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The third issue contains articles by scientists from different countries, prepared on the basis of their scientific work. It is designed for university teachers, graduate students, undergraduates, practitioners in Public Administration and Law.

EDITORIAL TEAM

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CHAPTER 1
MODERN TRENDS IN PUBLIC ADMINISTRATION

PRINCIPLES OF REALIZATION OF NATIONAL REQUEST FOR INFORMATION SECURITY

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Abstract. *Ensuring information security is considered as one of the priority state tasks, as an important element of national security. The development of state information policy in Ukraine should foresee the fact that all problems related to information security (formation of information legislation, counteraction to threats in the information sphere, counteraction to information conflicts, information wars, development of legal means and protection organizational measures against information wars), must be resolved holistically. The aim of the article: to investigate the principles of realization of the state request for information security. The research methodology: the methods of logical comparison, systematization and generalization, which made it possible to achieve the goal of the study. The importance of developing an appropriate, consistent state information policy aimed at obtaining a qualitatively new result in the field of information security of a person, society and the state, which would meet the state and trends of the global information society and generally accepted international and European standards in this field of interest, has been outlined. State information policy should be implemented in stages based on the use of organizational, legal and economic principles. At the first stage of the state information policy realization it is necessary to consistently reform information production in the system of state power and management as a whole, at the second - to transform the available information resources gradually into real material and spiritual benefits for the population of the country.*

Keywords: *public administration, information security, information society, information technologies, state information policy.*

JEL Classification: H00, H55, H56

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Introduction. The rapid development of information technology and the problem of their rapid implementation in all spheres of human life, the growing importance of information in management decisions by public authorities and management, a new format of the media – these and other factors bring to the front plan the problem of creation and strategic management information security realization.

Protecting its national interests, each state must take care of its information security. The strengthening of Ukrainian statehood requires the same. Balanced state information policy of Ukraine is formed as a component of its socio-economic policy,

based on the priorities of national interests and threats to national security of the country. From a legal point of view, it is based on the principles of a democratic state governed by the rule of law and is implemented through the development and implementation of relevant national doctrines, strategies, concepts and programs in accordance with current legislation. In Ukraine, there is an objective need for state and legal regulation of scientific, technological and information activities, which would meet the realities of the modern world and the level of development of information technology, international law, but would simultaneously effectively protect their own Ukrainian national interests. Relations related to information security, as the most important today for society and the state require the fastest possible legislative regulation.

Literature Review. The content and importance of public administration in the field of information security has been studied by such scientists as I.V. Aristova [1], T.I. Blystiv, V.T. Kolesnyk, P.Ya. Pryhunov, K.V. Karpova [3], O.G. Zaluzhny, V.V. Danyleiko [11], V.A. Lipkan, Yu.Ye. Maksymenko, B.M. Zhelikhovsky [5], G. Sashchuk [9] and other national and foreign scientists. At present, the principles of implementation of the state request for information security remain insufficiently studied, and the analysis of scientific achievements of researchers gives grounds to assert the existence of various approaches in the study of this issue.

Aims. The aim of the article is to investigate the principles of realization of the state request for information security.

Methods. The author used the methods of logical comparison, systematization and generalization, which made it possible to achieve the goal of the study.

Results. In modern society, all spheres of life operate on the basis of a developed information structure. The economic, political and military power of any state in the modern world directly depends on the national information resource. Information, penetrating into all spheres of state activity, acquires a specific political, material and cost expression, which is determined by a number of factors, including the amount of damage caused by the quality degradation.

The security of information content is one of the main indicators of the quality of such information. That is why information security and ways to ensure it in recent years have become especially relevant in the process of public administration. Ensuring information security of public authorities is considered as one of the priority state tasks, as an important element of national security. The complex nature of current threats to national security in the information sphere requires the definition of innovative approaches to the formation of a protection system and development of the information space under conditions of globalization and free circulation of information.

Strategic management is the ability to model a situation; ability to identify the need for change; development of the strategy itself; ability to implement the strategy. In addition, strategic management is management that relies on human resources as the basis of the organization, focuses production activities on customer demand,

responds flexibly and makes timely changes in the organization that meet the challenge of the encirclement and allow to achieve competitive advantage, that in the aggregate enables the organization to survive in the long run, while achieving its goals.

Thus, strategic management is first of all a continuous process, rather than a one-time act of developing a stable strategic plan. It starts with an assessment of the situation outside and inside the organization, developing possible directions for the use of organizational forces, choosing the best of the identified alternatives and developing a detailed tactical plan aimed at the gradual implementation of the chosen strategy [4].

Information security is one of the essential components of national security, its provision, through the consistent realization of a well-formulated state information policy, would greatly contribute to success in solving problems in political, social, economic and other spheres of state activity [6].

It is necessary to understand that the state information policy is a policy that by means of state (political) power creates and ensures the functioning of the system of legal regulation of information relations, protection of human rights and fundamental freedoms, balance of human interests, society and state in all spheres of information [1]. The development of state information policy in Ukraine should include the fact that all issues related to information security (formation of information legislation, counteraction to threats in the information sphere, counteraction to information conflicts, information wars, development of legal means and organizational measures to protect against information wars), must be resolved holistically [8]. Thus, we note the importance of developing of independent, consistent state information policy aimed at obtaining a qualitatively new result in the field of information security of a person, society and state, which would meet the state and trends of the world information society and generally accepted international and European standards in the investigated sphere.

In terms of the state information policy realization, the foundations should be laid for solving of such tasks as:

1) Formation of a single information space of Ukraine and its entry into the world information space;

2) Ensuring of information security of an individual, society and the state;

3) The formation of a democratically oriented mass consciousness;

4) Development of the information services industry;

5) Expanding of the legal field of public relations regulation, including those related to the receipt, dissemination and use of information, which, in turn, should help strengthening of ties between the center and the regions, strengthening of the country's integrality.

These foundations allow forming the strategic goal of the state information policy - to ensure the transition to a new stage of development of Ukraine, to build an

information society and the country's entry into the world information community. The following components must be provided:

- Formation and development of an open information space of the state under the necessary condition of ensuring its integrity and unity;
- Integration into the world information space taking into account national interests and peculiarities;
- Ensuring information security at the domestic and international levels.

The success of the state information policy will depend on the fulfillment of the following priorities:

- Modernization of information and telecommunication infrastructure, development of information and telecommunication technologies;
- Effective formation and use of national information resources and ensuring of wide, free access to them;
- Providing citizens with socially significant information;
- Development of independent mass media;
- Creation of the necessary regulatory framework for building of a modern information society.

The performance of these tasks must be accompanied by appropriate functionality:

- Providing information services to the population based on the development of mass information exchange and mass communications;
- Information support of the system of public authorities and local self-government;
- Ensuring information interaction between civil society and government, including state and local authorities;
- Human preparation for life and work in the information society.

In order to perform the tasks, regulation is required with the help of various forms of influence of the information sphere objects [6], which are involved in this process, namely:

- Legal basis of information relations;
- System of formation and use of information resources;
- Information and telecommunication infrastructure;
- Scientific, technical and production potential required for the formation of information and telecommunications space;
- Market of information and telecommunication means, information products and services;
- Home computerization;
- International cooperation;
- Information security system.

It should be noted that the following basic principles must be observed during realization of the state information policy tasks.

The principle of policy openness means that all major information policy measures are openly discussed by society, and the state takes into account public opinion.

The principle of equality of interests means that the interests of all participants in information activities, regardless of their position in society, ownership and nationality are equally taken into account.

The principle of systematization means that under the implementation of decisions to change the state of one of the regulation objects must be taken into account the consequences of these decisions on the state of others.

The principle of priority of domestic producers means that under equal conditions, priority is given to domestic producers of information and communication means, products and services.

The principle of social orientation means that the main measures of the state information policy should be aimed at ensuring the social interests of citizens of Ukraine.

The principle of state support means that information policy measures aimed at information development of the social sphere are mainly funded by the state.

The principle of priority of law means that the development and application of legal and economic methods has priority over any form of administrative solutions to problems in the information sphere.

The realization of information policy includes a key set of interconnected components.

The normative-legal component contains certain legal tools that will be used to overcome these threats with the obligatory priority of human and civil rights and freedoms, forms a certain vector of development of information relations.

The organizational and technological component is represented by a set of organizational and technological means of search, storage, distribution and use of information products and services in all spheres of society and the state, including territorially distributed depositories of information resources, state and corporate computer networks, telecommunication networks and special systems. purpose and general use, communication lines, networks and data transmission channels, means of switching and management of information flows, organizational structures of management and control.

Economic component means preservation, development and effective use of objects of the national information space, which are of strategic importance for the economy and security of Ukraine; providing comprehensive support and protection of domestic producers of information products, promoting the development and implementation of the latest information technologies; economic support of the state for the development of information infrastructure and information system, assistance in the development and implementation of the latest information technologies.

Social component - the state must have a sufficient number of professionally trained specialists to work in the information spheres of government and civil society,

who would be able to ensure the assimilation, implementation and effective operation of modern information and communication technologies, systems, networks and technical devices, and all the citizens must be sufficiently prepared to become their mass individual users both in their professional activities and at home. At the same time, both professionals and mass users must know well and clearly follow the legal norms of activity in the information sphere. An important socio-educational factor of the state information policy is the formation and development of a unified national system of mass information education and training, training and retraining of professionals in the information sphere.

Due to the growing number of cases of illegal use of information weapons, unauthorized dissemination and receipt of information via the Internet, the spread of cybercrime, the process of information policy formation in the electronic information environment, which should be understood not only legal norms but also generally accepted moral canons of behavior, i.e. specific rules of information culture, neglect of which is negatively reflected in the implementation of the requirements of information legislation (including legislation in the field of state information policy provision and information security).

Undoubtedly, the proper level of state information policy and information security in the state can be ensured only if a well-developed information society is created and functions effectively. However, to date, a number of shortcomings can be identified that hinder its construction and prevent the provision of an adequate level of information security of man, society and the state [7]:

- Insufficient development of the regulatory framework to ensure the proper functioning of the information sphere, ensuring the information security of a person, society and the state - the inconsistency of certain rules of law governing the information sphere;
- Ineffective system of state regulation of the media space, lack of a common vision of the directions of its further development;
- Insufficient information presence of Ukraine in the global media space, increased information dependence on foreign countries and media structure;
- Unsatisfactory condition of the broadcasting network; outdated technological equipment of Ukrainian TV and radio companies, insufficient level of development of the latest means of communication;
- Monopoly of cable broadcasting; extremely slow transition to digital broadcasting;
- Market spontaneity of telecommunication networks and computerization, low control over them by the state;
- Unregulated training and employment of IT specialists within the state;
- Insufficient number of state programs related to the formation of the information society;

- Low level of computer and information literacy of the population, slow implementation of the latest teaching methods with the use of modern information and communication technologies;
- Uneven provision of access of the population to computer and telecommunication means, deepening of "information inequality" between separate regions, branches of economy and various segments of the population;
- Low level of provision of information services by state authorities and local self-government bodies to legal entities and individuals using the Internet, low rates of development of the relevant information infrastructure;
- Low development of the mechanism of protection of copyrights on computer programs, absence of the corresponding system state decisions;
- Lack of effective protection of information rights of citizens, primarily regarding the availability of information, protection of information and minimization of the risk of "information inequality" and others [10].

The state information policy should take into account these shortcomings when planning measures to stimulate the development of the information society.

Today in Ukraine the basic principles, tasks and strategic directions of the state information policy are legally formulated and fixed, the state institutes of the corresponding competence are formed, a number of concepts, programs and action plans are accepted [2]. However, at the level of practical implementation, the information policy of the state in modern Ukraine is characterized by uncoordinated activities of various departments, inconsistency and opacity in the implementation of the planned measures. As a result, Ukraine is not yet one of the information-independent states and its information sphere is characterized by the following features:

- Inefficient system of state regulation of the national media space, lack of a consolidated vision of its further development, underdeveloped cultural industries, the national system of collecting and disseminating information on a global scale;
- Low level of presence in the global media space, high information dependence on foreign countries and media structure;
- In the presence of positive dynamics of introduction of telecommunication networks and computerization – market spontaneity of these processes, low controllability by the state, persistence of lag in the field of ICT, unregulated training and employment of IT specialists within the state.

Discussion. Improving of the organizational and functional support of public administration in the field of information security of Ukraine has been created to avoid duplication of public administration, strengthening control and responsibility of the state and the public in this area, adapting the mechanism of formation and implementation of public security and information policy to best practices. They make provision of bringing the government closer to the population, publicity of the management decision-making process. To do this, it is necessary to develop and realize a long-term state program to create the foundations of the information society,

which can become a unifying ideological principle for Ukraine, because along with the concept of sustainable development model provides targeted social development, and on this basis can be identified courses dealing with information security of Ukraine.

Conclusion. Ensuring of information security of public administration, public authorities is one of the strategically important tasks for strengthening of the state national security. The considered problems concern those which demand constant attention of the state and the priority decision, increase of degree of the state control over observance of requirements of safety in information space. A significant contribution to information security can be the development of conceptual foundations for determining optimal ways to improve the information security system of Ukraine.

State information policy should be implemented in stages based on the use of organizational, legal and economic principles. It is assumed that the implementation will last quite a long period, the timing of which is associated with a certain level of development of society. The speed of this development determines the growing need for information. At the first stage of implementation of the state information policy it is necessary to reform consistently the information production in the system of state power and management as a whole, at the second - to transform gradually the available information resources into real material and spiritual benefits for the population.

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IMPLEMENTATION OF INNOVATIVE FORMS AND MODELS OF PUBLIC ADMINISTRATION IN THE SPHERE OF CULTURE IN UKRAINE

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Abstract. *The article examines the actual problem of the development of the sphere of culture in Ukraine. Today, with the arrival and development of the state and civil society in Ukraine, a new model of state policy is being formed, which requires further improvement of the quality of public administration in the field of culture, its formation, style, methods and legal forms based on modern research. In these conditions, the main task of the functioning of public authorities and management of the sphere of culture, the latter must be solved in cooperation with state institutions, cultural intelligentsia and outstanding cultural figures, is to improve the principles and directions of culture, state policy, which is of great strategic importance for countries to develop and modernize. The aim of the article: to investigate the peculiarities of the implementation of innovative forms and models of state policy in the field of culture in Ukraine, using the best European experience in public administration in the field of culture. The research methodology: to solve the set research tasks, the following methods of cognition were used in the work: analysis and synthesis - to substantiate the need and disclose the essence of the implementation of state policy in the field of culture, as well as to examine the modern legal and regulatory framework of Ukraine, regulating the functioning of this area; structural and functional - to study the organizational structure of authorities in the sphere of culture; comparative analysis - to compare the characteristics of the cultural policy of Spain, Italy, France and Germany. The subject of the research is the peculiarities of the implementation of innovative forms and models of state policy in the field of culture in Ukraine, with the possibility of implementing the best European experience. Therefore, the article actively used the analysis to compare the characteristics of the cultural policy of Spain, Italy, France and Germany. As a result of the study, conclusions were drawn regarding the possible use of diversification of the mechanism for financing the sphere of culture in Ukraine; the creation of cultural centers should be funded by government grants; the creation in Ukraine of functional and regulatory provisions obliging the authorities at the regional and local levels to involve leaders on the basis of an open competition and training in the field of cultural management to create opportunities for the cultural and social development of the state.*

Keywords: *public policy, public administration, innovation, sphere of culture, public authorities.*

JEL Classification: H00, H83, Z18

Formulas: 0; fig.: 1; tabl.: 0; bibl.: 9.

