

COMPARATIVE-LEGAL ANALYSIS OF EXTERNAL FUNCTIONS OF UKRAINE AND HUNGARY: IMPLEMENTATION OF EXPERIENCE

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Abstract. Now a new military battle has begun for Ukraine and Ukrainians, and each component of the function is own separate front of confrontation today. The main goal of this scientific article is the issue of comparative legal analysis of the external functions of Ukraine and Hungary, their structure and differences, and the possibility of using Hungary's experience for Ukraine. The Ministry of Foreign Affairs of Ukraine is considered as a PR manager of the international level of a specific state. Based on the experience of Hungary and the legislative tasks of the Ministry of Foreign Affairs of Ukraine, which are quite extensive with a wide range of tasks, it is proposed to systematize its competences into six logical groups. The first is to promote the interests of Ukraine and support security and territorial integrity. The second is investments and information space. The third is maintaining ties with legal and physical Ukrainians. The fourth is image formation. The fifth is the EU and NATO. And considering the foreign policy strategy, as a sixth separate group we can highlight the expansion of relations with Africa and Asia, because this is not only a new breath for the renewal of relations, but also a new stage of investment and trade, which is mutually beneficial for both sides. The structure of external functions is the same for most states, the main differences between them are contained in the approaches to their implementation. For Ukraine, which until February 24 was on the verge of a full-scale military invasion and conducted its activities in an almost basic mode, today must not only review its stereotypical tasks, but must create them in a new way. The group's data are priorities for the coming years, and each of these realized directions will help not only in rebuilding the destroyed, but also in creating a new one, otherwise, we can predict that Ukraine will be thrown back decades. Under each of the proposed systematic groups, a specific component of the external function is considered, as a way of realizing the function itself and the goal of the selected group. Within this part of the scientific article, we consider issues from the third group of the external sub-functions.

Keywords. External functions, Ukraine, Hungary, comparative legal analysis, implementation, experience.

JEL Classification: K10, K20, K30

Formulas: 0; **fig.:** 1; **tabl.:** 0; **bibl.:** 15

Introduction. A full-scale war in Ukraine causes huge human, economic and cultural losses. Life was divided into "before the war" and "in the war". Ukraine is being pushed by this war to the starting point of reference, where after the end of this agony-propaganda "military operation" there will be a period of global reconstruction and punishment of the guilty within the framework of international law. Implementation of experience during comparative legal analysis is always a relevant issue for the scientific and practical sphere. The purpose of each state, its directions of functioning, success, neglect, and limits of implementation can be vividly considered today under the prism of its external functions. The issue of state functions remains one of the key issues in the theory and practice of state formation. They take an important role in the implementation of state policy by influencing phenomenon of social relations, without them the state is unable to solve the set tasks and achieve the set goals. Comprehensive implementation of the state policy is a

guarantee of peaceful and safe existence and further development of the entire society.

Literature Review. In this scientific research domestic and foreign works were used. Ukrainian and Hungarian legislation were analyzed. During the writing of this exact part, the works of O. Anrusenko, O. Busol, and Miklos Ugro were widely used.

Aims. The main goal of this scientific article is the issue of comparative legal analysis of the external functions of Ukraine and Hungary, their structure and differences, and the possibility of using Hungary's experience for Ukraine.

Methods. Scientific knowledge is a complex and contradictory process. The same time is the highest level of cognitive activity. The methodology of scientific knowledge is a specific historical phenomenon. Philosophical methodology combines all general scientific methods into three large groups. The first includes: observation, comparison. To the second: idealization. To the third: analysis and synthesis, induction and deduction, abstraction, and modeling. In this article all three groups of methods were used. In addition, we highlight the historical method of learning in the context of the biggest phenomenon of the Hungarian economy, which is its successful exit as an Eastern European state to the free market.

Results. The theory of the state and law today does not have a single answer as to which sub-functions are included in the competence of the external, this can be explained by the fact that the function itself is an unstable element that depends on any situations, which leads to its fluctuations and in accordance with new questions situational, which allows it to be nourished and renewed.

