up from US$3 trillion in 2015. year [37].

Understanding of all the dangers of cybercrime confirmed, in October 2022, NATO Secretary General Jens Stoltenberg, that hybrid attacks or cyberattacks, under certain conditions, could activate Article 5 of the North Atlantic Treaty, namely that an armed attack on one or more of them in Europe or North America would be

considered an attack on them all: and, accordingly, they agree that in the event of such an attack, each of them, exercising its legal right to individual or collective self-defense, as confirmed by Article 51 of the Charter of the United Nations, will assist that Party or the Parties under attack and will promptly take, individually or jointly with other Parties, such actions as will be deemed necessary, including the use of armed force, in order to restore and maintain security in the North Atlantic area. Each such armed attack and all measures taken in connection with it will be immediately reported to the UN Security Council. Such measures will be suspended after the Security Council has taken the measures necessary to restore and maintain international peace and security [38].

In Ukraine, the majority of incidents relate to the spread of malware to the Public Sector. According to the State Special Communication Service, in the period from mid-February to early March, Ukrainian organizations suffered about 2800 cyberattacks, and the historical record per day for Ukraine amounted to 271 DDoS attacks. For comparison: for the whole of 2021 there were 2200 cyberattacks. Their number over the past three years has increased 5 times. The largest 5 cyberattacks of the 21st century confirm the importance of cyber defense of businesses of any size and field of activity in the information society. According to a report from Microsoft, since October 2021, 19% of cyberattacks in the world have been directed against Ukraine. This is the second place in the ranking after the United States. In turn, 98% of all cyberattacks use the human factor and are designed for the actions of an unprepared user and business management [39].

Technological revolutions have occurred for markets and industries since the emergence of organized communities and societies. Due to the spread of mobile devices, increasing access to high-speed Internet, the development of modern technologies (artificial intelligence, big data processing, the Internet of Things, distributed ledger technologies, cloud computing), digital platforms are practically used in many areas of human activity [40].

The faster humanity goes online, the more risks we all have to face every day. The words "cybersecurity" and "cyberattack" are transformed from ephemeral to fully

meaningful, which is something we are dealing with more and more often. Actually, every Internet user should think about the security of their stay on the network, because the victims of cybercriminals are not always governments, large companies or successful banks. Often these are ordinary citizens who have modest bank accounts and pages on several social networks [41].

Science and technology play an increasingly dominant role in modern life, and every year the extent to which scientific developments can both support and hinder the realization of human rights is becoming increasingly apparent. In the context of the study, first of all, it should be emphasized that the information right of one person should not violate any rights of another person. And theinformation space is quite difficult to control, but there is a great need to subjugate it to the relevant laws.

Dynamic changes in legislation in today's realities are a forced measure of the legislator, the provision of certain preferences or the abolition of the previous ones is not very popular, but quite necessary action of the government [42]. The legislator must take into account the requirements and needs of the society, control is undoubtedly needed and a clear balance of information rights and information freedom.

We need new approaches to information support, its highest quality, more advanced methods, technologies that will ensure reliability, competitive advantages and efficiency of regrouping, generalization and processing, built on the principle of the greatest adaptability to the specifics of the activity [43].

Globalization penetrates into all spheres of public life, actively influences the law and creates new trends in the legal regulation of human rights. The information space has no borders, so each state determines its own rules for the implementation of human rights to information, appropriate structures for the provision and protection of information are created, and attempts are made to protect a person from harmful information. In modern realities, information is both a weapon and a commodity, and only then knowledge. It should also be taken into account that the use of the latest technologies, digitization of information will contribute not only to the creation of new products and services and the expansion of human capabilities, but may also lead to a number of negative consequences.[44]

It is quite clear that it is quite difficult to predict all the ways and prospects for the development of information rights, society and globalization in general. Information rights are the foundation of democratic development, a form of realization of citizens' rights to receive complete and objective information, but this is an opportunity, not an obligation of a person.

5.2 Constitutional principles of the right to information

The analysis of scientific sources does not give a precisely defined answer to the question of the relationship between the right to information and information rights, but two leading scientific opinions are clearly distinguished. According to the first opinion, the concept of "information rights" is broader and combines the right to information in its normative meaning (the right to collect, store, use and disseminate information), as well as the right to free expression of one's views and beliefs, freedom of thought, etc. In this case, the ratio of the whole and the partial is traced. That is, information rights and information rightsare co-ordinated as whole and partial [45, p. 156]. This opinion is shared by researchers K. Kalyuzhny, O. Kokhanovskaya, T. Kostetskaya and other scientists.

Thus, T. Kostetska notes that, despite the existing approaches to understanding these concepts, it should be emphasized that the concepts of "right to information" and "information rights", their content are not identical [46, p. 115].

Researcher S. Vakaryuk emphasizes that "the concept of "information human rights" is broader, as it covers not only the ability to "freely collect, store, use and disseminate information in any way, of your choice" or even "the possibility of freely obtaining, using, distributing, storing and protecting information necessary for the realization of their rights, freedoms and legitimate interests", but all human rights and freedoms, having an informational nature; In addition, information rights and the right to information are correlated according to the "general – partial" scheme [47, p. 158].

Other researchers note that the right to information and information law are meaningfully identical. Such an opinion is based on the perception of the right to information not as a separate personal non-property right of an individual, but as a

universal constitutional right to information containing a set of possibilities that together constitute the so-called information rights [48, p. 25]. Identical views are held by A. Barovskaya, I. Marushchak, V. Tkachenko and others. According to O. Kharenko, the legal concept of information should reflect information processes in the state, the main function of which should be to promote the implementation of state functions, to ensure democracy and sovereignty. To do this, it must consolidate the most significant, legally significant properties and qualities for free and effective operation in the legal field, and the wording should be unambiguously perceived by all participants in the relationship. From the standpoint of law, the concept of "information" should fix a certain sign form that can be decoded and which has meaning for the sender and/or receiver, and must also havea certain value, significance [49, p. 120].

Today, the legislative consolidation of the right to information is a sign of a legal and democratic state, one of the main factors of human socialization. In Ukraine, the right to information is enshrined at the constitutional level. The Constitution of Ukraine, which enshrines the right to information, is fully consistent with the fundamental international legal acts in the field of human and citizen rights. The right to freely collect, store, use and disseminate information orally, in writing or in any other way (at one's choice) is defined in the norms of Art. 34 and united with the right to freedom of thought and speech, to the free expression of one's views and beliefs, determining their independence [50].

In particular, in part 2 of art. Article 34 of the Constitution of Ukraine enshrines: "Everyone has the right to freely collect, store, use and disseminate information orally, in writing or in any other way – of his choice."

In addition, the Constitution enshrines a number of other information rights and freedoms. In accordance with Art. 31 everyone is guaranteed the secrecy of correspondence, telephone conversations, telegraph and other correspondence. Exceptions may be established only by the court in cases provided for by law, in order to prevent a crime or to find out the truth during the investigation of a criminal case, if it is impossible to obtain information by other means.

Century. Art. 32 of the Constitution of Ukraine guarantees that every citizen has the right to get acquainted in state authorities, local governments, institutions and organizations with information about himself that is not a state or other secret protected by law. Everyone is guaranteed judicial protection of the right to refute false information about himself and his family members and the right to demand the removal of any information, as well as the right to compensation for material and moral damage caused by the collection, storage, use and dissemination of such inaccurate information.

Constitutional norms ensuring the realization of the right to information are implemented in the provisions ofthe Civil Code of Ukraine [51], in the zakonah of Ukraine "On Information" [52], "On The Approach to Public Information" [53], "On Citizens' Appeals" [54], etc.

Thus, the Law of Ukraine "On Information" defines the basic principles of information relations through which the constitutional right to information is realized. These include, in particular, the guarantee of the right to information, openness, availability of information, freedom to exchange information; freedom of expression and belief; the legality of receiving, using, distributing, storing and protecting information, as well as protecting a person from interference with his personal and family life (Article 2). The law guarantees all citizens, legal entities and subjects of power the right to information, namely the free receipt, use, distribution and storage of information necessary for them to exercise their rights, freedoms and legitimate interests, the implementation of tasks and functions (Articles 4, 5). Given that the basic law includes a number of the following rights to the basic structural elements of the right to information: the right to collect, the right to store, the right to use and the right to disseminate information orally, in writing or in another way – at his choice, which, in turn, are structured into other numerous information rights, L. Vakaryuk concludes that this right is complex.