Introduction. Today the problem in the sphere of culture of Ukraine is the functional and organizational support for the implementation of state policy and the search for opportunities for the application of innovative models and forms in this area. The relevance of the study is due to the presence of problems and global transformations of the cultural environment and the transition from the traditional structural-institutional approach to the implementation of state policy in the field of Ukrainian culture to the functional and managerial, which are characterized by an innovative concept of the cultural sphere.

Literature Review. Ukrainian and foreign researchers paid attention to the problems of cultural development of society in different historical periods, in particular: M. Castells, C. Landry, F. Matarasso, A. Perotti, V. Bibler, M. Kagan, S. Krymsky, M. Mamardashvili, A. Mole, W. Weidlich, M. Castells . The theoretical and methodological foundations and definitions of certain aspects of state regulation of the cultural sphere are contained in the works of V. Andrushchenko, V. Bakumenko, A. Batishchev, I. Voronov, L. Vostryakov, A. Gritsenko, V. Karlova, M. Kiryushka, S. Kindzersky, P. Nadolishny, M. Proskurina, A. Svidzinsky, S. Chukut.

Aims. To investigate the peculiarities of the implementation of innovative forms and models of state policy in the field of culture in Ukraine, using the best European experience in public administration in the field of culture.

Methods. To solve the set research tasks, the following methods of cognition were used in the work: analysis and synthesis - to substantiate the need and disclose the essence of the implementation of state policy in the field of culture, as well as to examine the modern legal and regulatory framework of Ukraine, regulating the functioning of this area; structural and functional - to study the organizational structure of authorities in the sphere of culture; comparative analysis - to compare the characteristics of the cultural policy of Spain, Italy, France and Germany.

Results. At the moment, the processes that are taking place in Ukraine cannot be viewed in isolation, since, over time, they coincide with the global transformation of the cultural phenomenon itself. This opens up a real and unique opportunity for Ukraine to synchronize the development of the sphere of culture and views on the means and forms of state influence on the cultural process with the international community.

The main trends in the development of the sphere of culture in Ukrainian society are most often called:

- deepening the integration of national culture with the European and world cultural space;
- limiting the participation of the state in supporting the cultural sphere in the new market and economic conditions;

- widening the gap in the level of cultural development between individual regions of the state [1].

At the same time, its shortcomings are most often called residual financing, insufficient awareness of the importance of the cultural sphere at the level of strategic management, a declarative legal framework, and among the main problems:
- conceptual and programmatic ambiguity of cultural policy at different levels of government;
- protection of national and cultural space in the context of globalization;
- low level of material and technical and staffing, and the like.

There are two main approaches to the implementation of state policy in the field of culture:
- traditional structural-institutional (it is also called systemic or resource), in which cultural policy is viewed through the prism of power, which is carried out by state authorities, local authorities and sometimes public organizations;
- functional and managerial, associated with a newer concept of the existence of the cultural and political process.

In fact, they are associated with the existence in the world of two paradigms of state policy, which are called "paternalistic" and "partner", but usually one of them does not exist in its pure form, and their components remain in constant interaction. In fact, we are talking only about rethinking a specific model in the process of choosing specific directions and instruments of state regulation in the field of culture, as well as in the implementation of cultural and political decisions.

The main models of state financing of the sphere of culture by foreign researchers have identified the following, which have received well-known names:
- state architect;
- state engineer;
- the inspiring state;
- patron state.

It is also important that the same country can simultaneously use additional models, so the classification put forward is not unwise.

In general, state policy in the sphere of culture of modern Ukraine can be described as a policy of a transitional type, in which the state is the main subject. The annual message of the President to the Verkhovna Rada of Ukraine emphasizes the importance of developing the sphere of culture and effective state policy in the field of modernizing Ukraine and consolidating the whole society, they are formulated according to its basic conceptual principles.

The Public Humanitarian Council chaired by the President of Ukraine is an effective mechanism that unites the efforts of the authorities and society in solving the problems of humanitarian and cultural development. This advisory institution

provides access to participation in the process of developing a strategy for the humanitarian development of Ukraine, as well as decides tactical issues of cultural policy.

The Verkhovna Rada of Ukraine establishes the main legal framework and priorities of the state policy for the development of the cultural sphere and sets the budget for this industry every year. The Cabinet of Ministers of Ukraine ensures the implementation of this policy through the respective Vice Prime Minister.

This type of public policy is pre-based on the direct effect of the outcome on the strength of managerial action, usually does not work. At the same time, the rapid changes taking place in the modern world have caused the concept of sustainable development in the sphere of the state economy, making it determinative in all spheres of public life, including culture, the concepts of "change", "partnership" and "knowledge".

Ukraine has a rich cultural heritage, as well as a number of industries, by the nature of their activities can be considered "creative". The sphere of culture are important for the population of Ukraine, and also occupies a certain place in the world cultural heritage. In terms of regulating the development of the cultural sphere, one of the leading roles is played by the government, since it creates the necessary prerequisites for the preservation and development of national cultural values and goods, which serve as an important basis for the development of society as a whole and the upbringing of each individual.

The development of the sphere of culture and the proper state regulation of this sphere stimulate effective interaction between various social groups, and is also a key factor in the development of tourism. An additional impetus is created for the further socio-economic and political development of the state. Today, the sphere of culture is becoming increasingly integrated into all aspects of public life and the economy of the state, requiring more fruitful and in-depth interaction between different levels of government, society, as well as public and private institutions. Such interrelation was noted by scientists in the context of identifying the influence of international experience in the implementation of public administration in various fields, including the sphere of culture [2].

All this predetermines the need for a comprehensive analysis of modern trends in public administration in the sphere of culture and determining the directions of reforming this sphere in Ukraine.

One of the constitutional freedoms of citizens of Ukraine is "freedom of literary, artistic, scientific and technical creativity, protection of intellectual property, copyright, moral and material interests that arise in connection with intellectual activity in this industry" [3].

This provision is the basis for the process of state management of the sphere of culture, aimed at stimulating and supporting various manifestations of creative activity of the population of Ukraine, and consists in organizational support and creation of appropriate favorable conditions for the development, distribution, popularization of works of art, literature and other cultural benefits, dissemination of information about the past. and the current achievements of culture, the targeted use, preservation and protection of cultural values, cultural monuments and works of art in the state, promoting the growth of the level of culture of the Ukrainian nation, exercising leadership functions and monitoring the activities of subordinate organizations, institutions and cultural institutions of state ownership, which in general contributes to the satisfaction of the cultural needs of the citizens of Ukraine and the preservation of the national consciousness of the population.

By culture, which is an object of government, in a broad sense, we mean a set of various material and spiritual values and benefits created by society, which characterizes a certain level of its development in the country.

Cultural and artistic events in the state are carried out mainly by cultural institutions, which are museums, theaters, philharmonic societies, film demonstrators, club institutions, libraries, publishing houses, circuses, parks of culture and recreation, schools of aesthetic education, and the like.

In European practice, culture is not just an object of public administration, but is also considered as the basis for further socio-economic growth of the state, since it plays an important role in many aspects of the development of the state, in particular:

- in the development of intellectual resources of the state economy (ensuring the employment of citizens in the creative sectors, developing innovative potential in the state, stimulating innovation to ensure the production of competitive and high-quality products);

- in the sustainable development of the economy (the spread of the latest digital technologies, strengthening the relationship between the cultural, economic and environmental components of sustainable development);

- in the socially oriented development of the economy (culture is the basis for the development of the economy through strengthening intercultural dialogue and respect for cultural diversity, increasing the level of social cohesion in the process of cultural activities, increasing the role of the public sector in the social, cultural, economic development of the country).

In international practice, there are four most common conceptual approaches to public administration of the cultural sphere:

- “helper” policy - financial support to the middle class is carried out by the state mainly in the form of “counter” subsidies that stimulate private and collective investments in this area (USA);

- the policy of the "architect" - funding is carried out by the relevant ministry or another state body responsible for the UK, and the GKP becomes an integral part of the general social policy of the state, the purpose of which is to increase the cultural level of the country's population (Western Europe, in particular, France);

- the policy of "engineer" - the state becomes the owner of the material base of the middle class, and the main goals of cultural activities are the issue of upbringing and education (Eastern Europe);

- the policy of "patron" in the state, there are art councils that have the right to receive special state funds and the distribution of these funds between the sub-sectors of culture and art and monitor the non-interference of state institutions in the creative process of organizations and institutions, such financial assistance is received (Anglo-Saxon countries) [4].

The most effective today in foreign countries have become the "American" and "British" models of state policy (successfully implemented in the USA, Great Britain, Ireland, Finland), which are considered "market" and consist in the allocation of specific goals, content, characteristics and results of state cultural policy. Within the framework of such a policy, the principle of political non-interference in the affairs of the cultural sphere and in decision-making regarding the distribution of financial resources within the region is implemented.

As a result of this approach, the so-called “the arms-length principle” has been formed recently, which provides for the adoption of many managerial decisions in the field of culture with the participation of independent institutions, for example, the National Councils for Arts Affairs (UK), National Endowment for the Arts (USA).

There are analisys of typological models of innovative models in the field of culture (fig. 1).

In modern conditions, when the states are actively pursuing a policy of decentralization, this process is actively spreading to the management of the cultural sphere. In some countries, in particular France, regional directorates for cultural affairs were established, subordinate to the central authorities, and in Denmark and Sweden, separate powers in the field of culture were given to local authorities, but the state retained the right to make decisions on the most important key issues. And in a number of countries, such as Austria, Belgium, Germany, Switzerland, on the contrary, the state carries out only minor coordination or auxiliary functions in the field of management of the cultural sector, and the right to make decisions in the field of regional cultural policy is vested in municipal administrations.

Creative "reservoirs". Creative "reservoirs" are a set of subjects, ideas, values, knowledge, forms of communication and socialization. These "reservoirs" have a creative potential that significantly exceeds the capacity of enterprises and businesses, and in fact is a new resource. At the heart of creative "reservoirs" are organizational models that are characteristic of network structures.	Consumer-driven innovations. Interaction between producers and consumers is a fundamental feature of cultural organizations: these organizations are at the forefront of consuming relevant goods and services and transforming lifestyles, they have a tendency to seek new things and experiment, and a culture of consumption is important.
Creative classes. According to this concept, creative people play a key role as creators of innovations. Professionals working in the sector have three characteristics: technology, talent, and tolerance.	Mass creativity and innovation (hidden innovation). We are talking about a situation when research (search for new knowledge) and production processes take place in society itself. The cultural sphere influences three spheres of social life: promoting public dialogue, widespread use of new technologies (assistance through creative content) and the need to rethink the national educational model (development of creative and creative skills, inclusion of the education system, development of creative skills, etc.).
Social innovation is the development and implementation of new ideas (goods, services and models) that meet the corresponding needs of society. Unlike other economic agents, cultural organizations tend to have closer ties with the territories in which they operate (local development), and their value system is integrated into the process of social change.	Institutional innovation. Culture plays an important role in fostering the emergence and implementation of institutional innovations through the implementation of international cooperation programs and specific activities aimed at modernizing the content and mechanisms for the provision of public services. Culture "acts" as a resource for local development, its (development) planning and management.

Fig. 1. Typology of innovative models in the field of culture [5].

The generalized public policy model includes five main elements:

- area of government - sectors and industries that are considered “creative” (for example, visual arts, exhibitions, television and radio broadcasting, film screenings, etc.);
- instruments - means of regulation and support of the cultural sphere (in particular, subsidies, tax benefits, settlement of property issues);
- institutional structure - a set of institutions that regulate relations in the field of culture (for example, a ministry, administration, service, department, etc.);
- decision-making process - a method or method of making decisions on issues that directly or indirectly relate to the sphere of culture;
- the rules, norms and traditions that govern the interaction between the above elements.

In European states, there is a developed mechanism of state financing of the cultural sphere through the introduction of specific taxes (in particular, the tax from the trade in books is used to finance literary activities, the tax on profits of new TV channels - in support of the film industry and the production of audio and video

products, tax on theater and concert activities - on the development of theatrical art) [6].

In some countries, such as France, Italy, Germany, Great Britain, there is a widespread mechanism for providing loan guarantees to various cultural entities. Also, in most European states, additional sources of funding for the cultural sector are developing, including for such purposes, proceeds from lotteries and gambling, profitable cultural sectors, and the like are used.

In addition, in contrast to the effective management models of the cultural sphere, which are used by developed countries, in Ukraine decisions concerning the sphere of culture are mainly centralized and are made by the relevant state structures.

In contrast to this, in Western realities, the principle of decentralization is being promoted, and the experience of management based on a consultative approach is applied, when decisions are made by special councils, funds, etc., and the state plays only a coordinating role. Of course, in the course of the political association between Ukraine and the EU, the sphere of public administration, including the state, carries reform changes and actively draws on the experience of the EU countries [7].

According to the results of a survey conducted by the German cultural center "Goethe-Institut" in Ukraine, the purpose of which was to identify the differentiation of satisfaction of the needs for cultural services in large and small cities, the main reason why residents of small towns do not attend cultural events is the lack of interesting activities (34%), lack of funds (28%) and time (25%).

At the same time, most of the respondents in large cities (51%) refer primarily to the lack of time and only 14% to the lack of interesting events. This underlines the greater concentration and variety of events and events in large settlements compared to small ones. By their nature, the most common cultural and artistic events in big cities are concerts, in small ones - exhibitions [8].

In general, the sphere of culture in Ukraine is at the stage of modernization and renewal in accordance with European values and aspirations for integration into the world community, and also requires certain changes in the direction of reform.

In this context, in recent years, the following key areas of reform in the field of culture have been implemented:

- reform of legislation on the protection of monuments;
- creating incentives for filmmaking; financing of cultural events;
- introduction of a contract system in theaters and cultural institutions.

Taking into account the main priority directions of development of the sphere of culture, on February 1, 2016, a long-term strategy for the development of Ukrainian culture was adopted - a strategy of reforms that will contribute to the modernization of the system of financing and economic support of the sphere of culture,

decentralization of management of the sphere of culture, the formation of a national cultural product and the creation of a single information and cultural space [9].

Discussion. The current state of culture in Ukraine requires new political approaches, measures and mechanisms for their implementation. The development of the culture of the state and its individual regions should be a definite one of the main directions of activity of state authorities and local self-government bodies. Accordingly, the following goals and priorities in public policy can be noted:

- drawing up and approving a permanent program for the development of the culture of Ukraine, as well as support in the development of medium-term regional programs for cultural development;
- introduction of the public into the processes of management and control in the field of culture;
- development of an effective model of financial and material and technical support for cultural development;
- preparation, adoption and state social standards for the provision of services to the population that are guaranteed by the state in the field of culture;
- implementation of a set of educational, cultural and artistic programs, as well as projects for the younger generation;
- support and development of rural culture;
- Ukraine's participation in international cultural projects, processing of a set of information and cultural events to inform the world about the cultural values of Ukraine.

Among the main models of state financing of the cultural sphere, the work analyzes those that have received conditional names: the state-inspirer, the state-patron, the state-architect and the state-engineer. It is also very important that the same country can simultaneously use additional models, therefore the proposed classification is not mutually exclusive.

Therefore, for Ukraine, there may be a promising model of the “patron” state, where the financing policy “at arm's length” corresponds to modern international trends, is characterized by the processes of decentralization and regionalization of cultural policy, which usually correspond to social development strategies.

It is in European practice that culture is not just an object of public administration, but is also considered as the basis for further socio-economic growth of the state, since it plays an important role in many aspects of the development of the state, in particular:

- in the development of intellectual resources of the state economy (ensuring the employment of citizens in the creative sectors, developing innovative potential in the state, stimulating innovation to ensure the production of competitive and high-quality products);

- in the sustainable development of the economy (dissemination of the latest digital technologies, strengthening the relationship between the cultural, economic and environmental components of sustainable development of territorial communities);
- in the socially oriented development of the economy - culture is the basis for the development of the economy through the strengthening of intercultural dialogue and respect for cultural diversity;
- increasing the level of social cohesion in the process of cultural activities, increasing the role of the public sector in the social, cultural, economic development of the country.