According to O. Andrusenko, the most suitable list, although not final, is the following components [1, p. 45]:

Foreign policy (diplomatic)	Foreign economic
	Nature protection or Ecological (participation in international environmental protection)
	Establishing international cultural ties (humanitarian)
	Defense of the state against external military aggression
	External information
	Combating international terrorism and international organized crime

Figure 1. The most suitable list of Foreign policy (diplomatic) component`s

Source: developed by the author

The Ministry of Foreign Affairs of Ukraine is a PR manager at the international level of a specific state. Based on the legislative tasks of the Ministry of Foreign Affairs of Ukraine, which are quite extensive with a wide range of tasks, we propose to systematize the listed competences into six logical groups. The first is to promote the interests of Ukraine and support security and territorial integrity. The second is investments and information space. The third is maintaining ties with legal and physical Ukrainians. The fourth is image formation. The fifth is the EU and NATO. And considering the foreign policy strategy, as a sixth separate group we can highlight the expansion of relations with Africa and Asia, because this is not only a renewal of relations, but also a new stage of investment and trade, which is mutually beneficial for both sides. The group's data are priorities for the coming years, and each of these realized directions will help not only in rebuilding the destroyed, but also in creating a new one, otherwise, we can predict that Ukraine will be thrown back decades.

The third group is "maintaining ties with legal and physical Ukrainians." We include the function of establishing international cultural ties (humanitarian function) to this group. This group is quite significant for the Hungarian Government, it is one of the three main directions of the foreign policy of Hungary as a whole. Speaking of Ukraine, this direction is taking place on its side, but not as actively and vividly as, for example, Ukrainian-speaking guides abroad. Recalling the episodes when the Hungarian side massively began to grant citizenship to the so-called Transcarpathian Hungarians, which in accordance with the 1993 Law of Hungary "On Hungarian Citizenship" in § 2, point 2 provides for the possibility of dual citizenship [2].

As a result, this became one of the reasons for the deterioration of relations and an international scandal, because under the guise of caring for its national minorities, there was an external intervention in the internal life of a neighboring state and an undermining of national security, which in our opinion cannot be called "European", on the one hand, but on the other, based on the provisions of Article 8 of the Treaty "On the European Union", national citizenship is supplemented by citizenship of the Union, which is quite convenient for the residents of Transcarpathia when looking for and getting a job, which they took advantage of, which on the part of Hungary in relation to its national minorities can be called quite carefully [3]. The issue of dual citizenship is quite common nowadays. The Constitution of Ukraine states about a single citizenship [4, Article 4].

At the same time, based on the provisions of the Law of Ukraine "On Citizenship", one can find a few loopholes, which give opportunities for acquiring and belonging to two or more states at the same time. Article 19 of the above-mentioned Law states that the grounds for termination of citizenship are "voluntary acquisition by a citizen of Ukraine of the citizenship of another state after reaching the age of majority at the time of acquisition. Voluntary acquisition of citizenship of another state is any case when, to acquire citizenship of another state, a citizen of Ukraine must apply for citizenship in accordance with the procedure established by the national legislation of that state. whose citizenship he acquired" [5]. As Busol O.

rightly emphasizes, these provisions are not regarded as a direct ban on dual citizenship, because the loss is not automatic [6].

Citizenship is lost only after the issuance of the corresponding Decree by the President [7, Article 19]. It is precisely such loopholed provisions of domestic legislation that allow today within the framework of the legislation to have 2 or more citizenships, because, as O. Busol writes, there is no system of recording the fact of dual citizenship in Ukraine, which makes it impossible to prove such a fact, and neither Hungary nor Israel issue relevant references [8].

In our opinion, solving this issue today will bring together all ethnic Ukrainians around the world, they will be able to return home at any time, not just as a visa-free foreign tourist, but as a Ukrainian. Such actions on the part of Ukraine would give a sign that every Ukrainian, regardless of the circumstances that forced them to accept another citizenship and replace the Ukrainian one, remains important and necessary to the state. And such an example of Hungary, as giving its national minorities their belonging, can of course be evaluated from both a positive and a negative point of view. However, in our opinion, considering the experience of Hungary, the issue of the possibility of dual citizenship should be finally resolved in Ukraine. Even though there are a lot of such incidents in the territory, this is due to the so-called loopholes in the legislation, and for other subjective reasons. Closing this issue would legally resolve a few legal conflicts and serve as a good example of establishing international cultural ties, and every Ukrainian living abroad would be inseparable from his "home" and avoidance of interstate fluctuations by citizens.