As T. Kostetska rightly points out, the content components of other constitutional rights and freedoms enshrine such rights as: the right to consent to the collection, storage, use and dissemination of confidential information about a person; the right of every citizen to access information about himself (except for those that

constitute a secret protected by law) in public authorities, local governments, institutions and organizations; the right of everyone to check the accuracy of information about themselves and their family members; the right to refute false information in court; the right to request the removal of any information about yourself; the right of everyone to compensation for material and moral damage caused by the collection, storage, use and dissemination of inaccurate information about themselves and their family members; the right to ensure the secrecy of correspondence, telephone conversations, telegraph and other correspondence; the right to free access and dissemination of information about the state of the environment (the right to environmental information), the quality of food and household items (Articles 31, 32, 50), etc., which can be defined as "information rights" within the framework of the concept under study.

Thus, the Constitution of Ukraine, guaranteeing these information rights and freedoms, ensures "stability, prospects for the development of not only relevant institutions, but also the most dynamic national social relations of a new type – informational" [55, p. 115].

Interpretation of the right to information is expanding on the basis of the positions of specialists in various fields of jurisprudence The question of the legal capabilities of citizens in the information sphere is one of the most important in finding the best option for legal regulation of the right to access information [56, p. 13].

As we can see, the constitutional right of Ukrainian citizens to information in its structure is a complex right, the main elements of which are: the right to free collection of information; the right to free storage of information; the right to free use of information; the right to freely disseminate information orally, in writing or otherwise, at one's choice; the right to the protection and protection of information [57, p. 57].

It is worth noting separately that Art. Article 15 of the Constitution of Ukraine prohibits censorship, that is, Ukraine prohibits control by public authorities over the content and dissemination of information in order to protect the information space, that is, direct or indirect actions of the state aimed at limiting or prohibiting the dissemination of information that may harm society. At the same time, in accordance

with part 3 of Art. 34 of the Constitution, the exercise of the rights to freely collect, store, use and disseminate information may be restricted by law in the interests of national security, territorial integrity or public order in order to prevent riots or crimes, to protect public health, to protect the reputation or rights of other people, to prevent the disclosure of information received confidentially, or to maintain the authority and impartiality of justice.

The Constitutional Court clarified that these restrictions should be exceptions provided for by law, have one or more legitimate purposes and be necessary in a democratic society. In case of restriction of the right to access to information, the legislator is obliged to introduce such a legal regulation that will make it possible to optimally achieve a legitimate goal with minimal interference in the implementation of this right and not to violate the essentialcontent of such a right [58].

Therefore, the right of a person to access information guaranteed by Art. Art. 34 of the Constitution of Ukraine is not absolute and may be subject to restrictions.

Thus, the right to information belongs to fundamental human rights, which requires state support and guarantees at the legislative level. The content of the right to information constitutes the receipt, use, disposal, storage and protection of information. Legal guarantees of the right to information are reflected in the system of norms and principles that ensure the possibility of realizing human rights. The ability to freely collect, store, process and disseminate information should be realized not only through legislative regulation, but also by creating the necessary state guarantees and conditions for its implementation.

The main tasks of the legislator now should be to eliminate the contradictions of regulatory legal acts in the information sphere and harmonize legal norms by codifying information legislation.

5.3 Constitutional and legal regulation of access to information in Ukraine and the countries of the European Union

Observance of the constitutional right to access information in Ukraine is an urgent problem of constitutional, informational, administrative and other branches of

law. Despite the fact that the right to information is guaranteed by the Constitution, regulated by a number of laws, numerous cases of its violation necessitate its further proper legal support, strict adherence to constitutional norms. In addition, the proper implementation of citizens' access to public information at the present stage is important for ensuring the sovereignty and national security of the state and society.

It is well known that in every state, including Ukraine, there is not a single person who during his conscious life at least once has not exercised his right to access information owned by the authorities. Ways to exercise this right can be very diverse: direct appeal to the authority, familiarization with information from official publications, the media, the Internet, official websites of government bodies, etc. However, many questions arise that sometimes cannot be answered: whether a citizen always remains satisfied with the exercise of his right, whether there are difficulties, obstacles in the exercise of the right, whether the authorities violate and in what way the right to access information, how violations can be eliminated, etc.

The numerous cases of violations of the right to access to public information recorded by the Commissioner for Human Rights of the Verkhovna Rada of Ukraine are evidence that the legal mechanisms of provision do not fully meet the requirements of today and need to be improved. Thus, out of the total number of reports of violations of civil and political rights, almost 70% are reports of violations of the right to information and appeals to public authorities.

The problem of access to public information has worsened under the quarantine restrictions, numerous cases of violations of the right of access to public information have been recorded, especially at the beginning of the pandemic. For example, public information managers (for example, public authorities) were not ready for such a large amount of requested information, which led to numerous violations of the constitutional right to access information. The problems of improving the legal mechanisms of passive access to public information, the completeness and timeliness of the disclosure of such information by information managers, minimizing the abuse of the right to information of requesters, eliminating violations of the legislation on the disclosure of information of increased public interest, etc. require modern approaches

to their solution. After all, the requirements for accessibility, openness, publicity of information are very high and are important for the development of modern democracy in Ukraine and ensuring the participation of citizens in public administration (both at the local and national levels).

In such circumstances, both the Law "On Access to Public Information" and bylaws that "do not have time" to meet the needs of the modern information society need to be improved. These problems have become particularly relevant in connection with Ukraine's ratification of the Council of Europe Convention on Access to Official Documents (Tromso Convention).

The problem of exercising the constitutional right to access public information was covered in their research by such domestic scientists as E. Ablyakimov, B. Kormich, I. Kushnir, E. Larin, A. Marushchak, O. Nesterenko, V. Politansky, O. Sybiga, L. Rudnik, E. Teptyuk, Y. Todika and others.

Since the system of legislation that provides guarantees of the constitutional right to access public information needs to be brought in line with modern international standards and the existing gaps are eliminated, further study of this issue is necessary.

To analyze the implementation of the constitutional right to access public information in national legislation, to identify the main problems and ways to solve them.

The fundamental principle of information openness is enshrined in international instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Council of Europe Convention for the Protection of Human Rights and Fundamental Freedoms, the UN Convention on Access to Information, Public Participation in Decision-Making and Access to Justice on Environmental Issues, and the Council of Europe Convention on Access to Official Documents.

The essence of the principle of information openness is: the availability for citizens of information that is of public interest or concerns personal interests; systematic informing citizens about proposed or adopted decisions; citizens exercise control over the activities of state bodies, organizations and enterprises, public

associations, officials and their decisions related to the observance, protection and protection of the rights and legitimate interests of citizens; providing citizens with information services [59].

The principle of information openness is also declared in the Constitution of Ukraine. Thus, the Constitution of Ukraine stipulates that everyone has the right "to freely collect, store, use and disseminate information orally, in writing or in any other way – of his choice" (Article 34). Article 32 states that "every citizen has the right to get acquainted in public authorities, local governments, institutions and organizations with information about himself that is not a state or other secret protected by law" [60]. Thus, in Ukraine, the right of access to information is a constitutional right of every person.

In Ukraine, the constitutional right of a person to access public information is enshrined and detailed by the laws of Ukraine, by-laws and other documents. The main document regulating the constitutional right of a person to access public information is the Law of Ukraine "On Access to Public Information" [61].

In addition to this basic law, certain issues of access to public information are regulated by a number of other regulatory legal acts, such as the laws of Ukraine "On Information", "On Prevention of Corruption", "On Protection of Personal Data", etc.

The right of access to information is defined as one of the information rights, which implies that everyone freely collects information and receives it from persons who own this information legally [62, p. 78].

As E. Teptyuk notes, "the right to access information is an organic component of the common right to information, its specific aspect, the universal starting element that is present in all the special rights of this single "fromthe birny" right to information" [63, p. 64].

According to E. Larin, the right to access information is a component of the subjective right of a person and a citizen to information, a set of his powers to freely collect and receive information, which consists in the guaranteed norms of the right of everyone to actually receive information, which is the result of an active search for

information and determining the legitimate ways of acquiring them during the exercise of his right to information within the limits and method, recognizedby law [64, p. 3].