Conclusions. The state policy in the sphere of culture should be an important element of the integration strategy of the policy of the European integration strategy. In the period of changes and development of market relations, integration transformations, changes in legislation, foreign experience in ensuring the social sphere can be used and somewhat adopted, focusing on the main problems of the cultural sphere, because foreign experience solves not only the issues of practical implementation, but also the solution of current problems. The states that drew attention to the need for state regulation of the cultural sphere were such highly developed countries such as Germany, France, Italy, Spain and others. Therefore, the work considers the experience of these countries at the level of state regulation for the development of the cultural sphere.

The conclusion on diversification of the mechanism of financing the sphere of culture in Ukraine, which is implemented mainly through budgets of different levels, is insufficient. For comparison, in foreign countries it is practiced to finance the sphere of culture by introducing specific taxes, providing guarantees for loans to subjects, searching for additional sources of financing.

The conclusion is that in Ukraine it would be advisable to create cultural centers, should be financed from state grants. It is advisable to impose obligations on these centers to create a network with other regional cultural centers, which would make it possible to create motivation for their pooling in terms of resources and the implementation of joint projects. The best centers could receive awards for achievement, strategic business plans, business models, community engagement or governance.

The innovation identified a project to create functional and regulatory provisions in Ukraine that oblige the authorities at the regional and local levels to attract leaders through an open competition and training in the field of cultural management to create opportunities for the cultural and social development of the state. It is worth organizing a meeting for the cultural centers and the cultural administration of the regional government to exchange experiences and discuss strategic development.

The indicated directions for the implementation of public policy are an opportunity to demonstrate the best examples or promising initiatives, as well as in the context of communication between cultural managers.

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ADVANCING SPORTS AND HEALTH-IMPROVING WORK IN PLACES OF PRE-TRIAL DETENTION AND PENITENTIARY INSTITUTIONS BY DEVELOPING THE EDUCATIONAL COMPONENT

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Abstract. *The normative-legal, organizational, material-technical, personnel and educational-methodical support of physical culture and health-improving work in places of pre-trial detention and penitentiary institutions is analyzed. The aim of the article: to develop an educational component for advancing sports and health-improving work in places of pre-trial detention and penitentiary institutions. There is substantiated the necessity for better coordination of interactions between the subjects of the spheres – public authorities, State Penitentiary Service of Ukraine, education, physical culture and sports, civil society institutions (public associations of physical culture and sports) to ensure the quality of training and performance of specialists/employees; improving the organizational, regulatory, personnel, logistical, financial, information support for a fuller realization of the social role of physical culture, in particular in this area; there is deepened the meaning of the concept of "educational component of physical culture and sports as health-improving activities in the places of pre-trial detention and penitentiary institutions" by determining the impact of European integration processes aimed at radical reforming of the penitentiary system, the content and forms, mechanisms and tools for improving efficiency and effectiveness of professional training of employees of the penitentiary system in terms of their physical fitness. We have found out that in the educational programs of the Academy of State Penitentiary Service of Ukraine such disciplines as "Physical Education" and "Special Physical Training" are aimed at forming theoretical knowledge, practical and methodological abilities in physical education as components of their full, harmonious and safe life; gaining experience in the application of acquired values throughout life in private, educational, professional activities; ensuring the appropriate level of development of physical performance; promoting the development of professional, ideological and civic qualities.*

Key words: *places of pre-trial detention, public authorities, educational component of physical culture and health work, penitentiary system, public management of development of education in the field of physical culture, special physical training, physical education.*

JEL Classification: H83, K14, Z28

Formulas: 0; fig.: 1; tabl.: 0; bibl.: 20.

Introduction. Implementation of the state strategic task – assigning physical culture and sports in Ukraine a leading role as an important factor in a healthy lifestyle, disease prevention, the formation of humanistic values, creating conditions for comprehensive harmonious human development, promoting physical and spiritual perfection, identifying reserve capacity, forming patriotic feelings of citizens and a positive image of the state in the world community [1] largely depends on state support for the development of education in the field of physical culture and grassroots sports in Ukraine, in particular at the regional level. The educational component is one of the determining factors in the development of physical culture in

its main areas, in particular in sports and health activities in places of pre-trial detention and at penitentiary institutions, and "taking into consideration European integration processes aimed at radical reforming of the penitentiary system, the requirements for improving the reliability and efficiency of professional training of employees of the penitentiary system have changed. One of the components of their readiness to perform their professional duties is physical fitness, which is provided by the process of physical education in a higher education institution" [2].

Literature review. Various aspects of public administration in the field of physical culture and sports in Ukraine are covered in the works of B. Averyanov, O. Andriiko, V. Bazenko, E. Borodin, V. Husar, M. Dutchak, V. Zhukov, I. Zaliubovska, N. Kalashnyk, V. Kudelko, O. Kuzmenko, C. Lishchuk, Y. Michuda, M. Oliinyk, M. Studenikina, in particular, the issues of managing the development of education in the field of physical culture were studied by such scientists as V. Andrushchenko, T. Boichenko, C. Vavreniuk, I. Hasiuk, V. Horashchuk, O. Dubohai, M. Dutchak, O. Mozolev, L. Sushchenko, O. Shiian. The issues of combining general and special physical training, use in the educational process of specialized physical training of elements of high sports technologies and methods, methodology and sports pedagogy of training specialists for the penitentiary system were studied by V. Boiko, M. Bulatova, L. Volkov, A. Holovach, V. Dakhnovskyi, T. Ishchenko, A. Laputin, S. Leshchenko, F. Mohilnyi, M. Nosko, V. Platonov, Y. Pokholenchuk, N. Razumeiko, O. Sukhomlynska, B. Shiian and others. However, there is a lack of research on the issue of improving sports and health in the places of pre-trial detention and penitentiary institutions through enhancing the educational component.

Aims. The aims of the article is to develop an educational component for advancing sports and health-improving work in places of pre-trial detention and penitentiary institutions.

Methods. To solve this goal, the following research methods were used: observation and generalization; ordering of all basic elements; method of scientific generalization, which made it possible to formulate conclusions.

Results. Given the different types of activity and its subjects (Fig. 1), the concept of education in the field of physical culture in terms of volume and content has several meanings: educational component of activity of subjects of physical culture or educational training in physical culture and sports; specialized sports education; pedagogical education in the field of knowledge «01 Education» in the speciality «Physical Culture and Sports» [3].

The educational component of sports and health-improving activities in the places of pre-trial detention and penitentiary institutions is a process of acquiring and developing competencies of subjects – "a dynamic combination of knowledge, skills and practical skills, ways of thinking, professional, ideological and civic qualities, moral and ethical values that determine a person's ability (citizen) to carry out professional and further educational activities successfully and is the result of training)" [4].

The content and forms, mechanisms and tools for the implementation of the educational component in ensuring the development of sports and health activities in the places of pre-trial detention and penitentiary institutions have their own characteristics, due to the specifics of this area. First of all, it is the presence of two different or even somewhat "opposite" groups of subjects: prisoners and employees of penitentiary institutions, for which such basic concepts as "physical culture" (the activity of subjects of the sphere of physical culture and sports, aimed at ensuring motor activity of people for the purpose of their harmonious, especially physical, development and leading a healthy lifestyle), "physical education" (the direction of physical culture associated with the process of educating a person, acquiring appropriate knowledge and skills to use physical activity for comprehensive development, rehabilitation and readiness for professional activity and active participation in public life), "physical training" (a component of physical education of various groups, which is about forming motor skills and abilities of a person, developing his/her physical qualities and abilities, taking into account the characteristics of professional activity) [5] acquire substantive differences and are implemented in different forms and outlined spaciotemporal measurements. For these groups of subjects, the legal definition and regulation of physical education are different: for citizens who are in the places of pre-trial detention and penitentiary institutions – it is "sports and health activities"; for employees of these institutions – it is "physical training – a discipline that is a part of the overall system of education and upbringing and is aimed at ensuring the physical fitness of ordinary and senior staff for the professional activity" [6].

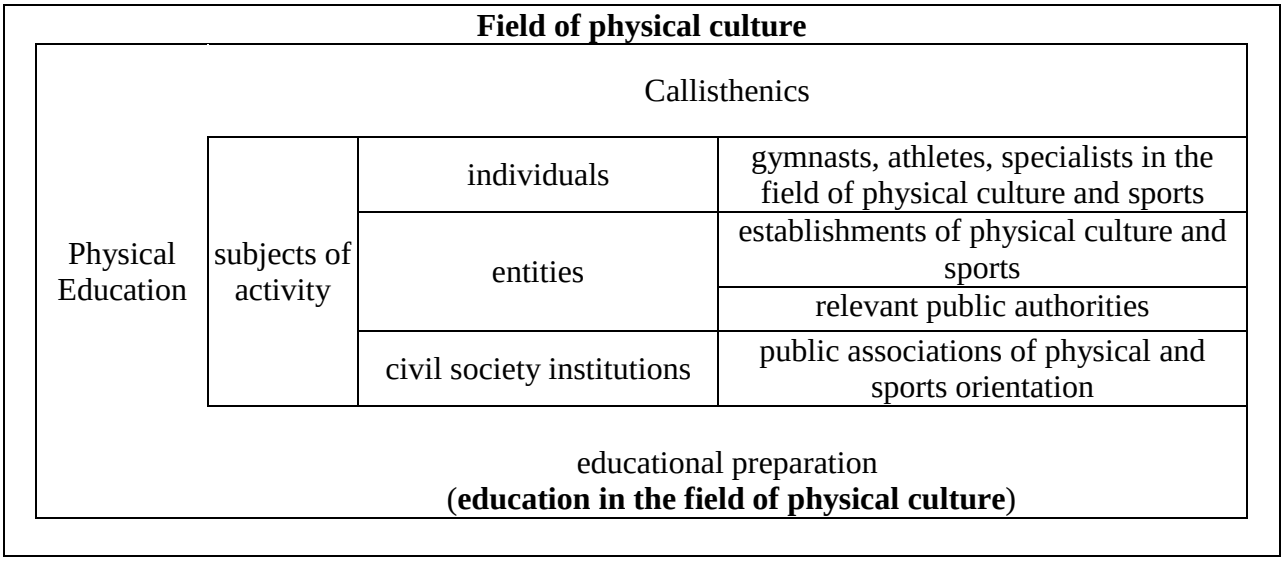

Fig. 1. Subjects of education in the field of physical culture

Sports and health-improving activity of citizens who are in the places of pre-trial detention and penitentiary institutions is defined by Article 32 of the Law of Ukraine "On Physical Culture and Sports", namely [7]: citizens who are in the places of pre-

trial detention and penitentiary institutions are guaranteed the opportunity to do sports and health-improving activities; the administration of the sites of pre-trial detention and penitentiary institutions creates conditions for physical education for persons who are in there, in particular for minors, conditions for physical education following the requirements for physical education, provided for secondary and vocational schools; The central authority of executive power, which ensures the formation of state policy in the field of execution of criminal punishments, determines the procedure for carrying out sports and health-improving activity and regulations for providing places of pre-trial detention and penitentiary institutions with physical culture and sports implements and equipment.

The State Penitentiary Service of Ukraine has 182 penitentiary institutions in which, as of January 1, 2020, 52,863 persons were detained [8]. Rules of procedure of pre-trial detention centers [9] and penitentiary institutions [10] determine the procedure for sports and health-improving activities of persons in the places of pre-trial detention and penitentiary institutions. Thus, the Rules of procedure of the pre-trial detention centers of the State Penitentiary Service of Ukraine provide for "walking yards for prisoners and convicts to walk on the territory of the regime zone or the roof of the regime building. In the courtyards are installed sports equipment for exercise (crossbar, bars). For minors in the courtyards, it is recommended to equip playgrounds for mini-football, basketball, volleyball, table tennis and more. In each walking yard, the bench which is reliably fastened to a floor is established. Sandboxes and swings are arranged for children under three years old. To organize leisure, prisoners and convicts are given board games (chess, checkers, dominoes, backgammon, other logic games) for the cells (living quarters) at the rate of one set for four people" [11]. Rules of procedure of penitentiary institutions [12] provide for the realization of the right of convicts: to be engaged in physical culture and do sports, to use a library, board games; wear sportswear and footwear during sports events and in free time following the daily routine; to receive education in accordance with the legislation on education. Sports and health-improving events among convicts are carried out at the time established by the agenda and within rules of procedure of the penitentiary institution. In correctional colonies of a minimum level of security with facilitated conditions of detention, correctional centers and sections of social rehabilitation (adaptation), such measures may be carried out outside the residential area of the penitentiary institution, but within the location of the institution. The administration of the penitentiary institution takes steps to provide convicts with sports equipment, inventory and board games (chess, checkers, backgammon, dominoes), which convicts can use in their free time. For convicts held in a disciplinary isolator, a cell-type room (solitary confinement), a dungeon and a cell-type cell of correctional colonies (sectors) of the maximum level of security, a crossbar and a bar are installed in the playgrounds.

Thus, the legislation sets minimum conditions for doing sports by citizens who are in the places of pre-trial detention and penitentiary institutions. Physical culture

and health-improving activity in the places of pre-trial detention and penitentiary institutions is reduced to: guaranteeing an opportunity to be engaged in physical culture and health-improving activity; creation of conditions for physical culture classes for persons who are in them, in particular for persons who have not reached the age of majority, – conditions for physical education following the requirements for physical culture classes provided for secondary and vocational schools; ensuring the formation of state policy in the field of execution of punishments; provision of places of pre-trial detention and penitentiary institutions with physical culture and sports equipment [13].

Another state of affairs with sports and health-improving activities of the staff of authorities, institutions and establishments of the State Penitentiary Service of Ukraine, in which: numerous sports competitions are held, and the administration considers the development of physical culture and sports and creation of the corresponding sports base as one of priority directions of work with the personnel [14]; general and special physical training is regulatory defined as a mandatory part of the comprehensive system of vocational training and is aimed at ensuring the physical readiness of rank and file and command staff for professional activities [15].

The Regulation on the organization of vocational training of rank and file and command staff of the State Penitentiary Service of Ukraine specifies that it is conducted during training sessions according to the training program under the schedule of training sessions at the place of service throughout the calendar year at the rate of 3 academic hours per week, which are planned and held separately for males and females; individual physical training classes; holding mass sports events. Physical training of privates and officers is carried out on the basis of orders of the Administration of the State Penitentiary Service of Ukraine, interregional departments, bodies and institutions of the State Penitentiary Service of Ukraine, and includes: organization of sports sections; carrying out of sports and health-improving events; organization and holding of training meetings; organization and holding of sports competitions. It is envisaged that at the beginning of each quarter of the school year at scheduled classes the check on the physical fitness of rank and file and command staff by selected 1-2 exercises by the head of the body or institution of the State Penitentiary Service Ukraine, according to the list of standards for general physical training for rank and file and command staff of the State Penitentiary Service and cadets of the State Penitentiary Service educational institutions. Persons of the rank and file and command staff who have met the standards during the inspections of their physical fitness may engage in physical training through individual pieces of training. These pieces of training are held at the expense of hours provided for physical exercise in the training system, and in the off-hours at the sports base at the place of service or other sports facilities of any form of ownership. If those of the rank and file and command staff received an "unsatisfactory" grade during the inspection, they are involved in physical training classes in the current school quarter on general terms according to the schedule of training sessions [16].