The fourth group is "image formation". We include the function of countering international terrorism and international organized crime to this group. International terrorism and organized crime today are inseparable partners with one goal - the task of pain. The Government of Hungary approached this issue quite harshly, which can be considered as a total desire to control the situation and have safety on the streets, and from the position of realizing its political intentions, a kind of political game on emotions.

The Hungarian Constitution contains such a concept as "Terrorist State of Emergency" according to which (3) The Government, after initiating a decree declaring a state of emergency with terrorists, may introduce measures deviating from the laws relating to the organization, functioning and activities of the state administration, the Armed Forces of Hungary, law enforcement agencies and national security services. inform its standing committees responsible for its tasks and responsibilities. The measures introduced in this way remain in force until the decision of the National Assembly to declare a state of emergency against terrorists, but for no more than fifteen days. (4) In the event of a terrorist emergency, the Government may issue a decree by which, as specified in the main law, it may suspend the application of certain laws, derogate from the provisions of the law, and take other extraordinary measures. (5) The armed forces of Hungary may be used during the period of validity of the measures in accordance with paragraph (3) and in the event of a terrorist threat if the use of the police and national security services is insufficient. (6) The resolution of the Government shall cease to be valid after the

termination of the terrorist threat [9]. In practice, such provisions mean the Government's actions are unlimited, they can change their own legislation as they like, while reporting the situation to the President and the parliamentary commission and that's it. At the same time, they may even block the activities of the mass media, which are prohibited at such a time from any control and surveillance measures. As Miklos Ugro successfully said, terrorism is the systematic use of violence for political purposes [10].

The idea of constitutionally enshrining such a danger as terrorism is correct, but the methods of exploitation are reminiscent of totalitarian Russia. Where in the case of calling a "special military operation" a war, it entails imprisonment. Based on the practice of the European Court of Human Rights, such a totalitarian example of Hungarians is the case of 2016, regarding the secret anti-terrorist surveillance introduced in 2011. The applicants complained that they could be subject to unjustified and disproportionate covert surveillance measures under the Hungarian national security framework. It has been argued that this regulatory framework can be abused, in part due to the lack of judicial review [11]. Based on the Law of Ukraine "On Combating Terrorism", terrorism is understood as socially dangerous activity that involves hostage-taking, arson, murder, torture, intimidation of the population and authorities, or any other violation of the life or health of innocent people to achieve a criminal goal. [12, Article 1].

As is generally known, all normative legal acts must be adopted based on the existing Constitution. The Law states that the basis of its activity is the Constitution itself. However, unlike Hungary, Ukraine does not contain constitutional provisions regarding terrorism, which automatically calls into question the legality of such functioning. In our opinion, considering the experience of Hungary and the active promotion of such an action on the territory of Ukraine, it is worth constitutionally enshrining the anti-terrorist regime alongside the army. This addition will make the specified Law more logical and in accordance with the Constitution. Based on the analysis of the data of the Council of Europe regarding the difference between terrorism and war, we note that this distinction comes from the scale and consequences of destruction [13].

Discussion. Therefore, in our opinion, it is necessary to supplement the Constitution of Ukraine with the concept of "Anti-terrorist regime" and, accordingly, to make such a clarification in the Law "On Combating Terrorism" that the conduct of anti-terrorist activities in a specific territory entails the imposition of the corresponding regime and its limitations and exclusions. Both in the case of the martial law and in the case of the anti-terrorist regime, both involve a number of limitations and exclusions, the difference is precisely in the territorial scale and consequences, however, the legislation must provide for and contain such provisions in force, as we have noted its distribution and activity actions. Such actions and readiness to eliminate them in the bud have an adverse effect on both the formation and already formed image.