It should be noted that the constitutional right to information and the right to access information are correlated as a whole and a part. The right to access information, which provides for the possibility of free receipt of information, consists of separate powers to access specific types of information (public, mass, personaldata, etc.) [65, p. 394].

According to international documents, information that is freely collected, received, stored, used and distributed is public. Restrictions on the right to collect, receive, store, use and disseminate public information are determined only by the conditions of storage, the specifics of the values and the special conditions for their preservation, which are determined by law.

The defining feature for public information is that it is pre-recorded by any means and on any media and was in the possession of subjects of power, other distributionof public information [66].

In our opinion, I. Kushnir, who believes that this right is "enshrined in the norms of the constitution, detailed in laws (taking into account international legal standards) the ability of a person to receive information recorded on tangible media or reflected in electronic form from administrators who own or are obliged to own it in accordance with applicable law, is quite complete. A person's constitutional right to access public information is a type of right to information and is provided by the state [67, p. 47]. One of the varieties of a person's constitutional right to information is a person's right of access to public information.

Public information is defined by Ukrainian legislation as reflected and documented by any means and on any media information that was obtained or created in the process of performance by public authorities of their duties stipulated by the current legislation, or which is in the possession of public authorities, other administrators of public information, determined by law.

Analysis of the Law of Ukraine "On Access to Public Information" allows us to conclude that public information includes: all information that is in the possession of

public authorities, that is, public authorities, other state bodies, local self-government bodies of other entities that carry out power management functions in accordance with the law and whose decisions are mandatory for execution; information on the use of budget funds by legal entities financed from the state and local budgets; information related to the performance by persons of the delegated powers of public authorities in accordance with the law or contract, including the provision of educational, recreational, social or other public services; information on the conditions of supply of goods, services and prices for them, if we are talking about business entities that are dominant in the market, which are endowed with special or exclusive rights or which are natural monopolies; information on the state of the environment; quality of food and household items; accidents, disasters, dangerous natural phenomena and other extraordinary events that have occurred or may occur and threaten the health and safety of citizens; other information of public interest.

A person has the right to freely receive and disseminate public information, except for restrictions established by law. Restriction of access to information is carried out in accordance with the law, provided that a set of the following requirements is met: 1) solely in the interests of national security, territorial integrity or public order in order to prevent riots or crimes, to protect public health, to protect the reputation or rights of other people, to prevent the disclosure of information received confidentially, or to maintain the authority and impartiality of justice; 2) disclosure of information may cause significant harm to these interests; 3) the harm from the disclosure of such information outweighs the public interest in obtaining it [68].

I. Kushnir defines the content of a person's constitutional right to access public information as "a system of needs and interests of a person, enshrined in the norms of the constitution and laws, taking into account international legal standards, regarding the receipt of public information through its systematic and prompt disclosure or upon request, as well as the possibilities of using it at its own discretion" [69].

According to V. Paliyuk, the principle of maximum disclosure of public information is important, which is that all information stored by public authorities is

subject to disclosure. In addition, the subjects of power must, on their own initiative, use the necessary means to publish such information that is at their disposal [70].

It should be noted that the national legislation regulating the right to access information is of sufficient quality, clear and structured, as evidenced by the assessments of international experts [71].

However, the new challenges of today, the rapid development of the information society, improved international standards of information rights require appropriate changes. Ukraine's ratification of the Council of Europe Convention on Access to Official Documents in May 2020 obliges Ukraine to guarantee the right of everyone (not only a citizen) to access information, introduces both national and international monitoring mechanisms in the field of access to public information. As we can see, the ratification of the Convention sets a task for the national legislator to make appropriate changes and additions.

According to abz. 1 art. 5 section 1 of the Constitution of the Federal Republic of Germany of May 23, 1949, "everyone has the right to freely express and disseminate his opinion orally, in writing and through image, as well as to receive information freely from publicly available sources. Freedom of the press and freedom of transmission of information through adio and cinema are guaranteed. There is no censorship" [72].

The Constitution of the Federal Republic of Germany guarantees the security of any person to freely express and disseminate his opinion in the ways specified in the article, as well as to receive information from legitimate sources. The state regulates the freedom of the press and the freedom to transmit information through radio and cinema. Note that in Germany, television and radio companies and companies for publishing newspapers and magazines are privately or publicly owned, which determines their independence from state power. Thus, the risk of censorship is minimal, and the state proves that it is democratic and social. In abz. 2 art. Art. 5 of the Constitution of the Federal Republic of Germany stipulates that the rights that are defined in the abstract. 1 of this article, limited by the norms of general laws, in particular the legal norms on the protection of youth and the right that guarantees the

protection of personal honor; in abz. 3 art. Art. 5 stipulates that "art and science, research and teaching are free. Freedom of teaching does not exempt from the obligation to make allegiance to the Constitution" [72].

Such an interpretation of the norm means that the detailing of the order of legal use and restriction of the rights specified in the abstract. 1 art. 5 of the Basic Law of the Federal Republic of Germany is contained in the laws of both the Federation and the lands of the Federal Republic of Germany (in cases that do not contradict the Constitution of the Federal Republic of Germany and the laws of the Federation). Also, for freedom of teaching, a person should not violate the norms of the Constitution. According to Art. 10 of the Basic Law of the Federal Republic of Germany, the secrecy of correspondence, as well as postal, telegraph and telephone communications is inviolable. Restrictions can be established only on the basis of the law.

In accordance with Art. 49 section 2 of the Constitution of the Republic of Poland, the state "ensures freedom and protection of the secrecy of communication. Their restriction is provided only in cases specified in the law, and in a certain way." That is, the state guarantees freedom and security of communication. In part 1 art. Article 51 of the Constitution of the Republic of Poland states: "No one shall be obliged other than on the basis of law to disclose information relating to his identity." This means that no one can force a person to disclose personal information unless it is regulated by the laws of the Republic of Poland. According to part 2 of art. 51 of the Constitution of this country, "public power may not receive, collect, and provide other information about citizens than that which is necessary in a democratic rule-of-law state." That is, the Polish authorities should own and use only the information about citizens that is necessary when they perform their legal functions (for example, taxation; conducting a census; payroll, identifying the person who committed the offense, etc.) [73].

In part 3 of art. Art. 51 of the Polish Basic Law states: "Everyone has the right to access official documents and data collections relating to him." This means that each person is not prohibited from using those documents and information resources that contain information about them. In accordance with parts 4 and 5 of Art. 51, "everyone

has the right to demand a refutation, as well as the removal of information false, incomplete or collected in a manner contrary to the law. The principles and procedure for collecting and providing information are determined by law."

In part 1 art. Article 54 of the Polish Constitution enshrines: "Everyone is provided with freedom of expression, as well as the receipt and dissemination of information." That is, the state guarantees to anyone to express their vision of a particular situation, receive information from others and disseminate it. According to part 1 of art. 61 of the Basic Law of Poland, "a citizen has the right to receive information about the activities of public authorities, as well as persons performing public functions. This right also covers obtaining information on the activities of economic and professional self-government bodies, as well as other persons and organizational units within the limits within which they perform the tasks of public power and carry out the economic use of communal property or property of the state treasury". Thanks to such rights, every citizen of Poland exercises public control of the state, which, represented by the authorities, provides information aboutits activity [74].

In art. Art. 21 of the Constitution of the Italian Republic provides that everyone has the right to freely express their thoughts orally, in writing and otherwise. The press is not subject to permission or censorship [75]. The interpretation of the lines of this article "the press is not subject to permission or censorship" means that no one should and cannot influence the activities of the media regarding the content of their information and publications, unless it violates state law. If Italian law is violated or the press law expressly provides for the confiscation of the press, then this happens according to a motivated court decision. According to abz. 4 art. 21 of the Italian Constitution, "in case of urgent need and if it is impossible to make a timely court decision, the confiscation of the periodical press is possible by decision of judicial police officials, who must immediately and not later than twenty-four hours notify the court. If the court does not decide on the confiscation within the next twenty-four hours, the decision of the judicial police officials is considered to be overturned."