The content of this Regulation on the main aspects of the organization of physical education and areas of improving special physical training extends to the training of cadets of the only departmental institution of higher education of the State Penitentiary Service of Ukraine – the Academy of State Penitentiary Service of Ukraine (Chernihiv), which at one time in the past was suggested by the Ministry of Justice of Ukraine to be reorganized together with the Institute of Law and Postgraduate Education, which is Bila Tserkva, Dnipro and Khmelnytsky Centers for Vocational Education of the Personnel of the State Penitentiary Service of Ukraine into the Academy of Justice of Ukraine as a higher education institution with specific training conditions [17]. Currently, the Academy of the State Penitentiary Service of Ukraine provides state-funded training for about one thousand people in full-time and extramural forms of education of "Bachelor" and "Master" degrees in the speciality of "Law Enforcement" and field of knowledge "Law" provide 6 cycles, which unite 226 employees, including 11 doctors of sciences and 38 candidates, associate professors [18].

The main activity of the Academy is professional training to meet the needs of the State Penitentiary Service of Ukraine by the state order and contractual obligations of qualified specialists with higher education in the field of knowledge "Law", "Social and Behavioral Sciences", as well as for government authorities, entrepreneurship, higher education, science, other fields in Ukraine and other countries; carrying out activities related to professional training (initial professional training, retraining and advanced training) of the personnel of the State Penitentiary Service of Ukraine in the structural units of the Academy; advanced training of the staff of State Penitentiary Service of Ukraine; providing an organic combination in the educational process of educational, scientific and innovative activities, popularization of science; conducting scientific activity by doing research and ensuring the creative activity of participants in the educational process, training of highly qualified scientific personnel and the use of the obtained results in the educational process [19].

In the educational programs of the Academy of the State Penitentiary Service of Ukraine "Physical Education" and "Special Physical Training" are normative and interrelated disciplines that are essential components of the process of education and upbringing. Physical training of cadets is aimed at "forming knowledge, skills and abilities on the managing physical development of a person through physical education, applying the acquired abilities in the vital activity of future experts", and it has the following tasks: "forming bases of theoretical knowledge, practical and methodical abilities by cadets in physical education as components of their full, harmonious and safe life; gaining experience in the application of acquired values throughout life in personal, educational, professional activities, in everyday life and within the family; ensuring the proper level of development of indicators of their functional and morphological capabilities of the organism, physical qualities, motor

abilities, efficiency; promoting the development of professional, ideological and civic qualities of cadets; training and participation of cadets in various sports events" [20].

Instead, the purpose of specialized physical training is aimed at ensuring the physical ability of staff to work and act in extreme situations. Specialized physical training consists of mastering the skills of hand-to-hand combat, SAMBO as necessary professional competencies and individual physical, personal moral-psychological and ideological-volitional qualities of a penitentiary service employee.

Discussion. The results obtained during the study of ways and means of advancing sports and health-improving work in places of pre-trial detention and penitentiary institutions, in contrast to the before mentioned works of other researchers, relate to highlighting and specificating of ways and means of improving physical culture and sports in this area by developing the educational component.

Conclusions. As a result of the analysis of normative-legal, organizational, material-technical, personnel and educational-methodical support of sports and health-improving work in places of pre-trial detention and penitentiary institutions it was found out that:

– the educational component in conditions of the implementation of European integration processes, aimed at radical reform of the penitentiary system, is one of the determining factors in the development of sports and health-improving activities in places of pre-trial detention and penitentiary institutions because it contributes to the requirements for improving the reliability and efficiency of professional training of employees of the penitentiary system in terms of their physical preparedness;

– the educational component of sports and health-improving activities in the places of pre-trial detention and penitentiary institutions is a process of acquiring and developing competencies of subjects – a dynamic combination of knowledge, skills and practical skills, ways of thinking, professional, ideological and civic qualities, moral and ethical values that determine a person's ability (citizen) to carry out his/her professional activity successfully; a factor of a healthy lifestyle, disease prevention, formation of humanistic values, creation of conditions for comprehensive harmonious human development, promotion of physical and spiritual perfection, identification of reserve capabilities of the organism, formation of patriotic feelings in citizens and positive image of the state in the world community;

– content and forms, mechanisms and tools for the implementation of the educational component in ensuring the development of sports and health-improving activities in the places of pre-trial detention and penitentiary institutions have their own characteristics due to the specifics of this area, including the presence of two different groups – prisoners and employees of penitentiaries;

– sports and health-improving activity in places of pre-trial detention and penitentiary institutions is to implement the legally established minimum conditions for doing sports of the citizens who are in these places of pre-trial detention and penitentiary institutions;

– physical culture and health-improving activity of the personnel of authorities, institutions and establishments of the State Penitentiary Service of Ukraine, is one of the priority directions of work with the staff; general and special physical training is normatively defined as a mandatory part of the general system of professional training and is aimed at ensuring the physical readiness of rank and file and command staff for professional activities;

– in the educational programs of the Academy of State Penitentiary Service of Ukraine normative and interrelated disciplines "Physical Education" and "Special Physical Training" is directed at forming bases of theoretical knowledge, practical and methodical abilities in physical education as components of full, harmonious and safe life; gaining experience in the application of acquired values throughout life in personal, educational, professional activities, in everyday life and within the family; ensuring the proper level of development of indicators of their functional and morphological capabilities of the organism, physical qualities, motor abilities, efficiency; facilitating the development of professional, ideological and civic qualities;

– the expediency of better coordination of interactions between public authorities, institutions and establishments of the State Penitentiary Service of Ukraine, spheres of education and physical culture and sports and civil society institutions (civic associations/NGOs of physical culture and sports) to ensure the quality of training and performance of specialists.

In the perspective of further studies in the direction of the research of public administration of the development of education in the field of physical culture, it is advisable to carry out a structural and functional analysis of the interaction of specified entities.

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PROCEDURES FOR PUBLIC CONTROL OF REPRESENTATIVE AUTHORITIES IN THE WORLD AND IN UKRAINE

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Abstract. *In today's world, one of the indicators of the level of development of democracy is the level of organization and exercise of public control over public authorities. It should be noted that in Ukraine there is no special law, which establishes the law and determines the mechanism of exercising civil control over the activities of representative authorities, which significantly complicates the procedure for its implementation. Scholars consider the legal basis of public control in the context of legislative and regulatory acts, pointing out their imperfection and expediency of making changes. At the same time, there is no definition of public control in legal documents, and accordingly, the methodology of public control is not defined and therefore there are no methods of its implementation. In scientific and applied publications on the organization of public control of representative authorities in the context of decentralization, it is considered as a component of public participation. The aim of the article: to generalize and systematize foreign scientific and applied research on effective procedures for public control of representative authorities in comparison with the domestic practice. The object of research: implementation of the procedure for public control of representative authorities in foreign countries and in Ukraine. The research methodology: review of foreign and Ukrainian literary sources on the implementation of the procedure for public control of representative authorities in the world and in Ukrainian practice. The obtained results: an analysis of the procedures for public control of representative bodies of power in the countries of the world demonstrates the diversity of approaches to its implementation; forms of public control are enshrined in legal norms and are reflected in the legislation in the form of governmental documents, programs, strategies, standards, or are effectively used without governmental support through e-platforms, panels, etc. As for the Ukrainian scientists, there is no established opinion about the procedures for public control: some identify them with forms of control, others - with the conditions of its effectiveness, some authors place components (stages) of the control process (observation, evaluation, analysis, forecasting) as its methods. The practical significance: adoption of a special law will enable to define general principles of the procedure for public control of representative authorities, and a clear definition will make it possible to determine the nature and set of forms and methods for its implementation.*

Keywords: *public control, public control procedure, representative authoritie, forms of public control, methods of public control.*

JEL Classification: J19, L30, L31.

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Introduction. Scholars consider the legal basis of public control in the context of legislative and regulatory acts, pointing out their imperfection and expediency of making changes. At the same time, there is no definition of public control in legal documents, and accordingly, the methodology of public control is not defined and there are no methods and clear procedure for its implementation. In scientific and applied publications on the organization of public control of representative authorities

in the context of decentralization, it is considered as a component of public participation. This is emphasized by both domestic and foreign scientists.

Ukrainian legal framework for regulating citizens' participation at the local level is quite complex, and local referendums and local participation budget (participatory budget) are not regulated at the legislative level. Ukrainian legislation demonstrates an ambiguous approach to understanding public control. The notion of "public control" is not singled out in the terminology of legislation on the website of the Verkhovna Rada of Ukraine in the section "Legislation of Ukraine: terminology of legislation".

In European countries, there exist a large number of different instruments of local democracy, consisting of various forms of direct and participatory democracy. The procedure for public control of representative authorities includes planning methods which play an important role in its implementation. However, it should be noted that there are no universal forms of participation, although there are some common features and trends adapted by countries at different levels of public management. The activities of citizens and the activities of the authorities in the formation of public control are ambiguous. Most legal acts are aimed at internal organizational control, state control and control of interdepartmental processes.

In Ukraine, public control is seen as a tool for public influence on the activities of representative authorities and carrying out their main tasks. The object, subject and procedure for public control of representative authorities are characterized as the institutional basis of such control. The main procedural forms of public control are: reporting of local government officials, participation of residents of the territorial community in the work of advisory bodies, submission of individual and group appeals, public examination of local government activities and usage of other forms, which are not prohibited by law. Also, the place and role of public expertise are determined, but it is emphasized that its implementation is not a mandatory requirement of the legislation of Ukraine. In the bodies of representative power there are separated internal and external types of control, and their effectiveness depends on the procedure of their implementation.

Literature review. The analysis of scientific achievements allowed to single out procedural aspects of public control of representative authorities and to single out the best practices for its implementation. Both domestic and foreign researchers have dealt with this issue. Foreign practice demonstrates the opposite approach to the definition of public control, the procedure for its implementation is based on a certain methodology, which contains a sequence of methods and techniques, a clear description of the means of control procedures and preparation of a final report containing the relevant results and outlines further cooperation. The main procedural form is dialogue, which is characterized as the basis for cooperation, built on two-way communication and aimed at establishing understanding between all its participants.

German scientists Dr. Jan-Hendrik Kamlage and Prof. Dr. Patrizia Nanz (2009) in their research focus on the forms of structured participation and democratic decision-making. Scholars emphasize that public participation can contribute to the development of the three basic democratic values: legality, justice, the effectiveness of governmental decisions and public control over their implementation.

One of the best foreign representative practices, according to O. Maksimova (2010), is the experience of Canada. Under Canada's federal system, government power bodies are divided between the federal government and 10 provincial governments. Citizens of Canada elect representatives who will represent their interests at various levels: federal, provincial, or territorial and municipal (local). The Constitution of Canada guarantees various areas of responsibility for the federal parliament and provincial legislatures. According to the Constitution, the Parliament has power in the territories, but in practice much of this power is given to the independent disposal of the territories. The activities of local municipalities are not defined in the Constitution, but each province creates its own local elected bodies and assigns them a certain range of responsibilities. The Parliament of Canada develops legislation for the country as a whole, while the legislatures of the provinces or territories create laws that apply only within the respective provinces and territories.

The activities of local municipalities are not defined in the Constitution, but each province creates its own local elected bodies and assigns them a certain range of responsibilities. The Parliament of Canada develops legislation for the country as a whole, while the legislatures of the provinces or territories create laws that apply only within the respective provinces and territories.

Norway is a parliamentary constitutional monarchy in the form of public administration, a unitary state based on the principles of a constitutional monarchy and parliamentary democracy. For more than 170 years, citizens have been electing their own representative bodies in municipalities and local councils.

It should be noted the positive trend of increasing the democratic role of local and county authorities, the state supports the concept of "welfare state" around local and county authorities, which are responsible for the quality of public services. Local and county authorities are interested in involving citizens in local government and the constant exercise of public control by residents, as it is the responsibility that underpins the democratic system. The local administration takes into account public opinion, constantly determines the level and quality of municipal services and monitors the local budget. The very concept of the municipality is connected with the idea of community - the local community and its inhabitants perform common tasks, make joint decisions and identify problems for further solution. This includes the involvement of citizens in the decision-making process of the municipality and local council on the basis of responsibility not only of officials but also of residents. One of the most important activities of the local council is to determine the best alternative and make an appropriate decision based on it.

In Sweden, the system of administration is based on the power of the people. Citizens have the right to vote, thus determining which political party will be represented in the Swedish parliament, district councils and municipalities. Other ways to influence Swedish politics are to participate in referendums, join a political party or participate in the discussion of reports submitted by the government.

In his research, David Coleman (2016) emphasizes that Australians are proud to live in a consolidated democracy and characterize their society as a society of free citizens. However, according to Australian experts, citizens need to intensify their participation in political life and be able to prove their own public position. In this regard, Australia is systematically conducting national debates, based on a reflexive approach, according to which a problem is identified and who has the right to solve it. According to the organizers of a national debate, the lack of public control leads to the formation of the idea of a public authority body at any level that just this body is the source of power. Emphasis is placed on certain responsibilities of the individual and the responsibilities of the government.

The report of the Directorate General of Democracy (2017) together with the European Committee for Democracy and Governance (CDDG) presents the existing international norms and standards of citizens' participation enshrined in the documents of the UN, Council of Europe, OSCE and the European Union. They are constantly updated due to the appearance of new technologies and new forms of participation.

Experts of the Council of Europe (2017) analyzing the best practices for the implementation of standards of citizen participation in Poland characterize the dialogue as the main form of cooperation, which is based on two-way communication and aims to establish understanding between all its participants. The main tools are: ongoing public hearings and public forums with stakeholders (rather than temporary on specific issues; interagency councils with NGOs on specific issues; key contact in the government agency to liaise with NGOs; capacity building measures to increase knowledge and potential for public participation).

In some domestic studies, there are procedures for exercising public control. V. Boklag, A. Pavlenko (2017) emphasize that the procedure for exercising public control should be prescribed in the statutes of territorial communities.

L. Nalyvayko, A. Oreshkova (2016) distinguish the procedure for organizing and conducting public expertise, referring to the research of other authors, namely: determining the sphere or direction of the authority for conducting public expertise; planning of public expertise; determination of the purpose and tasks of public expertise; formation of a group of public experts; development of methods for conducting public expertise; preparation of a request for public expertise; conducting public expertise; registration of the results of public expertise; public discussion of the results of public expertise; organization of control over taking into account recommendations based on the results of public expertise.

The Council of Europe's report on the implementation of the best democratic practices describes the public participation matrix, which is set out in the Code of Good Practice for the Preparation and Application of Standards in Decision-Making and distinguishes four levels of participation. It should be noted that each level is characterized by appropriate methods.

The Code of Good Practice for Public Participation in Decision-Making (2009) sets out general principles, procedures, tools and mechanisms for the active participation of NGOs, which are used by almost all European countries with democratic regimes.

Aims. The aim of the article is to generalize and systematize foreign scientific and applied research on effective procedures for public control of representative authorities in comparison with the domestic practice. The object of research: implementation of the procedure for public control of representative authorities in foreign countries and in Ukraine.

Methods. The research methodology: review of foreign and Ukrainian literary sources on the implementation of the procedure for public control of representative authorities in the world and in Ukrainian practice.

Results. The analysis of scientific publications demonstrated diametrically opposed views on the understanding of forms, methods, procedures, mechanisms, technologies, tools for public control. Forms of public control include: monitoring and coverage of its results; strategic planning; program development; public hearings; examination; creation of public advisory and supervisory committees, councils, control committees, inspections, etc.; general meetings; independent budget analysis; reports; congresses and conferences; forums and gatherings; rallies, demonstrations, pickets; sociological and statistical research; public expertise; publications in mass media; participation in the activities of collegial authorities; inspections; analysis of citizens' appeals; local initiative; electronic petitions, consultations; supervision; people's legislative initiative; cooperation.