The fifth group "EU and NATO". To this group we include nature protection or ecological (participation in international environmental protection) function. The

issue of ecology is one of the weak points for the European community. Their agonizing desire for clean ecology sometimes inspires, sometimes scares, we are talking about the so-called Euro standards. Hungary, being a part of them, must adhere to them without precedent. Moreover, being a recycling nation, attention to its approaches to recycling with minimal emissions is extremely careful. Based on the environmental programs of both states, we can assume that the main breakthrough and success of the Hungarian ecosphere is their accountability and receipt of funds from the EU, that is, they are motivated accordingly and create appropriate eco-conditions. And what's more, in our opinion, there is a "whip and cookie" approach here. In this way, working for a win-win result. For the EU, Hungary successfully develops eco-programs and implements them conscientiously, because shifts are indeed taking place. For Hungary, there is funding for development and testing of the same programs, but key funding. In the case of Ukraine, a program has been developed, in which even the main problems on the way to implementation are highlighted, but there are no results. In our opinion, analyzing the strategy of eco-shifts of Ukraine, we see a failure in some of the stages of implementation. The part that it is appropriate for us to use the experience of Hungary in the development of systemic steps, albeit small, but which will be effective. The existing strategy is planned to be achieved in 2 approaches, one by 2025, the second by 2030. The first approach includes the implementation of European eco-norms and standards, environmental accounting and control, incentive mechanisms for enterprises to energy efficiency, electronic governance, raising and spreading eco-awareness in society. The second approach involves the so-called harvesting of fruits and is a stage of significant changes [14]. We emphasize that this strategy was adopted in 2019 and it was planned until 2025 that, in our opinion, it is absolutely realistic to implement in two years, because we pay attention to the fact that there are no real proposals or programs regarding options for waste processing and thus how to protect the environment the environment from the processing activities of enterprises is not indicated, only the so-called "motivations", and in the case of such proposals and their test regime, then we would have a shift in the ecological sphere. Mostly we see the superficiality of this strategic approach and, accordingly, significant shifts that will change our ecology are not worth waiting for. The main motivation for Ukraine can be investments and European integration, which has been squeezed into Ukrainian regulatory and legal documents and occupies a priority place. That is why it is worth paying primary attention to proposals to reduce waste emissions into rivers and seas, recycling of garbage, and only then to "motivation", that is what, in our opinion, should be carried out by 2025, departing from the strategy, and considering military actions, what pollute the environment more, the planned stages of implementation are even greater motivators for what we proposed above.

Conclusions. First, The Constitution of Ukraine states about a single citizenship. At the same time, the existing provisions of the legislation provide an opportunity to have two or more citizenships. After all, citizenship is lost only after applying and issuing the corresponding Decree by the President, and there is no system of fixing dual citizenship.

That is why, considering the experience of Hungary, the issue of dual citizenship in Ukraine should be finally resolved. From a legal point of view, the closure of this issue would resolve several existing conflicts and serve as a good example of establishing international cultural ties, and every Ukrainian living abroad would be inseparable from his "home" and avoid interstate fluctuations by citizens. Secondly, international terrorism and organized crime today are inseparable partners with one goal - the task of pain. Unlike Hungary, Ukraine does not contain constitutional provisions regarding terrorism, which automatically calls into question the legality of such functioning.

In our opinion, considering the experience of Hungary and the active promotion of such an action on the territory of Ukraine, it is worth constitutionally enshrining the anti-terrorist regime alongside the army. This addition will make the specified Law more logical and, accordingly, in accordance with the Constitution. Both in the case of the martial law and in the case of the anti-terrorist regime, both involve several restrictions and exclusions, the difference is precisely in the territorial scale and consequences, however, the legislation should provide for and contain such provisions due to its spread and the activity of actions.

Thirdly, based on the environmental programs of both states, we can assume that the main breakthrough and success of the Hungarian ecosphere is their accountability and receipt of funds from the EU, that is, they are motivated accordingly and create appropriate eco-conditions. In the case of Ukraine, a program has been developed, in which even the main problems on the way to implementation are highlighted, but there are no results. In our opinion, analyzing the strategy of eco-shifts of Ukraine, we see a failure in some of the stages of implementation. The Ukrainian eco-strategy was adopted in 2019, and it was planned until 2025 that, in our opinion, it is absolutely realistic to implement in two years, because let's pay attention to the fact that there are no real proposals or programs regarding options for waste processing and thus how to protect the environment the environment from the processing activities of enterprises is not specified, only the so-called "motivations", and in the case of such proposals and their test regime, then we would have a shift in the ecological sphere. We see the superficiality of this strategic approach and, accordingly, significant shifts that will change our ecology are not worth waiting for. The main motivation for Ukraine can be investments and European integration, which has been squeezed into Ukrainian regulatory and legal documents and occupies a priority place.

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Received: August 10, 2022

Approved: September 18, 2022