In accordance with Art. 28 of the Romanian Constitution, "the secrecy of correspondence, telegraph messages, other postal items, telephone conversations and

other legal means of communication is inviolable." This means that the state guarantees the secrecy of the transfer of information in the manner specified in the Constitution. According to Art. 29 of the Constitution of this country, "freedom of thought and opinion, as well as freedom of religious belief, shall not be restricted in any form. No one can be compelled to accept an opinion or join a religious 87 beliefs that will discourage his conviction" [76].

That is, the state respects the right of everyone to a subjective position and expression of their own opinions. In part 1 art. 30 states that "the freedom of public expression of opinions, opinions or beliefs and the freedom of any kind of creativity through speech, writing, images, sounds or any other means of communication are inviolable" This legal act details the right to express an opinion, namely, it states in what form it can be expressed. Parts 2–5 of the Romanian Constitution regulate freedom of the press, which is that: censorship is prohibited; freedom of the press also implies the freedom to establish print media; no printed edition may be prohibited; The law may oblige the media to publicly report on the sources of their funding.

The Constitution of Ukraine has raised the rights and freedoms of man and citizen to a qualitatively higher level. All human rights are equally necessary for the development of the individual, and therefore any attempts to rank them are unacceptable. This approach is fully consistentwith modern international practice [77, p. 7]. One of the most important functions of a democratic constitution is the restrictive function. It consists in limiting state power, establishing constitutional boundaries and determining the basis for the activities (powers and procedural forms) of public authorities. It is in this function, according to most Western legal scholars, that the essence of the constitution lies. [78 , p. 91]. According to the provisions of Section II of the Constitution of Ukraine, fundamental rights and freedoms may be limited to: prevent a crime; stop the crime; prevent the disclosure of information received confidentially. In general, they can be consolidated into two groups: 1) protection of human and civil rights and freedoms; 2) protection of the state and society [79, p. 15]. The right to information according to international norms belongs to the universal natural as well as political rights of man and citizen. However, the Constitution of

Ukraine, in force at that time, did not provide for this right in the system ofhuman legal status [80, p. 107].

The modern world is developing very rapidly under the influence of innovations in the field of information and communication technologies. The management of states, cities and communities, communication between the authorities and residents is increasingly carried out using these technologies. Openness, transparency, accountability of government and participation in the governance of citizens become the basis for good governance, and technology ensures the accessibility and simplicity of these processes. The choice of the model of e-democracy in cities is entrusted directly to local governments and active citizens. These tools combine and accelerate at the same time development of services and technologies of e-governance, on individual, e-document circulation, quality of e-services of the authorities, its transparency, accountability and efficiency [81].

We, in turn, want to emphasize that with a modern person, his daily life turned out to be dependent on mass communication. The spread of network computer technologies, mobile communications and the Internet, information resources of modern society can be not only good, but also subject to a growing number of threats, which can harm the interests of a person, society, state, lead to economic losses and jeopardize security of national information security. In this regard, the issue of public demand for information security is of extreme importance. The use of the Internet and information technology not only opens up endless possibilities for humanity, but also creates new serious threats [82].

The necessary tools for adhering to the democratic principles of openness and transparency of government bodies and the constitutional rights of citizens to information are the formation and development of high-quality information and communication infrastructure. This requires a constant and constructive dialogue between society and the authorities, as well as the introduction of the latest organizational, scientific, technical, methodological and other information mechanisms. This is the basis of high standards of professionalism and efficiency of public administration.

In the countries of the European Union, an e-government system has been introduced, which fully ensures the realization of the right of citizens to access state (public) information. E-government covers three main modules: G2G – goverment to government; G2B goverment to business; G2C goverment to citizens. It also provides for applied elements, including: free access of citizens to state information, transfer of state bodies to paperless clerical work, planning for all state bodies indicators of work efficiency per year and their regular monitoring [83, p. 13].

Also interesting is the European practice of functioning of the e-court, which covers the following components: access to information in the field of justice (information through the e-justice portal, registers, semantically structured network), access to the court and extrajudicial procedures in situations of a cross-border nature [84, p. 63].

Conclusions

The most important thing is the further improvement of legislation in order to bring it in line with constitutional norms. Obviously, an important problem is the lack of an independent and effective body that would control the implementation of public information by administrators. Compliance with the constitutional right to access public information is monitored by the Commissioner for Human Rights of the Verkhovna Rada of Ukraine. However, the efficiency and effectiveness of such control is insufficient. One of the reasons is the imperfect mechanism of bringing to administrative responsibility, enshrined in the norms of the Code of Ukraine on Administrative Offenses. The establishment of a supervisory authority that could provide monitoring in the field of access to public information requires appropriate changes in national legislation. The lack of legislative consolidation of the definition of the term "socially necessary information" and a clear definition of the term "official information" leads to violations of the rights of citizens to access information that is of public interest and has no actual grounds for classifying it as public information with limited access. Currently, the problem of ensuring passive access to information, namely untimely or incomplete publication on the official websites of state authorities and local governments of information on decisions and regulations has not yet been

resolved. You also need to pay attention to the fact that the information that is published on websites is often incomplete, the site is built in such a way that it is difficult for a person to use it, to find the necessary information. The openness of such information is not systemic and is published in violation of the law.

It is worth noting that a number of legislative initiatives were submitted to the Verkhovna Rada of Ukraine to correct the situation. However, unfortunately, over the past seven years, not a single bill that would significantly improve the legislation on access to public information has been adopted.

An effective modern mechanism for legal support of the right to access to public information has been created in Ukraine. The right to access public information is guaranteed by the Constitution of Ukraine and regulated by relevant laws. However, in modern conditions of globalization and development of the information society, the requirements for the quality of legal mechanisms for access to information, primarily to public information, are quite high. Despite the rather high-quality legislation in the field of access to public information, there are a number of important issues in the field of ensuring this constitutional right that need to be addressed: to eliminate legislative gaps, to introduce an institution for monitoring the observance of the right to access public information; establish an appropriate supervisory authority; solve the problem of the quality of passive access to public information; minimize abuse of the right to information of requesters, eliminate violations of the legislation on disclosure of information of increased public interest, and improve the legal mechanism for protecting the right to access public information. In addition, for the effective functioning and development of Ukraine (as a democratic state) in order to ensure the constitutional right of citizens to access public information, it is necessary to take into account the norms of international and European law.

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6. Adaptation of Ukrainian legislation to EU legislation

Annotation

Despite Ukraine's active 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, the application for Ukraine's membership in the European Union was submitted only during a full-scale invasion [26].

This situation is explained by the large amount of unfinished rule-making work to adapt Ukrainian legislation to European legislation. Even despite the constant obstacles on the way to adaptation, as of February 2023, Ukraine has fulfilled 72% of the obligations stipulated by the Association Agreement with the European Union [28]. Considering the above, it is relevant to review the steps taken for adaptation and those to come.

The purpose of the study is to analyze the state of adaptation of the legislation of Ukraine to the legislation of the European Union in terms of what is actually implemented and what is planned.

According to the second paragraph of Chapter II of the Law of Ukraine "On the Nationwide Program for the Adaptation of the Legislation of Ukraine to the Legislation of the European Union", the adaptation of the legislation of Ukraine to the legislation of the EU is the process of bringing the laws of Ukraine and other normative legal acts into compliance with the acquis communautaire (legislation of the European Union, which consists of primary legislation, various directives, regulations - secondary legislation and other acts - tertiary legislation) [5]. With regard to the practical implementation of this goal, we note that it is not only about improving existing legal acts, but also about the development of new ones.

According to E.O. Kharitonov and O.I. Chariton adaptation is possible with the compatibility of legal systems, belonging to the same civilization, which is a prerequisite for the existence of common values. Moreover, we are not talking about

the formal adaptation of legislation, but about the adaptation of legal concepts, provisions and principles [32, p. 457].

We cannot but agree, because thoughtlessly copying the legislation of another country (in our case – the union of countries) without taking into account national, cultural, historical or even geographical specificities is guaranteed to be ineffective. For example, the African country of Liberia. The system of government bodies and legislation, completely borrowed from the United States of America, did not lead to the construction of a democratic country and the observance of human rights, the legislation was rather formal and declarative in nature [23, pp. 184-199].