Functions of public control are reduced to drawing the attention of the authorities to the problems, eliminating abuses by public administration entities; human rights monitoring; improving the quality of public services, the work of public administration; journalistic investigations; access to information; "Jury trial"; public investigations, etc. In some studies, these functions are understood as mechanisms, methods, technologies or tools of public control. Means of public control are considered through the possibility of expression of the will of citizens (direct/ indirect). Public control and involvement of citizens are understood as synonyms, that is why methods of involving citizens are considered as methods of public control, which leads to the formal perception of the notion of "public control" itself both as a phenomenon and as a process.

Based on the analysis of foreign and domestic sources, procedures and methods of public control are classified according to the levels of public participation (in

accordance with the matrix of participation according to the Code of Good Practice for preparing and applying standards in decision-making; Council of Europe).

The following methods are typical for the highest level (partnership): methods of regulation, method of public order, procedural method, information method, educational method, contractual methods, conciliation methods, methods of reconciliation, participatory methods, methods of involvement, methods of joint activity, method of joint decision-making, design method, method of social design, methods of strategic partnership (introduction of appropriate techniques to implement the functioning of an effective system, understanding of each participant, joint activities in accordance with the interests of each participant, coordination of actions based on the principles of equality, voluntariness, openness, transparency).

At the level of establishing the dialogue, the following group of methods is distinguished: methods of establishing contact, methods of communication, methods of discussions, planning method, method of coordination, communication methods, methods of manipulation, methods of propaganda (application of the corresponding methods is relevant in building up a dialogue between public authorities and public societies, whose actions are aimed at establishing a consolidated democracy based on the principles of an open society. Dialogue is an effective approach to building trust between citizens and public authorities, based on understanding and mutual responsibility).

Discussion. Consultations are carried out on the basis of the following methods: methods of management of social and mass processes, methods of management of groups, methods of management of groups and processes, methods of social regulation, methods of manipulation, methods of suggestion, methods of role changes, methods of prevention, ideological methods, method of influence, methods of planning (introduction of a system of such techniques is directed to interest and involve the citizen into a discussion on politics (at any level), from this position consultations contribute to bringing up the citizen to a higher level of the "dialogue").

As for the level of influence, the main methods are: methods of informing, methods of coercion, methods of suggestion, method of explanation, method of obtaining data, method of initiatives (the systems of techniques is aimed at identifying possible trends of policy consequences, studying public opinion, attitudes and expectations of the public directed to monitoring the corresponding changes).

In Ukraine, to some extent, there has been formed such legislation, which defines forms and methods of public control in the context of decentralization. However, it should be noted that the activities of civil society organizations in exercising public control and conducting public expertise need to be improved, in particular: comprehensive work of representative authorities at all levels is required, ensuring effective public advisory bodies and transparency, openness and public participation.

Conclusion. The analysis of foreign and domestic sources has shown that the legal basis of public control of representative authorities in Ukraine differs from

foreign countries in the following: lack of a clear definition of the notion "public control"; absence of this notion in the terminology of legislation; lack of standards of public control; limited methods and techniques; the presence of administrative procedures that nullify it; scattered statements about the rights of citizens to hold it; lack of public policy in this context and the effectiveness of public control ("advisory voice"). Foreign experts emphasize the imperfections of Ukrainian legislation in the context of public participation and public control as its component. This view refers to the "local participation budget", too.

In terms of methodological approaches to the organization of public control, the dominant issues are the establishment of cooperation between public administration subjects and administration through the processes of openness, transparency, accessibility of information. Influence on public authorities by the public comes from the standpoint of the creation of advisory bodies, rather than the formation of public control (both organized and individual). However, even in the existing practices the optimal format of their work is not developed.

These findings prove the feasibility of developing a methodology for public control of representative authorities in small and medium-sized towns of Ukraine, as they can involve the largest percentage of the community in the management of public affairs.

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TRADE UNION CONTROL IN THE CONTEXT OF TRADE UNION RELATIONS WITH PUBLIC ADMINISTRATION ENTITIES IN UKRAINE

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Abstract. *At the present stage of development of the trade union movement in Ukraine, the issues of determining the place and role of trade unions in the system of public administration as a subject of public administration and the institution of civil society are relevant. The lack of legal recognition of social partnership, and its replacement by social dialogue has led to a decrease in the influence of trade unions on social protection and the lack of trade union control. The latter has been replaced by public control exercised in Ukraine by various public associations. The aim of the article: As a result, trade unions began to participate as advisory bodies rather than as defenders of workers' labor rights. Accordingly, the relations with the subjects of public administration have changed. The aims of the article: to demonstrate that not only in the Ukrainian practice of public administration, but also in the science of public administration, no attention is paid to the problem of trade union control and the relationship between trade unions and public administration entities. Object of research: trade unions as a subject of public administration. Research methodology: a review of Ukrainian literature sources on trade union control and its impact on the relationship of public administration. The results obtained: in the Ukrainian science of public administration there are no publications on trade union activities and trade union control; the mechanisms for building relationships between trade unions and public administration entities are not defined; there is a constant perception that trade unions are public associations and their main role is to conduct a dialogue between employers, authorities and employees; there is no clear conceptual view of the trade union control process, which causes many legal conflicts. Practical significance: scientific substantiation of the use of the concept of "trade union control" in legal practice and in the activities of public administration, its clear definition makes it possible to influence the rights of workers and influence the development of social policy by public administration.*

Keywords: *public administration, trade union control, public control, interaction, subjects of public administration.*

JEL Classification: J50, J58, H19

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Introduction. In Ukrainian scientific publications, the problem of trade union control in the field of public administration is mostly about building certain relationships between various public administration entities, trade unions, their members and employers. This is most often associated with the understanding of social partnership, which is not legally recognized in Ukraine, but is a category of scientific fields (including public administration), as well as a category of politicians. However, it should be noted that the changes taking place in recognizing the role of trade unions in building social partnership are primarily related to the deep demographic, migration, structural and economic and other processes of global scale. In these circumstances, trade unions are required to seriously reassess not only the forms and methods of control and protection in the field of socio-economic relations, but also the ideology of this control, which is quite acceptable for traditional

industrial society, but no longer corresponds to democratic governance. Under conditions of intensive democratic, social, state and legal transformations taking place in Ukraine, the role of the state, its functions, and, accordingly, state-administrative relations change significantly, which necessitates the simultaneous solution of two interrelated tasks: building the foundations of independent state and radical reform of the political sphere and socio-economic relations. Their solution is inextricably linked with the need to find compromises between the participants of socio-economic relations, finding the optimal balance of interests.

Relevance is determined by the consistent implementation of the course of democratic reforms in Ukraine, objective processes of development and modernization of society as a whole, the transition from command-administrative to democratic, legal system of public administration. The role of independent and capable trade unions, as an important institution of civil society that protects the rights and freedoms of citizens in the field of labor relations, is especially important in the formation of democracy and market economy in Ukraine. Creating powerful, influential unions that can effectively defend the interests of workers is an integral attribute of a civilized state. Given the tendency to increase the role of trade unions in the system of social partnership, increasing trust in them by employees in the global financial crisis, the issue of cooperation of labor collectives with trade unions is of particular importance.

In the Ukrainian science of public administration, no attention is paid to this research. In other fields of science, there are about 10 scientists who studied this problem from 1991 to 2017. At the present stage of reducing the role of trade unions in Ukraine, transferring their activities to the plane of public associations, the existence of legal conflict, it is important to clearly define "Trade union control" and "public control" in the process of trade union interaction with public administration entities.

Literature review. It should be noted that scientific developments in the field of trade union activity, trade union control in Ukrainian science are quite small. There are a small number of scientists who have thoroughly studied this issue. The issue of trade union control and its place in the system of public administration is considered from several positions, in particular: the activities of tripartite commissions with the participation of the government, employers and trade unions, which were concluded annually (Protsyuk, 2010); analysis of problematic issues of trade union control and its characteristics in the administrative and legal aspect (Shakirova, 2012); the role of trade unions in collective bargaining on the example of comparing the practice of social partnership between Ukraine and Germany (Shereper et al., 2013); problems of trade union public control in the context of the processes of formation of a democratic state governed by the rule of law (Solominchuk, 2014).

Particular attention needs to be paid to the processes of building relations between the government and trade unions, as well as public institutions and public authorities, which relate not only to legal or organizational mechanisms of public

administration, but also a wide range of trade unions in Ukraine. Ukrainian scientists have different attitudes to this issue. Thus, F. Tsesarsky (2004) states that relations with the executive authorities and employers' organizations are built in order to better protect the rights and interests of employees and prevent violations of labor rights. In his opinion, cooperation with state bodies is important from the standpoint of building joint actions, manifestations of a principled position in defending and protecting the rights of workers. This is considered to be a range of "means of influencing employers, regional and local governments, and central and local executive bodies." V. Nikiforov (2005) also considers building the relationship of trade unions with the state and its bodies an important process. Emphasis is placed on the fact that "all these relations are designed to ensure the smooth implementation of the basic individual legal relationship between employee and employer" (Nikiforov, 2005), and the state must "determine the rights, duties and responsibilities of trade unions, and must determine their forms implementation in procedural norms and legal relations "(Nikiforov, 2005).

O. Tupitsa (2009) believes that trade unions are forced to interact with the public administration apparatus to address many issues, and this apparatus should be interested in partnership with trade unions. O. Movchan (2004) proves the expediency of changes in the beliefs of professional organizations regarding their ability to defend the interests of employees. A. Shakirova (2012) writes about the formation of a certain standardization of control functions of trade unions, their maximum approximation to the urgent needs of the social, economic, administrative and managerial spheres, ensuring the legality and efficiency of their implementation. The analysis of scientific sources showed the lack of clear definitions of the terms "trade union control", "public control", "protection of rights by trade unions". The role of trade unions in the modern system of public administration is not studied.

Ambiguous interpretation of trade unions not only in the context of public administration, but also in the context of labor law, as their activities are on the border of two industries, according to the author of the dissertation. Thus, Yu. Dmytrenko (2009, p. 111) defines trade unions in the context of legislation and provides a classification of trade unions depending on the powers. Unlike other authors, he states that trade unions monitor compliance with labor legislation and regulations on labor protection, control housing and communal services, manage sanatoriums, clinics and rest homes, cultural and educational institutions, tourists are in their possession.

M. Inshin and others. (2016) refers trade unions to the institution of social partnership, which is understood as “a set of labor law norms that are designed to regulate social partnership relations. This institute envisages the formation of mechanisms of social partnership, including dialogue, cooperation of all stakeholders on labor issues. " These scholars (M. Inshin et al. 2016, p. 29) distinguish, respectively, the institute of state supervision and public control over compliance with labor law, which is interpreted as a set of rules of law designed to regulate

relations on state supervision (control), public control in compliance with labor legislation. This institution has a cross-sectoral nature and is governed by labor and administrative law. Other scholars note that "the state recognizes trade unions as authorized representatives of workers and defenders of their labor, socio-economic rights and interests in public authorities and local governments, in relations with the owner or his authorized body, as well as other associations of citizens" (In Kucher et al., 2017, pp. 127).

V. Pastushenko (2004) considers the role of trade unions in providing social protection for workers. We are talking about the creation and development of the welfare state. The role of trade unions is seen in providing social protection by initiating the development of concepts, strategies, programs, etc. This mostly concerns the processes of state regulation. Attention is focused on the expediency of trade union reform. V. Kontsur (2006) emphasizes the need to develop a concept of the place and role of trade unions in relations with the state, employers and trade union members. The problems of trade unions in their educational work are considered little studied.

B. Bezzub and others. note that "Expressing the will of the labor collective, the trade union body may act both on its own behalf (exercise of public control and supervision) and on behalf of the relevant collective (development and signing of a collective agreement)." This understanding of the activities and powers of trade unions gives greater powers to trade unions, however, is equal to any public organization that can conduct business without tax.

Aims. The aims of the article: to demonstrate that not only in the Ukrainian practice of public administration, but also in the science of public administration, no attention is paid to the problem of trade union control and the relationship between trade unions and public administration entities. Object of research: trade unions as a subject of public administration.

Methods. Research methodology: a review of Ukrainian literature sources on trade union control and its impact on the relationship of public administration.

Results. In several branches of science, attention is paid to the issues of trade union activity and trade union control, in particular in the context of: labor law and with emphasis on the protective function of trade unions and interaction in this aspect with government agencies; formation of trade union activity and trade union control with an emphasis on participation in advisory bodies; social and labor relations; interaction of trade unions and the political system of the state; trade union control in the field of social partnership. Most research on trade union activities has been conducted in such areas as: law; history; economy; political science - in which dissertations on this issue are defended. In the field of public administration, there are some publications, which indicates the lack of research on this issue and the lack of scientific support in the context of developing mechanisms for trade union control and protection of rights in the field of public administration. In fact, in scientific sources, public administration influence on the development of trade union control

from several positions: the formation of a nationwide approach to the place and role of trade unions in the system of public administration; building relationships with public authorities and political parties; trade union finance management; processes of ideologizing the activities of trade unions and their merging with the state apparatus and with the owners of enterprises where trade unions are created. It is shown that these problems are relevant for all periods of trade union development and are relevant at the present stage. However, they are little studied in various fields of science. This issue has not been studied in the science of public administration. No attention is paid to the problems of professionalism of trade unionists in building the interaction of public and public administration bodies with trade unions.

In scientific sources, the interpretation of the essence of trade unions comes from several positions, in particular as: public association; self-organizational education; public control; form of self-organization of employees; one of the powerful forms of social and economic organization of society; economic actors; as equal subjects to basic political institutions, such as political parties, public organizations, state bodies, as trade unions go beyond their socio-economic functions; political institute; the largest public association; an association of employees aimed at increasing the competitiveness of the enterprise. This demonstrates, on the one hand, the role of trade unions in public administration, on the other hand, the lack of systematic research on the role of modern trade unions and the identification of clear mechanisms for trade union control and interaction of trade unions with public administration.

Assessing the state of scientific development of trade union control and protection of interests in the social partnership system, it should be noted that the multifaceted concepts of "civil society", "social partnership", "trade unions", "public control" led to the emergence of different concepts of their study, significant differences in approaches to understanding concepts, their content. This gives grounds to state that there is no holistic concept of analysis of the functioning and development of trade unions in the transformational period of society. In particular, the study of trends and problems, prospects for development, taking into account the peculiarities of modern concepts of public administration (the theory of political networks, the concept of democratic governance, etc.). The focus is on the mechanisms of trade union control and protection of interests in the social partnership system. If the first aspect is of purely practical importance, the second defines the methodological framework on which there is coordination between partners at the highest (national) level of both income distribution and socio-economic policy in general, including the development of basic criteria and indicators of social justice and measures. protection of the interests of the subjects of labor relations.

Trade unions are created and operate in the field of labor in order to represent, control and protect the interests of employees in socio-economic relations. They are perhaps the only surviving mass organization, an institution through which a person satisfies the need for collectivism, group support, and so on. Trade union activities

take on different forms in enterprises based on different types of ownership: the protection of the rights and interests of workers in state-owned enterprises often takes on a political color, as the employer is a state with not only economic but also political power; on collective property, there is no employer opposing the workers, there is always possible arbitrariness against individual employees by hired administrators, as well as by representative bodies in the collectives; strong professional associations of workers in private enterprises are needed to combat encroachments on their interests by various external forces.

At many enterprises, there is a real fusion of administration and trade union leaders. In reality, the trade union took over the functions of the social department of enterprises. The resources of a public organization (independence, the voluntary nature of membership, the limits of militancy, etc.) have become administrative resources and are used by managers at various levels (especially senior) to effectively manage the organization. Partnerships between trade unions and entrepreneurs are not easy. The union, by its nature, should be the independent intermediary in the relationship between workers, the state and the employer, which partially eliminates this imbalance. Therefore, there is a need for a clear formulation of the role and place of the trade union in the social and labor process, defining the functions, tasks and resources of trade union activity.