In view of the above, it is important to investigate the legal nature of adaptation in more depth. According to N.M. According to Parkhomenko, adaptation is the process of adaptation to conditions that are in the process of change; in the context of international law, it is the process of improving national legislation by bringing it into line with the standards of international legislation or joining international treaties and agreements. In the case of approximation of the Ukrainian legislation to the European one, the researcher suggests using the term "harmonization", because we are talking about the consistent and step-by-step activities of both parties, not only Ukraine [29, p. 338]. At the same time, V. Muravyov claims that the concept of harmonization covers the entire process of developing a homogeneous legal system through the adoption of directives [27].

On the other hand, O. Chornobai is convinced that the adaptation of Ukrainian legislation to European legislation is one-sided, and therefore it should be called "approximation" - the introduction of "secondary legislation" standards, namely directives and regulations [34, p. 68].

The problem of choosing the right terminology outlined above prompted R. Khorolskyi to limit himself to the concept of "approximation of legislation" which is a compromise for all parties (but, in our opinion, clearly not a legal one) [33].

We believe that limiting ourselves to one concept for the entire researched process is not enough. So situationally, it will be quite appropriate to talk about implementation, approximation, adaptation, etc. At the same time, it should not be

forgotten that the legislator chose the term "adaptation", thus emphasizing the purpose of his activity in relation to the legislation of the European Union.

Implementation of the tasks of the Law of Ukraine "On the Nationwide Program for the Adaptation of the Legislation of Ukraine to the Legislation of the European Union" was initially carried out by applying the Agenda of the Ukraine-EU Association for the preparation and promotion of the implementation of the Association Agreement [30]. Prior to the signing of the Association Agreement, the main orientations and directions for the adaptation of the legislation were specified in this act, after the signing of the Association Agreement, this Procedure was updated.

The process of adaptation in the sense of the Law of Ukraine "On the Nationwide Program of Adaptation of the Legislation of Ukraine to the Legislation of the European Union" began after the signing 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 June 27, 2014 (hereinafter - the Agreement) [2].

Thus, Article 114 of this Agreement provides for the adaptation of Ukrainian legislation from the moment of signing the agreement, the adaptation applies to all elements of the EU acquis, specified in Annex XVII to this Agreement, where such areas as the provision of financial, telecommunications, postal and courier services are specifically mentioned. However, the Agreement itself covers all possible spheres of life, so further we will mention only some examples of the adaptation of Ukrainian legislation to the legislation of the European Union. A more detailed 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, was approved by the Cabinet of Ministers of Ukraine [17].

It turned out to be the most difficult to adapt domestic legislation to European environmental law. According to the Deputy Prime Minister for European and Euro-Atlantic Integration of Ukraine, Olha Stefanishyna, in certain aspects, Ukrainian environmental legislation lags behind European legislation by a decade [25].

For example, one of the important issues of environmental legislation is waste management (one of the components of cooperation in the field of the environment,

specified in Article 361 of the Agreement). On November 8, 2017, the National Waste Management Strategy in Ukraine until 2030 was approved [18]. This strategy is primarily aimed at creating a closed-type economy in Ukraine and introducing new methods of waste management.

A closed-loop economy means the maximum possible reuse of waste in production after its processing. An action plan has been developed separately for different types of waste: household, communal, industrial, construction, medical, batteries and accumulators, hazardous waste. In addition, the mentioned strategy emphasizes the need to move away from recycling and waste disposal.

In continuation of the announced goal, the Law of Ukraine "On Waste Management" was adopted, which will enter into force in the summer of 2024 [6]. The aforementioned law introduces a European hierarchy of waste management, a new organization of waste management planning at different levels, bringing landfills up to European standards, increased responsibility of manufacturers in terms of ensuring the disposal of packaging of their goods.

Dozens of areas of environmental law require such thorough study (protection of the natural environment, creation and protection of protected areas, legislation on flora and fauna, regulation of emissions, etc.).

Another direction of active rule-making is the improvement of the system of checks and balances, in terms of the creation of new control, law enforcement and judicial bodies and/or rules for their selection.

Thus, on June 11, 2021, the President of Ukraine approved the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021–2023. In addition to general confirmations of the European integration course of Ukraine, you can also find such novellas in this direction as:

- specification of the procedure for the Supreme Court's appeal to the European Court of Human Rights with a request for advisory opinions on the interpretation of the Convention on the Protection of Human Rights and Fundamental Freedoms [1] and its protocols;

- clarification of the legal status of information from competitions, qualification evaluations and disciplinary proceedings;

- revision of the court fee [19].

It is worth mentioning that European integration contributed to the creation of new law enforcement and judicial bodies to fight corruption and economic offenses (within the requirements of Article 22 of the Agreement) - the National Anti-Corruption Bureau of Ukraine [7], the High Anti-Corruption Court [8], the Specialized Anti-Corruption Prosecutor's Office [22], Bureau of Economic Security of Ukraine [9].

The reforms did not bypass the election legislation, which in 2019 was codified into the Election Code of Ukraine with the following key provisions [4]:

- implementation of a proportional electoral system with open regional lists instead of a majoritarian electoral system;

- appearance of a gender quota for electoral lists;

- increasing the size of the monetary deposit for the presidential elections of Ukraine and returning the monetary deposit in the presence of a certain level of support and others;

- introduction of mandatory publication of open election data.

In order to continue adaptation to the legislation of the European Union, it is also planned to make changes to this Code in terms of election campaigning and information support for elections.

Subchapter 6 of Part 5 of Chapter 6 of Title IV of the Agreement deals with financial services. Since the signing of the Agreement, the National Bank of Ukraine has been systematically improving its own acts in the mentioned area (in particular, the liberalization of currency regulation, which was temporarily stopped due to a full-scale invasion), but the biggest achievement, in our opinion, is the adoption of the Law of Ukraine "On Capital Markets and Organized Commodity Markets » [10].

The aforementioned Law, unlike the previous one, extends its regulation not only to securities, but also to other financial instruments, in particular, bonds and derivatives, as well as products and currency values traded on organized markets.

At the same time, the National Commission, which carries out state regulation in the field of financial services markets, was liquidated with the redistribution of its powers between the National Bank of Ukraine and the National Securities and Stock Market Commission [20]. Such reforms bring Ukraine closer to European standards and contribute to more effective supervision in the mentioned sphere.

Chapter 20 of Section V of the Agreement is aimed at protecting consumer rights. On November 3, 2022, the Law of Ukraine "On materials and objects intended for contact with food products" was adopted for adaptation to the legislation of the European Union in this matter, which will enter into force in November 2025 [11].

According to the law, such materials and objects must not contain elements that will be transferred to food products and cause harm to the health of consumers and/or the properties of the food product. Attention is also paid to labeling and advertising of these materials and objects, state registration of substances that are their constituents.

Previously, as part of the adaptation of Ukrainian legislation to European legislation, laws on standardization and information for consumers regarding food products were also adopted. Together, this block of normative regulation not only complies with the legislation of the European Union, but will also contribute to the protection of the life and health of consumers.

Article 222 of the Agreement is devoted to the issue of the protection of data provided for the authorization of the sale of a medicinal product, which, in combination with regulations on the protection of consumer rights, led to the adoption of the new Law of Ukraine "On Medicinal Products" on July 28, 2022 [12]. Note that the old law is still marked as valid on the website of the Verkhovna Rada of Ukraine. Among the short stories, we can single out the following:

- the law is significantly supplemented with terminology;

- different registration terms are established for different types of medicinal products;

- it is planned to create a new control body by merging the State Service of Ukraine for Medicinal Products and Drug Control and the State Expert Center of the Ministry of Health of Ukraine;

- new requirements for licensing and for drug manufacturers;

- new requirements for the promotion and labeling of medicinal products.

The adaptation of legislation in the pharmaceutical field will allow domestic manufacturers to fully enter the European markets in the near future, which will be especially relevant in the framework of the post-war reconstruction of Ukraine.

Article 397 of the Agreement provides for the adaptation of Ukrainian legislation in the field of audiovisual industry, which covers television, radio, activities of journalists, etc. The Law of Ukraine "On Media", which will enter into force on March 31, 2023, took a very long way to adoption in December 2022 [13].

Difficulties in its adoption are due to both the large volume (in particular, it codifies a number of branch laws and makes changes to more than fifty other laws) and public indignation regarding the risks of restricting freedom of speech. Nevertheless, the Council of Europe believes that the Law on Media generally complies with the provisions of the European Union legislation (although it needs minor adjustments) [24]. The following are the main innovations:

- The National Television and Radio Broadcasting Council extends its control from radio and television to print and online publications, has the right to impose sanctions and block all media without the need to obtain a court decision;

- online media are divided depending on the availability of contact information - anonymous media will be blocked faster;

- language quotas close to European standards are established.

The media must be responsible for the information disseminated, which is clear and beyond the question of adaptation to the legislation of the European Union, so we do not see a violation of freedom of speech in the implementation of a mechanism for prompt response to the activities of unscrupulous media.

Nevertheless, there are still directions for development in the media and information sphere. I.A. Stroyko draws attention to such issues of providers' activities as establishing direct responsibility for copyright and related rights violations in the case of content distribution without the right holder's permission [31, p. 208].

To solve the highlighted problem, on March 20, 2023, the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Regarding Strengthening the Protection of Intellectual Property Rights" was adopted, which brings the legislation of Ukraine closer to European standards [15]. As of the time of writing this article, the Law is awaiting the signature of the President of Ukraine.

According to Chapter 13 of Section V of the Agreement, legislation on the establishment and operation of companies, corporate governance also needs adaptation. It should be noted that in this field, the legislator is characterized by fruitful rule-making, among the most recent changes it is worth mentioning the adoption of the new Law of Ukraine "On Joint Stock Companies" in July 2022, which entered into force at the beginning of 2023 [14]. The law introduced many changes, including:

- new models of corporate governance were implemented - one-level (general meeting and board of directors) and two-level (general meeting, supervisory board, executive body - one-person is also allowed);

- alienation of shares no longer requires the consent of other shareholders;

- the size of the minimum authorized capital has been reduced;

- such institutions of corporate law as irrevocable power of attorney and corporate contract have been improved;

- the mandatory position of corporate secretary is introduced for some joint-stock companies;

- at the same time, the audit commission is no longer a body of the company;

- 3 formats of general meetings of shareholders are envisaged - face-to-face, electronic and remote.

In accordance with Article 291 of the Agreement, Ukraine undertakes to implement labor standards recognized by international law.

It seems to us that such a goal is difficult to achieve in view of the existence of the Soviet Labor Code of Ukraine [3], despite repeated attempts by deputies of all convocations to adopt the Labor Code of Ukraine. The Code of Labor Laws of Ukraine has undergone so many changes since the 1970s that it is easier to actually adopt a new

code than to make subsequent amendments, which, however, does not happen every once in a while.

So far, instead, on February 23, 2023, a new Law of Ukraine "On Collective Agreements and Contracts" was adopted, which at the time of writing this article is awaiting the signature of the President of Ukraine [16]. Unlike the previous one, this Law:

- expands the subject composition of parties to collective negotiations;
- provides for the possibility of concluding territorial agreements in a separate industry;
- regulates the formation of a joint representative body at any level of dialogue;
- provides for the possibility of suspending and stopping the effect of certain provisions of collective agreements and contracts,
- provides for the possibility of new entities joining agreements and contracts.

Note that even when it enters into force immediately after being signed by the President of Ukraine (which is atypical for recent legislative practice), it is necessary to take into account the effect of martial law, during which certain labor rights are limited [21].

The adaptation of the legislation of Ukraine to the legislation of the European Union affected many other areas (education, science, culture, industry, taxes, customs, etc.), it does not seem possible to review all the implemented and planned changes within the framework of one article, however, the mentioned rule-making activity it is quite enough to highlight general trends and regularities.

Conclusions. The process of adapting the legislation of Ukraine to the legislation of the European Union is speeding up significantly. On the one hand, this accelerates Ukraine's accession to the European Union, and on the other hand, it can affect the quality of legislation. In addition, we see the following risks in such activity of the legislator:

1. all laws are adopted with delayed (sometimes significantly) entry into force, which allows, for example, to cancel them upon joining the European Union;

2. the effect of a significant number of new laws can be fully verified only after the abolition of martial law. That is, for post-war Ukraine, which will need reconstruction and additional assistance, another problem will appear - the simultaneous entry into force of a large array of norms, which in practice and/or with simultaneous implementation may act unpredictably and not in a manner acceptable to the European Union;

3. it should also not be forgotten that borrowing the laws of Ukraine does not borrow legal consciousness and legal culture, the development of which is possible only by one's own efforts, which in the current conditions of survival of the nation is not a priority task.

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7. Political and legal convergence of EU countries as an example for Ukraine

Annotation

European integration is a natural and logical path for the European Ukrainian nation. Other alternatives are absent or unprofitable. It has been proven that membership in the European Union contributes to the improvement of quality standards of all state institutions and modernizes the country's legal system. Since the second half of the 20th century, integration processes have intensified all over the world. Isolation is neither possible nor profitable for every country. The advantages of political rapprochement and the inevitability of the disappearance of borders have been proven.

The author made an attempt to analyze the historical process of unification of legal institutions of European states. This process can serve as an example for Ukraine and other countries that intend to join the European Union. Treaties regulating relations between Ukraine and the EU have been considered. Ukraine's fulfillment of requirements for deepened political and legal integration into the European family is analyzed.

The European Union (EU) dates back to the 1950s. Robert Schuman, while in the position of Minister of Foreign Affairs of France, proposed an advanced idea of the political and economic union of Europe, which was to be based on a common market for coal and steel products of France and West Germany. This union was to become a guarantor of strengthening peace and stability in Europe and prevent military conflicts between Europeans. His proposal was called the "Schumann Plan" in history.

R. Schuman's declaration marked the beginning of a united, stable and peaceful Europe that was to recover after two devastating world wars. At the Milan summit in 1985, the leaders of the EU countries decided to celebrate the day of the proclamation of R. Schuman's declaration as Europe Day. So, May 9 became the birthday of the European Union and now every year it is celebrated as Europe Day, which also, in accordance with the Decree of the President of Ukraine dated April 19, 2003 to confirm

the strategic course of our country for European integration, has been celebrated in Ukraine since 2003, but not on May 9, and a little later – on the third Saturday of May.

However, later Europe Day turned into a whole series of events that last about a month in different cities. The Ukrainian Days of Europe have an informative and entertaining character.

In the 21st century, the European Union has become the world's largest integration group. It includes 28 countries with half a billion people. According to research results, 81% of all residents of the European Union are satisfied with their current life. The percentage of dissatisfied people remains at the level of 4%.

According to some forecasts, in the future the European Union will turn into something resembling the "USE" (United States of Europe). Citizens of the member states of the Union are simultaneously citizens of the entire European Union. Europe will be heard if it speaks with one voice. No European country can currently play as a global actor. One of the former leaders of the European Union, Joseph Manuel Barroso, in his speech "Situation in the Union" said: "either we swim together or we sink alone" [1, p. 15].

The EU is one of the three main and most developed centers of the modern world, along with the United States of America and Japan. If you add up the economies of its member countries, it is the largest economy in the world. The European Union accounts for 20% of world trade. It produces one quarter of the world's gross national product, which totals more than 10,000 billion euros. The European Union holds the leadership in the level of trust of citizens. According to this indicator, it is ahead of the national governments and parliaments of the member countries.

It is represented by 55,000 peacekeepers outside the European Union. It is the world's largest donor of development and humanitarian aid, has a significant potential for rapid response [6, p. 4]. The European Union provides more than half of all world aid. In 2009, EU development aid amounted to 49 billion euros.

Today, the European Union (European Commission and member states) is one of the largest providers of humanitarian aid in the world – 75% of its global volume. In 2010, the European Union allocated 1.1 billion euros for humanitarian aid. He

helped 140 million people. One of the key priorities of the Union is the equalization of the standard of living in the member countries. Almost three quarters of the EU budget – more than 100 billion euros – goes to this.

One of the most important and costly spheres of activity of the EU is the common agricultural policy. The European Union allocates more than 40% of its budget to its support. Thus, the average Polish farmer receives support from the European Union at the level of 11 thousand zlotys per year, the same amount from the budget of the Commonwealth of Independent States [13, p. 8].

EU countries are among the leaders in terms of competitiveness. The traditional Global Competitiveness Rating was published by the World Economic Forum, a non-governmental international organization. Five EU countries are in its top ten. 21 of 28 are in the top fifty. A total of 139 countries were evaluated.