On the basis of the analysis the spheres of application of trade union control over are observed: observance by the employer of the legislation on work and on labor protection; provision at the enterprise, institution or organization of safe and harmless working conditions, industrial sanitation; correct application of the established conditions of payment; elimination of the revealed shortcomings. At the same time, if the employer complies with labor legislation, we have two main areas of trade union control: establishing working conditions (which is the main area of control of the trade union body) and applying working conditions established not only by labor legislation but also by local regulations and direct agreement, employee and employer.

In order to detail the list of control procedures, ensuring its comprehensiveness and systematic implementation, the scope of the scope of trade union control was determined and systematized in accordance with the commissions of the trade union committee: on organizational work; on preparation and control over the implementation of the collective agreement; on social and household issues; on labor protection; legal; on work with public catering establishments and trade establishments, etc.Conclusion. Analysis of scientific literature and abstracts of dissertation research has shown the lack of a broad source base on this issue in Ukrainian science. In several fields of science (law; history; economics; political science - in which dissertations on this issue are defended), attention is paid to the issues of trade union activity and trade union control, in particular in the context of labor law and with emphasis on the protective function of trade unions. state bodies; formation of trade union activity and trade union control with an emphasis on

participation in advisory bodies; social and labor relations; interaction of trade unions and the political system of the state; trade union control in the field of social partnership. In the field of public administration, there are some publications, which indicates the lack of research on this issue and the lack of scientific support in the context of developing mechanisms for trade union control and protection of rights in the field of public administration.

Conclusion. Analysis of scientific literature and abstracts of dissertation research has shown the lack of a broad source base on this issue in Ukrainian science. In several fields of science (law; history; economics; political science - in which dissertations on this issue are defended), attention is paid to the issues of trade union activity and trade union control, in particular in the context of labor law and with emphasis on the protective function of trade unions. state bodies; formation of trade union activity and trade union control with an emphasis on participation in advisory bodies; social and labor relations; interaction of trade unions and the political system of the state; trade union control in the field of social partnership. In the field of public administration, there are some publications, which indicates the lack of research on this issue and the lack of scientific support in the context of developing mechanisms for trade union control and protection of rights in the field of public administration.

These developments will provide an opportunity to amend the legislation of Ukraine on trade unions and distinguish between the concepts of "trade union control" and "public control" in the activities of trade unions in cooperation with public administration.

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CHAPTER 2
LEGAL RELATIONS: FROM THEORY TO PRACTICE

ADMINISTRATIVE AND LEGAL ENSURE OF "THE BEST INTERESTS OF THE CHILD" IN THE FIELD OF JUNIOR JUSTICE

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Abstract. *Today, the concept of "best interests of the child" is recognized as one of the guiding principles of ensuring the rights of children in all spheres of social relations. The object of this study is social relations in juvenile justice as a specific area of children's rights. The aim of the article is to clarify the meaning of the concept of "best interests of the child" as well as to define the features of administrative and legal provision of this principle in the field of juvenile justice. To achieve this goal, general scientific and special methods of scientific research are used. The author argues that the definition of "best interests of the child" in the field of juvenile justice should only be generally oriented to guaranteeing child's vital and social needs as a participant in jurisdictional proceedings, taking into account his or her age, biological and social characteristics. Under any circumstances, the list of such interests cannot be exhaustive. In view of the public-service nature of administrative and legal relations, an important role in the current and future ensure of the best interests of the child in any type of jurisdictional proceedings belongs to the administrative and legal means. The priority of attention to administrative and legal means in ensuring the best interests of the child in the field of juvenile justice is due to the wide range and relative universality of administrative and legal regulation, which allows to meet the procedural needs of children within purely jurisdictional proceedings as well as to facilitate other organizational and legal issues of social protection of children.*

Keywords*: child, children's rights, best interests of the child, administrative and legal ensure, juvenile justice.*

JEL Classification: K23, K38, K41, K42

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Introduction. The analyses of the state of human rights in each country and in the world as a whole shows that children are one of the most vulnerable categories of society. Among the reasons for this situation, J. Todres draws attention to the reduced ability of children to report violations of their rights, due to lack of sufficient verbal or communication skills needed to be heard. They are often seen as easy targets for abuse by others because of their vulnerability. Therefore, it is necessary not only to develop instruments such as the UN Convention on the Rights of the Child (1989) (hereinafter – CRC), but also to ensure their proper implementation [1]. M. Alinčić emphasizes the universality of the CRC which provides for the protection of all important human values, regardless of age, and takes into account the special needs

and nature of psychophysiological development of the child until adulthood: it outlines non-child rights (e.g. political) and establishes additional responsibilities of adults to support children with their needs taken into account [2, p. 77-79].

Today, the principle of "*best interests of the child*" at both international and national level is recognized as the main framework of ensuring children's rights in all spheres of social relations. According to Article 3 of CRC, *"[In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration*" [3]. This principle acquires specificity in the field of juvenile justice, where the child's behavior may conflict with the public interests or rights (private interests) of others. The above-mentioned CRC article also asserts that in order to provide such protection and care for the child, the state must take all appropriate legislative and administrative measures. The Ukrainian doctrine of protection of children's rights is based on Western (European) legal and cultural values. At the same time, the Ukrainian national system for responding to these social challenges does not have a proper administrative and legal organization. Currently dominant in Ukraine criminal law (mostly punitive) approach to solving delinquency problems among children takes into account their interests very formally and has a retrospective character.

Literature review. Considering principles enshrined in the CRC K. Hamilton, L.A. Barnes Macfarlane emphasize the principle of "best interests of children" as it applies to any aspect of children's rights provision [4, p. 24; 5]. J. Muncie considers it to be the basic principle of juvenile justice [6]. In the context of the study of the legal status of the child, the concept of "interests of the child" are clarified by such Ukrainian scientists as I. Dubrovska, N. Opolska, etc. However, despite the attention of scholars and human rights activists to this principle, many questions concerning its optimal understanding and practical implementation remain unclear.

Aims. The aim of the article is to clarify the meaning of the concept of "best interests of the child" and determine the features of administrative and legal ensure of this principle in the field of juvenile justice.

Methods. To achieve this goal, general scientific and special methods are used, which are tools of scientific research (structural-functional and systemic, formal-logical, hermeneutic, etc.).

Results. The child exists, develops, goes through socialization and personality formation as part of society. It's the legal society where his or her subjective rights and freedoms are objectively embodied, which is the way to pursue the child's interests – natural and spiritual needs according to psychophysiological development. According to N. Opolska, the interests of the child is a broader concept than rights and freedoms, because they are claims to social benefits, not always covered by the content of rights and freedoms. In this vision, the rights and freedoms of the child are legal ways to pursue his or her interests [7, p. 11; p. 18-19]. I. Dubrovska defines the interests of the child as a subjectively determined need of the child in favorable

conditions of its existence. Such needs objectively depend on his or her age, state of development. Meanwhile, the child due to the inherent objective and subjective features is not always aware of his or her interests, so their content is determined by the characteristics of the actions of the child's legal representatives, authorized state bodies (officials) [8, p. 84].

Even in legal relations arising from the child's misconduct, the procedure and outcome of the decision taken by the state competent authority should not be contrary to the best interests of the child, in particular, taking into account his or her age or social status. Article 40, paragraph 1, of the CRC states: "*States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society*" [9].

The decision on the application of the rights of the child in specific social relations should take into account his or her best interests, which follows from several international agreements. But as L. Dane notes, there is no detailed definition of this principle in the international acts. The fact that this principle does not contain a clearly defined content is not problematic itself. However, this raises questions. Can we assume that the principle of "*best interests of the child*" is optimal in all areas of law? Does the meaning of "*best for the child*" change depending on the jurisdiction in which this principle is applied? What can be considered the best for an individual child will not necessarily have the same effect for another child [10, p. 193]. When assessing the best interests all aspects of the child's life in general should be regarded. This means that in different cases the circumstances considered may differ and may be assessed differently depending on specific factors [10, p. 220-221].

The term "*best interests of the child*" mentioned in the CRC has been further disseminated in the field of juvenile justice by the 2010 Guidelines of the Committee of Ministers of the Council of Europe on Child-Friendly Justice. Of course, this document mentions the prohibition of torture, inhuman or degrading treatment of children or punishment. When assessing the interests of children in the field of juvenile justice, due attention should be paid to their views and opinions; children should count on equal treatment regardless of social status, nationality, race, religion; to take due account of the interests of all parties of the conflict, the authorities must take a comprehensive approach and take into account the risks involved, the psychological and physical well-being of the child, and his or her legal, social and economic interests. At the same time according to the Guidelines all minors involved in the proceedings (offenders, victims, witnesses) fall in this category of children [11]. These principles have been adopted as a practical tool for member states in adapting national judicial and extrajudicial systems to the specific rights, interests and needs of children. Referring to the case law of the European Court of Human

Rights, U. Kilkelly emphasizes that the identification and assessment of the best interests of the child is primarily the task of national authorities [12, p. 220]. For example, in Scottish children's law, the best interests of the child (or "welfare", a common Scottish synonym for best interests) are declared "priority" for the court. This means that the welfare of the child is the most important and central principle for the court. The 1995 Law also prioritizes the welfare of the child which is expressed in the positive obligation of courts to give only orders that are beneficial to children. Section 11 (7) (a) provides that the court: "*Shall not make any such order unless it considers that it would be better for the child that the order be made than that none should be made at all*" [5]. So, apparently, the concept of "*best interests of the child*" has a framework (indicative) nature, but can it provide a specific list of interests?

Today, Ukrainian legislation does not contain a direct definition of this principle, but its understanding is given through the concept of "*ensuring the best interests of the child*". According to the provisions of the Law of Ukraine "On Childhood Protection", these are actions and decisions aimed at meeting the individual needs of the child according to his or her age, sex, health, development, life experience, family, cultural and ethnicity and take into account opinion of the child, if he or she has reached the age and level of development that he or she can express it (Article 1) [13]. For comparison, Georgian law defines the term "*best interests of the child*" in both the 2019 Code of the Rights of the Child and the 2015 Code of Juvenile Justice. By the way, the main purpose of the latter, among other things, is to protect the best interests of juveniles in the justice process. In this case, the "*best interests of juveniles*" in the Juvenile Justice Code of 2015 are understood as the interests of security, welfare, health, education, development, resocialization and rehabilitation and other interests of juveniles, based on international standards and individual characteristics of juveniles as well as his or her thoughts [14].

In criminal proceedings (under Ukrainian law) the best interests of the child are ensured by the requirements for mandatory participation of a lawyer; maximum time of interrogation of juveniles (up to two hours a day); involvement of a legal representative, teacher, psychologist or doctor; detention of a juvenile only in cases if he or she is suspected or accused of committing a serious or particularly serious crime; the priority to place the juvenile suspect or accused under supervision, etc. Prior to placing a juvenile suspect or accused under the supervision of others, the court must collect information about the identity of the parents, guardians or custodians, their relationship with the juvenile and ensure that they can properly supervise the juvenile. In order to take into account the individual characteristics of each child in criminal proceedings, the law or some bylaws provide for appropriate additional specialization of judges, investigators, prosecutors. As proved in our other publications, a significant part of all these guarantees in the field of juvenile justice is provided by combining the rules of criminal procedural law with the mechanism of administrative and legal regulation.

For example, the juvenile specialization of certain participants in criminal proceedings should be achieved by establishing in administrative law requirements for candidates, conditions and procedures for their appointment (election or obtaining status); approval of common training standards for "juvenile" specialists; approval of instructions or recommendations on the organization of work of the relevant specialized units or officials, etc. [15, p. 87-88]. Clarification of living conditions of a juvenile participant in criminal proceedings requires creating appropriate specialized bodies, legalization of their status, regulation of the procedure of interaction of such bodies with pre-trial investigation bodies, other public administration bodies, etc. [16, p. 58-59].

In its Concluding Observations and Recommendations for Ukraine, the UN Committee on the Rights of the Child in 2011 recommended to analyze the legislation, policies and programs related to juvenile justice and childcare systems, in order to ensure full consideration of the best interests of the child [17, p. 8]. The National Strategy for the Reform of the Juvenile Justice System 2019-2023 (approved by the Government of Ukraine in December 2018) contains the comments of the international community on the existence of norms in the current Ukrainian legislation on the actual prosecution of children under the age of criminal responsibility, in particular, the appointment by the court of coercive measures of an educational nature. At the same time, in order to solve these problems, the Strategy embraces only the measures to ensure equality of rights of children who have committed socially dangerous acts under the age of criminal responsibility with the rights of suspects, accused [18].

However, in our opinion, the reform of justice for children should radically change the procedure of response to such socially dangerous acts and bring them beyond the limits of criminal law relations. Instead of the current court proceedings and the imposition of coercive measures of an educational nature, the new procedure for taking extrajudicial measures against such persons, should close criminal proceedings (after a pre-trial investigation and inquiring into all the circumstances of a socially dangerous act) due to the fact that the subject of the act is under the age of criminal responsibility, and provide out-of-court application of administrative and legal measures to such children aimed at their social rehabilitation. This response should be based on the proposed set of measures for preventive care of a child with behavioral problems. These are measures of administrative and legal intervention, including educational support, health care, social, psychological and other services for both the child and his or her parents (persons replacing them), to achieve positive changes in the child's behavior, distraction from antisocial habits and inclinations, creation of conditions of its necessary socialization. This package includes measures of minimal and moderate preventive care for the child, as well as comprehensive assistance to family members when the child is prescribed minimal preventive care. To implement moderate preventive care for children in the system of special institutions for children in Ukraine it is necessary to create children's socialization

centers – specialized educational institutions for children with persistent behavioral problems, where the educational process is combined with the correction of aggressive behavior of minors and restoration of social communication ties [19, p. 135].

Discussion. Of course, if we consider the best interests of the child in the field of juvenile justice, we should keep in mind that this area covers not only the legal relationship of children committing criminal offenses or socially dangerous acts (under the age of criminal responsibility), but also the commission of administrative offenses. Legal regulation of proceedings in cases of administrative offenses in Ukraine today has many problems in ensuring the rights and best interests of the child as a participant in this kind of legal relations. A detailed analysis of Ukrainian legislation shows that today the Code of Ukraine on Administrative Offenses requires:

– to provide the grounds and procedure for releasing a juvenile offender from administrative liability in case of insignificance of an administrative offense, in particular out of court;

– to release the juvenile offender from paying the court fee in case the court makes a decision to impose an administrative penalty;

– to expand the list of rights of juveniles brought to administrative responsibility, in particular concerning compliance with the principle of presumption of innocence and proof of guilt (currently a significant part of administrative materials drawn up by police on juveniles does not contain any evidence other than administrative or police report); involvement of legal representatives (parents or other adults) of the juvenile in the process of investigating the circumstances of the administrative offense and registration of relevant materials; effective access of juveniles to free secondary legal aid by improving the mechanism of rapid involvement of counsel, etc.

– to outline the circumstances that must be taken into account when imposing penalties or applying measures of influence for administrative offenses to juveniles.

Considering the phenomenon of the rights and freedoms of the child, we should not forget his or her certain responsibilities connected with the age peculiarities of a particular period of childhood. By the way, in taking care of the rights and interests of the child the state may resort to prohibitions, restrictions or obligations that apply to minors and other individuals or legal entities.