One of the most impressive evidences of the success of European integration is the creation of a single European Bank - the departure of the Italian lira, the German mark, the Portuguese escudo, the French franc, and the Austrian schilling into the past. The single European currency, the euro, became a reality on January 1, 2002. This is a unique phenomenon in world history. The euro has replaced currencies that over the long period of their existence have become not only a symbol of national sovereignty, but also a means of supporting state independence. Currently, the euro zone includes 18 European countries with a population of 330 million people. The euro has become the second most important currency in the world, as the combined gross domestic product of the eurozone countries is second only to the United States. The American economy accounts for about a third of the global economy, and the countries of the Eurozone account for only a fifth [11, p. 96].

A mandatory element for states that have become members of the European Union. One of the symbols of the success of European integration and its concrete achievements for the benefit of ordinary citizens is the Schengen border agreement. A Schengen visa issued by one of the parties to the agreement is valid on the territory of all participating countries. It facilitates the free (visa-free) movement of citizens within the Schengen area.

The introduction of a visa-free regime allows citizens of Ukraine to travel freely in Europe and feel like members of a large European family. Statistics show that in 2013, according to various data, from 77% to 85% of Ukrainians have never been to the countries of the European Union. Although in 2012, for the first time, Ukraine recorded a larger number of its citizens working and temporarily employed in EU countries than in Russia [4, p. 6].

The introduction of a visa-free regime for citizens of Ukraine was a historic decision. In this context, the transition to the second phase of the action plan, which brings closer the achievement of this key goal, is an important event. The nation that did not lower its blue-and-starred flags during the most difficult time of the confrontation on the Maidan deserved the abolition of visa barriers.

The European Union cooperates with NATO. Despite their different origins (NATO was created as a defense alliance, and the EU as a coal and steel union), today the two organizations have become much closer and complement each other in many ways. Thus, of the 27 countries that are part of the European Union, 22 are also NATO members.

According to the data of the State Statistics Committee, the European Union holds the largest share in the total volume of direct foreign investments that Ukraine has received since 1991, that is, the EU remains the largest investor in the economy of Ukraine. During the years of independence, out of 58 billion dollars of direct foreign investments that entered the economy of Ukraine, 44.4 billion (76.4%) were from EU countries [5, p. 6]. After the large-scale invasion of Russia in 2022, EU financial support has increased and is critical for Ukraine.

The European Union allocates significant funds for the development of culture. The European program of cultural development has been developed. With a budget of about 400 million euros, this program is designed to develop the dialogue of cultures, the mobility of European workers in the field of culture, and promote the circulation of intellectual and artistic products.

Every year, the European Union determines the European capital of culture. Being the cultural capital of Europe is not only honorable, but also beneficial. This

means bringing the cultural life of the city to a new level, including with the help of funds received from the European Union.

The European Union is one of Ukraine's largest trade partners. Since the beginning of the current century, the total turnover between Ukraine and the EU has more than tripled [7, p. 12]. Ukraine is the fifth largest trading partner of the 12 new EU members. The main partners in both export and import of goods remain Germany (it ranks first), followed by Italy, and in third place – Poland. The free trade zone will significantly expand the access of Ukrainian goods and services to the EU single market. It should create practically the same conditions for trade between Ukraine and the EU as for trade within the Union.

The basis of the Western model of development is the middle class. Small business is the backbone of the EU economy, a key source of jobs and an incubator of business ideas. In the countries of the European Union at the end of the 20th century. there were more than 18 million enterprises. Small and medium-sized enterprises accounted for 98.8% of them. They produce half of the gross domestic product of the countries of the European Union and provide work for almost 66% of the European population [8, p. 42].

Practice has proven that small business is the most viable. It is the most dynamic and the least bureaucratized, sensitive to the current situation, and more easily adapts to any changes. Small and medium-sized businesses are the economic basis of patriotism and national self-awareness. He is economically interested in the existence of a strong national state that protects his interests both domestically and internationally. The middle class should become the main bearer of innovative ideology, innovative psychology, and innovative society. It is a matter of great political, economic and social weight – strengthening its position, bringing its specific weight in society to the indicators of the EU countries. This is how the countries that achieved the most tangible results developed. A society in which the share of the middle class in the population structure is not lower than 70% is considered stable [2, p. 20].

In the EU countries, the rule of law is ensured, and violators of the law are held accountable in court, regardless of their social status or material wealth. And although not a single state has yet completely gotten rid of corruption, the EU countries occupy a prominent place among the twenty least corrupt countries in the world.

As the experience of all countries that have joined the EU since 2004 shows, membership in this organization leads to the improvement of society, greater control of politicians, reduction of corruption, and ensuring equality of citizens before the law. Currently, the European Union, through the European Instrument for the Promotion of Democracy and Human Rights, finances more than a thousand projects in about a hundred countries of the world, the purpose of which is the protection of human rights.

The European Union is Ukraine's largest donor. Since 1991, he has provided her with assistance in the amount of more than 3.3 billion euros [10, p. 15].

Currently, there are 115 Euroregions operating in Europe. They are created for the purpose of solving common problems of the life of territorial communities, in particular, raising the standard of living of the population of border areas, building communication infrastructure, cooperation in the fields of economy, trade, education, health care, tourism, sports and culture, environmental culture. Within the Euroregion, customs barriers and obstacles to the movement of labor are often virtually eliminated. Germany, the Czech Republic, Hungary and Poland have achieved significant results in the development of Euroregional cooperation. There, Euroregions are created along the perimeter of the borders of these states [17, p. 118]. Ukraine takes a fairly active part in the creation of Euroregions.

The European Union became closer to Ukraine thanks to the former Soviet republics in its composition and a powerful Slavic element in the form of four states related to Ukraine in terms of language, culture and traditions – Poland, Slovakia, the Czech Republic and Slovenia. Bulgaria and Croatia are Slavic countries. In addition, hundreds of thousands of ethnic Ukrainians have been living in these and other new EU countries for a long time. This, first of all, explains the popularity of the Ukrainian language there. According to the European Commission, almost 2 million residents of the European Union know the Ukrainian language [12, p. 32].

A factor of cultural affinity of strategic importance between the European Union and Ukraine is the multi-confessional nature of predominantly Christian Ukraine. Moreover, about six million Ukrainians are Eastern rite Catholics (Uniates) and Roman Catholics. As for Ukrainian Orthodoxy with its Kyiv shrines revered by all the Orthodox world and tens of millions of believers, after the accession of Romania and Bulgaria to the European Union, Ukrainians will feel an additional component of their cultural kinship with the population of the European Union countries.

The integration experience of the countries of Central and Eastern Europe and the growth of the well-being of their citizens convincingly confirm the conclusion that the future of Ukraine should be in a united Europe. Where there is Ukrainian interest, there should be Ukrainian policy. The EU modernizes the entire society, political life and economy of the countries that join it.

The European Union is a unique international structure. It combines features of an international organization and a state, but legally it is neither one nor the other. It is an association of democratic European countries working together for peace and prosperity.

Barriers that hindered the free movement of people, goods, services and capital are disappearing between the member states of the Union. Borders are a violation of the human right to free movement. In the 90s of the last century, it became easier to move around Europe, as passport and customs checks at most of the EU's internal borders were abolished. An important consequence of this was the increase in the mobility of European citizens. Since 1987, with the support of the EU, more than a million young Europeans have been able to study abroad.

In 2009, the European Union planned to approve a decision on a "blue card" for highly qualified migrants. The card is a special residence and work permit. It provides a number of socio-economic rights and favorable conditions for family reunification to a highly qualified third-country national. In addition, this map provides simplified access to the European labor market [9, p. 25]. According to some forecasts, in the future the European Union will turn into something resembling the USE (United States of Europe).

Citizens of the member states of the Union are simultaneously citizens of the entire European Union. The constituent bodies of the EU are authorized to create rules, regulations, and directives that are mandatory for all member states. Relations between EU countries are based on voluntary limited sovereignty and the admission of outside intervention in case of violation of agreements [18, p. 54]. All governments now recognize that the era of absolute national sovereignty is a thing of the past. Only as a result of joining efforts and work can you enjoy the advantages of economic and social progress, become a more influential force. The EU is neither a superpower nor a purely intergovernmental organization. This is a community of developed states that profess common human and democratic values, retain their sovereignty, but deliberately delegate part of it in order to jointly achieve power and influence that none of them would achieve alone. Europe will be heard if it speaks with one voice. All decisions and procedures of the European Union are based on treaties approved by all EU countries.

A mandatory element for states that have become members of the European Union is the Schengen Borders Agreement. Today, the word "Schengen" is one of the symbols of the success of European integration and its concrete achievements for the benefit of ordinary citizens. The Schengen Agreement was signed on June 14, 1985 by France, Germany, Luxembourg, Belgium and the Netherlands in the Luxembourg town of Schengen, located on the border with France and Germany, which was chosen as the signing site due to Luxembourg's EU presidency at the time. By 1995, when the document entered into force, Spain and Portugal joined the five named countries. Further expansion of Schengen continued as follows:

1997 – Austria and Italy;

2000 – Greece;

2001 – Denmark, Iceland, Finland, Sweden, Norway;

2007 – Poland, Czech Republic, Slovakia, Lithuania, Latvia, Estonia, Hungary, Slovenia.

A Schengen visa issued by one of the parties to the agreement is valid on the territory of all participating countries. The signing of the Treaty of Amsterdam in 1997

guarantees that EU enlargement will not weaken the protection of the Union against imports of goods at dumping prices, illegal migration and organized crime and will facilitate the free (visa-free) movement of citizens within the Schengen area.

The Schengen zone covered the territory of fifteen European countries. These are Austria, Belgium, Germany, Greece, Spain, Italy, Luxembourg, the Netherlands, Portugal, France, Denmark, Iceland, Norway, Finland and Sweden. The Schengen zone includes two countries that are not members of the EU - Iceland and Norway. Great Britain and Ireland are not members of the Schengen Agreement. They are part of the Schengen Information System. On December 21, 2007, 8 new states that joined the EU in 2004 joined the Schengen zone. These are Estonia, Latvia, Lithuania, Poland, Slovakia, Slovenia, Hungary, and the Czech Republic. In December 2008, Switzerland joined the Schengen zone together with Liechtenstein and became, respectively, the 25th and 26th countries - its participants. They became the third and fourth states that are not members of the EU, but are part of Schengen. Switzerland's citizens decided to join the Schengen area in a referendum in June 2005. Schengen visas are open to Malta.

At the same time, in fact, there are many more countries participating in the Schengen visa area than there are signatories to the agreement. With a Schengen visa, you can travel to Monaco, San Marino, Greenland, and the Faroe Islands. They have no border control with their neighbors who have entered the Schengen zone. These mini-states became members of the zone automatically. And with the accession of Switzerland, Liechtenstein became such a country. In general, thanks to the Schengen agreement, free movement is possible in the territory with the length of the external sea border of 42,673 km, the land border – 7,721 km. Candidates for joining the Schengen area are Romania, Bulgaria and Cyprus.

At the Paris summit, which took place on September 9, 2008, along with the decision on the association of Ukraine with the EU, a visa dialogue was launched, aimed at establishing a visa-free regime for Ukrainian citizens visiting the EU for a short period of stay, i.e. up to 90 days. In 2008, the Agreement on simplification of the visa procedure entered into force. This gave a positive result. Fees for visas are reduced for all citizens, a third of applicants receive them for free. Multiple-entry visas are

granted more widely to such categories as journalists, businessmen, family members of Ukrainians living in the EU, regular participants of academic exchanges.

In November 2010, the European Union provided Ukraine with an action plan regarding the visa-free regime. This document clearly outlined the conditions that the Ukrainian authorities must fulfill in order for the visa-free regime to become a reality. The visa liberalization action plan is divided into two implementation phases. As part of the first phase, Ukraine must make the necessary changes to the current legislation, and in the second phase, implement the adopted legislative changes in practice. Currently, Ukraine is in the stage of completion of the first phase. Citizens will be able to feel the results of visa liberalization immediately after the approval of the relevant documents and feel it firsthand. the introduction of a visa-free regime will allow citizens of Ukraine to travel freely in Europe and feel like members of a large European family. Statistics show that in 2013, according to various data, from 77% to 85% of Ukrainians have never been to the countries of the European Union. Although in 2012, for the first time, Ukraine recorded a larger number of its citizens working and temporarily employed in EU countries than in Russia [4, p. 6].

At the same time, the Council of the EU adopted a decision to grant visa-free regime to Albania and Bosnia and Herzegovina. Thanks to this decision, citizens of these countries who have biometric passports can freely make short-term trips to Schengen countries. In total, citizens of 41 countries can now visit Schengen countries without visas [16, p. 16].

Among the main results on the way to European integration is the adoption of about 90% of the legislative acts necessary for the transition to the implementation stage of the implementation of the Action Plan on the liberalization of the visa regime with the EU. [14, p. 2].

Currently, out of 194 independent states of the world, Ukrainians can visit less than a quarter without a visa. Today, according to data from open sources, Ukrainians can enter the territory of 45 countries without visas.

In particular, 10 countries of the former USSR do not require visas for citizens of Ukraine: Azerbaijan, Belarus, Armenia, Georgia, Kazakhstan, Kyrgyzstan,

Moldova, Russia, Tajikistan, Uzbekistan. Visas are also not required for five European countries: Albania, Bosnia and Herzegovina, Serbia, Montenegro and Macedonia. It should be noted that the latter canceled visas for Ukrainians only until March 15, 2014. Ukrainians and eight North American countries do not require visas. In particular, these are Antigua and Barbuda, Barbados, Haiti, Honduras, Guatemala, Nicaragua, El Salvador and Jamaica. In South America, five countries do not require visas from citizens of Ukraine: Argentina, Brazil, Ecuador, Paraguay and Peru.

Ukrainians can also visit nine Asian countries without visas: Brunei, Israel, South Korea, North Korea, Malaysia, Mongolia, Myanmar, East Timor, Turkey. From African countries, the visa-free regime for Ukrainians is valid only in Swaziland and Tunisia. Ukrainians can also visit five countries in Oceania without visas: Samoa, Tonga, Tuvalu, the Federated States of Micronesia and Fiji. In 42 countries of the world, Ukrainians can obtain a visa directly at the border upon entering the respective country. To enter other countries, Ukrainians need to issue visas in advance at consulates [15].

On May 27, 2014, the European Commission concluded that Ukraine has created all the necessary legislative, political and institutional frameworks and achieved compliance with the requirements of the first phase of the visa dialogue. Therefore, it is possible to start the second phase, within which the European Commission will check the implementation of all these rules. The proposal to move to the second phase is primarily a recognition of important legislative reforms adopted in March-May 2014. Unfortunately, it took Ukraine three and a half years to complete the legislative phase.

The second phase of the Action Plan provides for the implementation of all laws necessary for the liberalization of the visa regime adopted in the first phase. Among them, adopted by the Verkhovna Rada of Ukraine on May 13, 2014: Law "On Amendments to the Law "On Refugees and Persons in Need of Additional or Temporary Protection"; Law "On Amendments to Certain Legislative Acts of Ukraine in the Field of State Anti-Corruption Policy in Connection with the Implementation of the Action Plan on the Liberalization of the Visa Regime for Ukraine by the European Union"; Law "On Amendments to Certain Legislative Acts of Ukraine (Regarding

Prevention and Counteraction of Discrimination in Ukraine)"; The Law "On Amendments to the Laws of Ukraine, Related to the Activities of the Commissioner of the Verkhovna Rada of Ukraine for Human Rights in the Field of Personal Data Protection" [3, p. 3].

It is worth noting: the hope that the second stage of the Action Plan will be simpler and will take several months is not unreasonable, since the implementation of such a regime will depend on only one branch of government - the executive. And the most important thing in the second phase may be the start of issuing biometric passports to citizens (the document contains a built-in chip with information about a person - his photo, fingerprints, other data).

The resolution of the Cabinet of Ministers of Ukraine dated May 7, 2014 approved the sample form, technical description and procedure for issuing, issuing, exchanging, sending, withdrawing, returning to the state, destroying the passport of a citizen of Ukraine for traveling abroad with a contactless electronic medium. Issuance of biometric international passports began on January 1, 2015.

The introduction of a visa-free regime for citizens of Ukraine was a historic decision. In this context, the transition to the second phase of the action plan, which brings closer the achievement of this key goal, is an important event. After going through a thorny path, on February 28, 2022, Ukraine submitted an application to join the European Union at the most difficult time for itself, and therefore deserves the abolition of all barriers as soon as possible.

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