In our opinion, the general age of administrative liability for all types of administrative offenses in Ukrainian law should be reduced to 14 years, provided that persons who have committed an administrative offense between the ages of 14 and 16 are subject only to educational and restitution measures. This does not contradict to the best interests of the child and the general direction of juvenile justice, as the inclusion of adolescents into administrative-tort relations and the application of educational measures will have a subjective effect – it will have a preventive effect, promote a child's sense of personal responsibility and inevitability of punishment in

the future (in the case of other misdemeanors in old age), and as a consequence it will prevent the recurrence of illegal behavior in any of its manifestations. Aside of the subjective effect, the proceedings in the case of an administrative offense for a juvenile offender at the age of 14 will also have an objective (external) effect. It is embodied in drawing the attention of the system of administrative juvenile justice to the causes of such behavior on the part of the child and the conditions that contribute to destructive changes in his or her behavior. These can be unfavorable conditions in the family environment, poor care or maintenance of children, antisocial ties, which ultimately affects the interests of the child and even his or her safety. As a result, the timely response of the authorized state bodies to the identified negative determinants will prevent both the commission of other offenses by the child and restore his or her normal socialization, provide the necessary care and development in appropriate social conditions.

Conclusions. We should remember that the "*best interests of the child*" are the basic principle of ensuring the rights of children. In view of this, we believe that the definition of this concept in the field of juvenile justice should contain only a general guideline for guaranteeing child's vital and social needs as a participant in jurisdictional proceedings, taking into account his or her age, biological and social characteristics. The best interests of the child are an ideal category, so making a complete list of all the needs in one definition is a difficult and impractical task. Under any circumstances, the list of such interests cannot be exhaustive.

The real interest of the child precedes the rights and responsibilities, whether it is directly enshrined in law or simply subject to "legal protection by the state". Accordingly, such an interest enshrined in the norms of positive law can be called the "*legitimate interest of the child*". The best interests of all children, in general and in each case, should be assessed separately and balanced in order to reconcile possible conflicts of public interests as well as the interests of other children. Given the public-service nature of administrative-legal relations, an important role in the current and future provision of the best interests of the child in any type of jurisdictional proceedings belongs to the administrative legal means. The priority of attention to administrative means of ensuring the best interests of the child in the field of juvenile justice is determined by a wide range of actions and relative universality, combined with the efficiency of administrative regulation. This allows to meet not only procedural needs of children within purely jurisdictional proceedings, but promote solution of other organizational and legal issues of social protection of children. Today, this sphere of social relations has numerous flaws and problems that should undergo a scientific and legal expertise. Their list is certainly not limited to the issues discussed in this article, so the need to improve the administrative and legal support of the best interests of children determines the prospects for our further research in this area.

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CRIMINAL AND CRIMINOLOGICAL FACTORS AFFECTING INVOLVEMENT OF MINORS IN ILLEGAL ACTIVITIES AND INDUCEMENT TO USE NARCOTICS, PSYCHOTROPIC SUBSTANCES OR THEIR ANALOGUES

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Abstract. *In the case of mental violence, the child is defenseless and unable to protect himself from verbal (constant, systematic, or periodic) insults, threats, humiliation, indifference to him, as well as requirements that do not meet his age and are to her by adult members of her family. More and more often it is possible to hear "My child, I do what I want", which determines the relevance of the chosen topic. The aim of the article is to identify criminal and criminological factors affecting the employment of minors in illegal activities and incitement to use drugs, psychotropic substances or their analogues. The research methodology: the methods of statistics and logical comparison, systematization, and generalization, which made it possible to achieve the goal of the study. The factors that influence the formation of the child's psyche are analyzed. Also based on the studied criminal cases, namely statistics under article 304 " involvement of juveniles in illegal activity" and 315 "addiction to use of drugs, medicines. The changes which according to the author will affect the improvement of a situation are offered.*

Keywords: *involvement in criminal activity, mental influence on the minor, juvenile delinquency, mental violence, domestic violence*

JEL Classification: I30, K24, K33, K14

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Introduction. Mental abuse of children is a form of systematic (constant) abuse or neglect of a child committed by his parents or close relatives (guardians, trustees, adoptive parents, or persons raising a child). Such violence can cause serious damage to the emotional, social, and psychological development of the child [1, 12–15].

A feature of domestic non–physical violence against children is the systematic nature, the purpose of which is to gain full power and control over the child. According to many psychologists, in the first five years of a person's life, a personality structure is formed that develops throughout life. In this period of knowledge of the world, the child is most vulnerable, both physically and mentally, because, completely dependent on their loved ones – what is the standard of relations for her [2,100].

That is why when adults (parents) commit violence against children, they (children) are defenseless and mentally (physically) underdeveloped to repel their abuser.

Today, such types of mental violence against children as ignoring, manipulating, isolating, insulting, humiliating, denying needs, terrorizing, or neglecting a child are defined.

It is important to note that parents are usually aware that they are committing violence, such as humiliation, blackmail of the child. However, there are cases when parents unknowingly subject a child to mental violence.

Disgust, demonstration of dislike, hostility to the child, negative evaluation, focusing exclusively on the negative traits and characteristics of the child, frustration of the basic needs of the child, including long–term deprivation of minors love, tenderness, care, and security from parents, coercion to loneliness can also be attributed to the emotional impact and mental violence.

Parental neglect is one of the most harmful forms of domestic violence. Prerequisites for parents' indifference to their children's needs can be the personal qualities of parents, the presence of past violence, stress related to the identity of parents and financial problems, job loss, health, family relationships, etc [3, 15].

The consequences of mental violence in childhood depend on its duration and intensity. They manifest themselves in the form of the child's recognition of his helplessness and insignificance, it is a feeling of guilt, shame, and as a consequence, low self–esteem, self–doubt.

A minor with low self–esteem constantly feels guilt, shame, anxiety attacks, which with age can lead to severe depression, which is accompanied by sleep disturbances, feelings of helplessness, inferiority. Adolescents who suffer from loneliness may attempt suicide. As they grow older, victims of domestic violence may become depressed without realizing their condition. The consequences of such violence can be not only aggression but also excessive passivity, lack of ability to self–defense, victimhood. Such teenagers are most often emotionally depressed and seek to attract attention in any way, including rude and eccentric behavior.

In conclusion, it should be noted that if adolescents are brought up in an atmosphere of psychological pressure and violence, the latter leaves an imprint for life, and leads to various consequences, in the form of mental disorders, which further create the preconditions for the victim and prolonged depression, which will further lead to suicide) or the subject of a criminal offense [4, 115–118].

Aims. The purpose of the article is to identify criminal and criminological factors affecting the employment of minors in illegal activities and incitement to use drugs, psychotropic substances or their analogues

Methods. The author used the methods of statistics and logical comparison, systematization, and generalization, which made it possible to achieve the goal of the study.

Results. The author notes that it is necessary to distinguish between the consequences of mental violence, such as:

1) approximate consequences, ie such reactions as arousal, desire to run away, hide, take action (including criminal) to attract the attention of parents to themselves (minors), or vice versa manifest themselves in the form of deep inhibition, external indifference, but in both cases, minors are driven by fear, anxiety, anger, etc .;

2) long–term consequences, which manifest themselves in the form of diseases, personal and emotional disorders of physical and mental development, including severe social consequences. Severe social consequences include not only the commission of criminal offenses, such as murder or suicide by minors but also the formation of antisocial, maladapted individuals with increased aggression (including unmotivated), violence against younger animals, etc.

In the context of the research topic, the consequences of juvenile violence and criminal offenses need to be thoroughly analyzed. Juveniles who have experienced violence develop personal changes in behavior that are unattractive to others, resulting in difficulties in their socialization. If a juvenile does not have a sufficient level of knowledge and erudition to gain credibility in a school (school), he or she can join the criminal sphere, become accustomed to alcohol and drugs, and again commit criminal offenses.

It is believed that violence against children can lead to difficulties in starting a family, giving birth to children, because they will not be able to give their children enough warmth, love, etc. In the context of the research on this issue, a survey of 1,570 people (juveniles of secondary schools, underage students, and cadets of higher education institutions) was conducted, of which the question "How do you see your future family?" only 2.7% of respondents said they would never start a family, or their children were not as unhappy, others expressed a desire to start a happy family [9].

It should be noted that in recent years at the legislative level there has been an active fight against domestic violence, including mental, however, at the stage of implementation of the Law of Ukraine "On Prevention and Counteraction to Domestic Violence" № 2229–VIII from 07.12.2017 the following issues were identified, as:

– underdevelopment of juvenile justice, which is the lack of sufficient legal mechanisms aimed at ensuring the rights and freedoms and interests of minors, including those aimed at preventing and combating juvenile delinquency;

– Lack of a sufficient number of family–type homes, centers that could protect adolescents who are subjected to domestic violence, including lack of state funding for socialization programs for minors who have been victims of domestic violence;

– Lack of modern legal mechanisms for detecting and preventing mental violence against minors. For example, the survey found that 25.85% of respondents would be ashamed to seek help from law enforcement agencies in connection with the perpetration of mental violence against them. At the same time, when asked who the respondents could tell about the commission of such violence against them: 27.05% stated that they would not tell anyone about the commission of violence against them; 27.5% of adolescents reported that parents; 15.1% – to friends; 5.2% – to an anonymous specialist; 2.5% – to a social specialist, 2.45% – to relatives; 1.4% – to foreign acquaintances; 1.25% – to the police. Given the prevalence of the Internet and social networks, taking into account the above indicators of adolescent isolation,

it is necessary to introduce in social networks anonymous groups to help minors who have suffered from mental violence. The purpose of such groups will be to identify cases and preconditions for mental violence and provide assistance to victims. Based on the received data the state measures of counteraction to mental violence (general–social, special–criminological, and individual–educational) concerning minors will be further developed that will allow counteracting violence more effectively [9].

– the issue of employment of minors has not been regulated, with the help of which it was possible to help reduce the crime rate among adolescents and to counteract the provocation of domestic violence against adolescents, etc.

As a result, due to insufficient state regulation and lack of legal mechanisms for the socialization of children victims of mental violence, such problematic issues become factors that increase the crime rate among minors, such as involving minors in prostitution (Part 3 of Art. 303 of the Criminal Code of Ukraine), the involvement of minors in criminal activity (Article 304 of the Criminal Code of Ukraine), the inclination of minors to use narcotic drugs, psychotropic substances or their analogs (Part 2 of Article 315 of the Criminal Code of Ukraine), the inclination of minors to use intoxicants are narcotic or psychotropic drugs or their analogs (Article 324 of the Criminal Code of Ukraine), etc.

In the absence of a proper upbringing, the presence of mental influence from parents, adolescents have a desire to highlight their independence and somehow realize themselves, including justifying the trust of adults, which motivate minors to commit criminal offenses and create a basis for unimpeded involvement in crime [5, 231].

The involvement of minors in criminal offenses can be carried out with the help of both physical and mental influence. In this regard, special attention needs to be paid to the analysis of criminal offenses under Art. 303, 304, 315, 324 of the Criminal Code of Ukraine, as these criminal offenses have a high degree of public danger, affecting the normal development and health of minors, as well as causing harmful consequences.

Analyzing the disposition of Part 3 of Article 303 of the Criminal Code of Ukraine, it is seen that coercion or involvement in prostitution of a minor is the actions of the subject of a criminal offense aimed at coercing a minor against his desire to engage in prostitution. In this context, we consider coercion as a mental influence, which consists in:

1) the threat of violence (such a threat must concern the victim himself and be perceived as real);

2) the threat of destruction of property (the peculiarity is that in this case, the property must belong to the minor);

3) blackmail (which consists of the threat of exposing information that compromises the person, or consists in the threat of causing harm by intimidation, disclosure of certain information that the teenager wants to hide or not disclose, etc.). In this case, the criminal offense is considered completed from the moment of

committing the above actions, ie not depending on whether sexual services were provided to minors.

The subject of the criminal offense forces the juvenile to engage in prostitution through mental influence, namely threats that the victim (juvenile) perceives as real.

According to the disposition of Article 304 of the Criminal Code of Ukraine, the object of a criminal offense is public relations and moral principles of the society in the field of education of minors, as well as the protection of the latter from negative illegal influence. The objective side of the criminal offense is the involvement of minors:

1) in criminal activity;

2) intoxication (ie arousal in adolescents of the desire to regularly drink alcohol);

3) in begging (ie, the intentional inclination of a minor to systematic (three or more times) begging for money and other material values);

4) in gambling (intentional inclination of a teenager to systematic (three or more times) gambling, etc.).

The subjective side of a criminal offense is characterized by direct intent.

In this case, involvement should be understood as the commission of certain actions by the subject of a criminal offense (a convicted person who has reached 18 years of age) to induce a minor's desire (determination, desire) to perform the actions provided by the article. Involvement is carried out by physical or mental influence on the consciousness of the minor, as a result of which the latter performs the desired action for the subject of his own volition.

It is due to the unstable psyche of minors that they are easily exposed to mental influence, which is used by the subjects of criminal offenses, through persuasion (convictions, requests), promises, intimidation, deception, threats, bribery, envy, incitement to revenge or other motives. are committed without the use of physical force.

Discussion. Moreover, special attention needs to be paid to the distinction between "involvement" and "use" of a minor in criminal activities. Because, "involvement" should be understood as the decision of a minor to participate in criminal activity, which arises as a result of influencing him in one or more ways of mental influence. Under "use" should be understood as non–awareness of minors of their actions, that is the use of adolescents is an "instrument" of a criminal offense (for example, young children who open their wallets).

The criminal offense is provided by Art. 304 of the Criminal Code of Ukraine, is considered completed from the moment of carrying out any physical or mental influence on the minor, irrespective of whether the last committed a criminal offense.

During the study of this topic, the level of criminal prosecution under Art. 304 of the Criminal Code of Ukraine from 2013 to 2019. For 6 years in Ukraine 933 convictions under Art. 304 of the Criminal Code of Ukraine "Involvement of minors in criminal activity". Since 2013, the number of convictions under Art. 304 of the

Criminal Code of Ukraine began to decrease, namely in 2014 180 cases were passed, in 2015 – 159 cases were passed, in 2016 99 cases were passed, in 2017 – 87 convictions, in 2018 – 79 cases, and 2019 – 63 convictions.

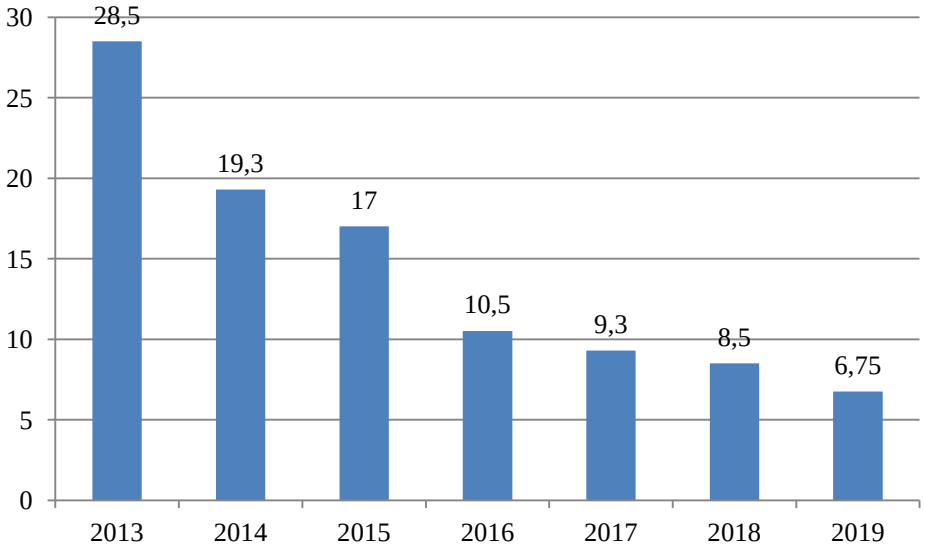


Fig. 1. Dynamics of convictions over 6 years under art. 304 of the Criminal Code of Ukraine "Involvement of minors in illegal activities", %

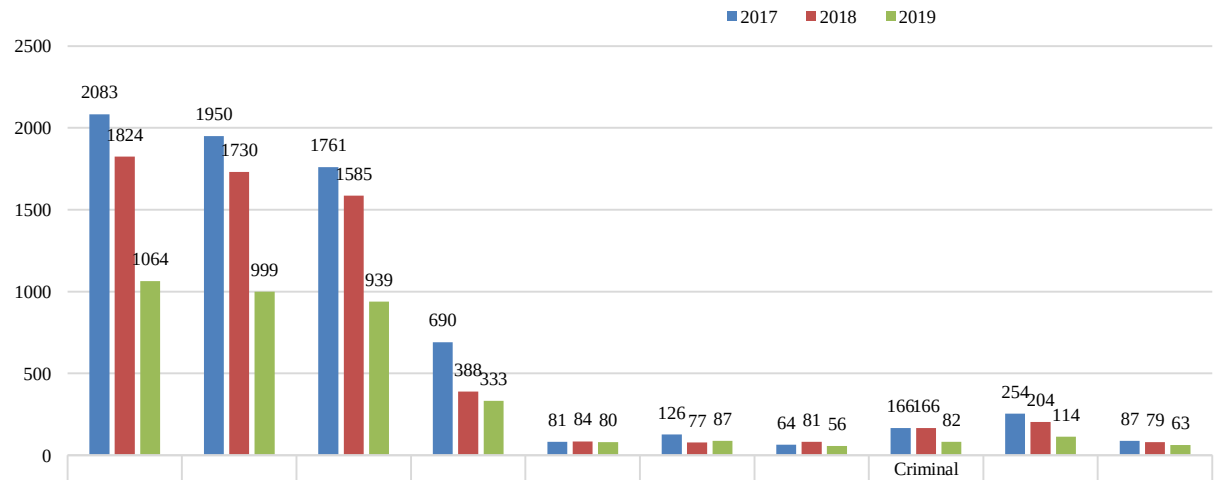
On a territorial basis, the largest number of cases was passed in Dnipropetrovsk region (87 cases), Zakarpattia (73 cases), Zaporizhia (70 cases), Luhansk (64 cases), Odesa and Kharkiv (52 cases each), Mykolaiv, Zhytomyr, Donetsk (49 cases each). areas.

The number of registered criminal offenses under Art. 304 of the Criminal Code of Ukraine, for 2017 – 2083 criminal offenses (of which 2000 – involvement in criminal activities, 32 – involvement in drunkenness, 51 – involvement in begging), of which sent to court only 690 criminal proceedings against persons who previously committed criminal offenses, 81 committed by a group of persons, 126 committed in a state of intoxication, 64 by minors or with their participation, 166 criminal proceedings were closed, and in 254 criminal proceedings no decision was made at the end of the reporting year [6].

In 2018, 1,824 criminal offenses were registered (of which 1,739 were involved in criminal activities, 21 were involved in drunkenness, 57 were involved in begging), of which 388 criminal proceedings were committed against persons who had previously committed criminal offenses, 84 committed by a group of persons, 77 committed in a state of intoxication, 81 by minors or with their participation. At the same time, 166 criminal proceedings were closed, and in 204 criminal proceedings, no decision was made at the end of the reporting period.

During 2019, 1,064 criminal proceedings with signs of criminal offenses were registered (of which 956 – involvement in criminal activity, 34 – involvement in drunkenness, 67 – involvement in begging), sent to court a total of 333 criminal

proceedings committed by persons who had previously committed criminal offenses 80 committed by a group of persons, 87 committed in a state of intoxication, 56 by minors or with their participation. At the same time, 82 criminal proceedings were closed, and in 114 criminal proceedings, no decision was made at the end of the reporting period. The above statistics indicate that in Ukraine there is a dynamics of reducing the commission of criminal offenses of involvement in the criminal activities of minors [7].



	Criminal law-enforcers in the last period	Criminally law-enforcing, certain persons have been given an occasion	with indictment	incurred by persons who previously committed criminal law-enforcers	coined by a group of individuals	inappropriate for their participation	committed in a state of intoxication	Criminal offenses in which no decision has been made at the end of the reporting period (on termination or suspension)	Convictions were handed down by the court	A court conviction was handed down
2017	2083	1950	1761	690	81	126	64	166	254	87
2018	1824	1730	1585	388	84	77	81	166	204	79
2019	1064	999	939	333	80	87	56	82	114	63

Fig. 2. Dynamics of reducing the commission of criminal offenses of involvement in the criminal activities of minors

The next criminal offense in the context of mental influence on minors is the predisposition of minors to use drugs, psychotropic substances, or their analogs and precursors, provided for in Part 2 of Art. 315 of the Criminal Code of Ukraine.

The object of the criminal offense is the health of the population, namely minors. The objective side is characterized by the non–violent inclination of a minor to use narcotic drugs, psychotropic substances, or their analogs, including disposable ones. It is the "predisposition" that characterizes the actions of the subject of the criminal offense, as a result of which the adult has (manifests) a desire to use drugs or obtain consent from a teenager for such use. Consent can be given as a result of such types of psychological influence (inclination) as persuasion, advice, suggestions, beliefs, threats, blackmail, etc.

The criminal offense is considered completed from the moment of committing actions of the subject of the criminal offense aimed at attracting persons for consumption, in this case, the degree of intoxication of the juvenile does not matter, as well as the fact whether the victim has previously used such substances.

The subject of a criminal offense is a sane person who has reached the age of eighteen. However, if a minor is inclined to use drugs by another minor, such actions are qualified under Part 1 of Art. 315 of the Criminal Code of Ukraine.

The subjective side of a criminal offense is characterized by direct intent. The very fact of inciting a juvenile to use narcotic drugs and psychotropic substances is a qualifying feature of a criminal offense under Art. 315 of the Criminal Code of Ukraine. Moreover, the inclination of a minor to consume narcotic drugs, psychotropic substances, or their analogs of additional qualifications under Art. 304 of the Criminal Code of Ukraine does not need it. If a minor is inclined to use narcotic drugs, psychotropic substances, and their analogs and the use of other intoxicants, such crimes must be classified as a set of crimes under Part 2 of Art. 315 and Art. 324 of the Criminal Code of Ukraine.

During the study of this topic, the level of criminal prosecution for criminal offenses under Art. 315 of the Criminal Code of Ukraine from 2013 to 2019. For 6 years in Ukraine 1931 convictions under Art. 315 of the Criminal Code of Ukraine "Predisposition to the use of narcotic drugs, psychotropic substances and their analogs and precursors." Over the past 6 years, the number of indictments has decreased under Art. 315 of the Criminal Code of Ukraine, in 2013 489 convictions were passed, in 2014 408 sentences were passed, in 2015 – 297 sentences, in 2016 – 191 sentences, in 2017 – 207 convictions, in 2018 201 sentences were passed, and in 2019 132 convictions were handed down in 2006.

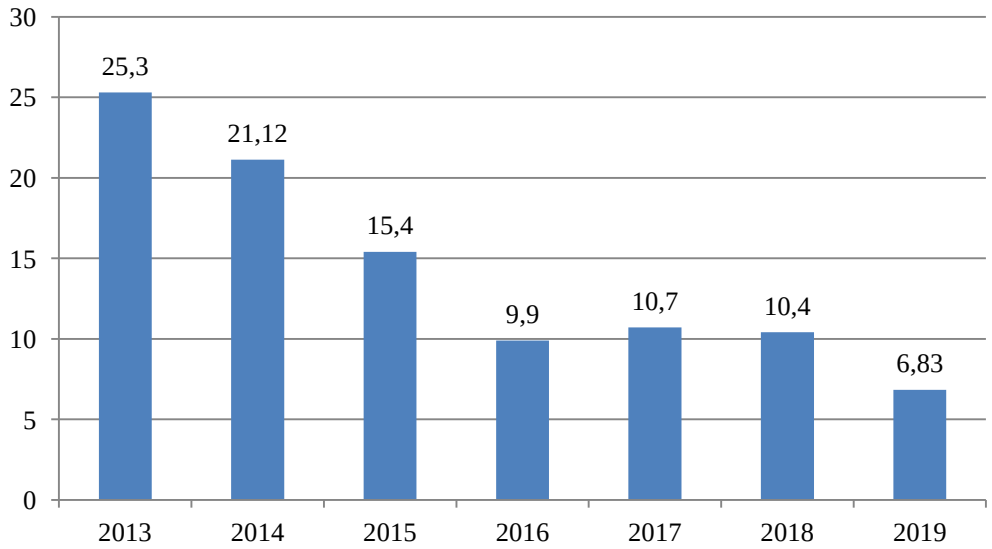
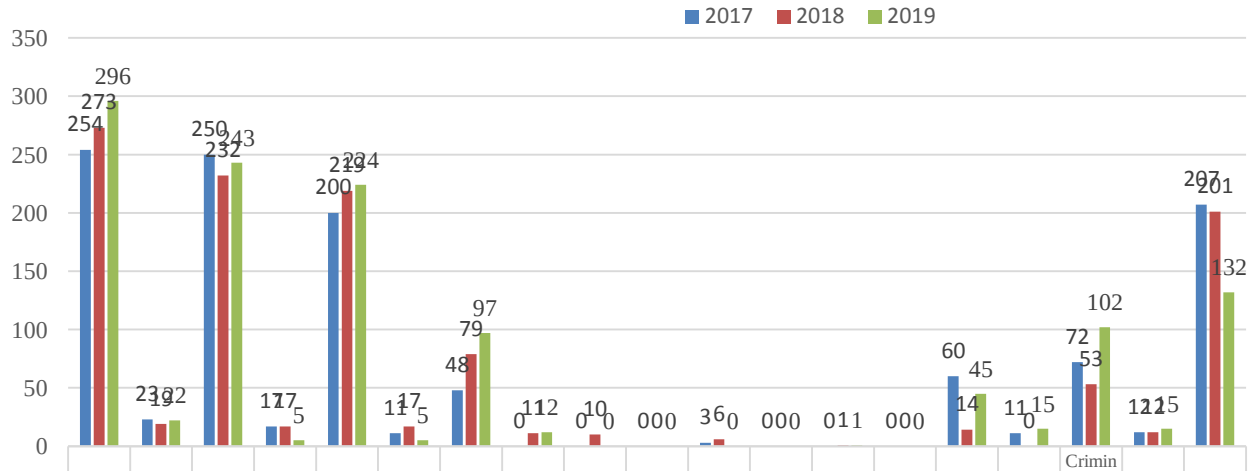


Fig. 3. Dymamics of convictions for years from 2013 to 2020 under art. 315 ''Predisposition to the use of narcotics substances or their anologues", %

On a territorial basis, the largest number of sentences was handed down in Zaporizhia oblast (253), Dnipropetrovsk oblast (217), Donetsk oblast (122), Vinnytsia oblast (121), Kharkiv oblast (116), Sumy oblast (104), and Mykolaiv oblast (103) oblasts (Annex 14).



	Criminal offenses in the reporting period were recorded	of them minors	Criminal offenses in which persons have been notified	of them minors	with an indictment	of them minors	committed by persons who have previously committed criminal offenses	of them minors	committed by a group of persons	of them minors	committed by minors or with their participation	of them minors	committed in a state of intoxication	of them minors	Criminal offenses in which the proceedings are closed	of them minors	Criminal offenses in which no decision has been made at the end of the reporting period (on termination or suspension)	of them minors	A court conviction was handed down
2017	254	23	250	17	200	11	48	0	0	0	3	0	0	0	60	11	72	12	207
2018	273	19	232	17	219	17	79	11	10	0	6	0	1	0	14	0	53	12	201
2019	296	22	243	5	224	5	97	12	0	0	0	0	1	0	45	15	102	15	132

Fig. 4. Dynamics of committing criminal offenses under Art. 315 of the Criminal Code of Ukraine

Thus in 2017 254 criminal proceedings on signs of the criminal offense provided by Art. 315 of the Criminal Code of Ukraine, of which 11 were committed by minors, 48 criminal offenses were committed by persons who had previously committed criminal offenses, and convictions were handed down in 207 proceedings. In 2018, 273 criminal offenses under Art. 315 of the Criminal Code of Ukraine, of which 17 were committed by minors, 48 persons who had previously committed criminal offenses, and 201 criminal proceedings were convicted. During 2019, 296 criminal offenses were registered, of which 5 were committed by minors, 97 were committed by persons who had previously committed criminal offenses and 132 convictions were passed [8].

According to the results of the study, it is seen that the dynamics of committing criminal offenses under Art. 315 of the Criminal Code of Ukraine is gradually decreasing.

Conclusions. In conclusion, it can be noted that juveniles who are subjected to violence, primarily mental, do not have strong social ties, stable views, are deprived of parental love, care, and have increased victimization in the above criminal offenses. In addition to victimhood, such adolescents acquire criminal potential because such children do not have a model of normal, healthy behavior.

Based on such methods of mental violence against a child as humiliation, contempt, and terrorism, it should be noted that at a time when parents threaten or intimidate to subdue her will, the psyche of a minor is crippled. Growing up, the latter try to realize themselves and in any way prove that they are worthy of respect, and in some cases, on the contrary, aim for revenge, and the victims of such subjects are usually individuals or habits that embody the image of a child abuser.

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9. Summary data of the results of the survey of minors on cases of mental (domestic) violence against them, bullying (at school, among teachers, etc.) (in%, 1570 people)

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IMPROVING UKRAINE'S ADMINISTRATIVE-LEGAL SUPPORT FOR CYBER SECURITY: EU AND NATO EXPERIENCE IN COUNTERING HYBRID CYBER THREATS

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Abstract. *The article focuses on the activities of NATO and the European Union, that consider combating hybrid threats a priority for international cooperation. A number of EU documents have been analyzed, which form a clear idea of cyber threats' hybridity and main directions of administrative, legal and organizational support of cybersecurity, in particular, on combating hybrid cyber threats in the European Union. Based on the analysis, that at the present stage of development of society the bases were formed on the establishment of a sustainable perception of the risk problem as one of the forming factors of the modern and especially the future society, which is also becoming increasingly socially important. The aim of the article: to identify areas for improving the administrative and legal support of cybersecurity in Ukraine by borrowing the experience of the EU and NATO to combat hybrid cyber threats. The research methodology: the system of general scientific and special methods of cognition, namely the formal-legal method, comparative legal method and method of scientific abstraction. It is emphasized that the domestic regulatory framework has significant shortcomings and requires the introduction of appropriate rules for the introduction of risk-based approach in cybersecurity activities in Ukraine, as well as the definition of basic terms («risk-based approach to cybersecurity», «risk-oriented approach to critical infrastructure protection», «risks», «risk management»). The essence and meaning of the term «sustainability», which has gained practical application in strategic documents in the field of security and in essence is the latest concept of modern theory of national security, which has practical significance for state policy in security environment and is important for security practice in cyberspace, because it is the presence of hybrid threats in cyberspace that cannot be prevented, necessitates the formation of a new approach, in particular, the formation of «sustainability», which in turn should be implemented in public cyberspace policy.*

Keywords: *cyberattacks, cybersecurity, hybrid war, resilience of society, response, risks.*

JEL Classification: F52, H55, H56, K22, K33

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Introduction. Today, in the context of the hybrid war, which has been actively imposed on Ukraine since spring 2014, cybersecurity is extremely important, as cyberattacks, which are actually an escalation of hostilities in cyberspace, spread the latest forms of aggression and increase threats to citizens and society and in some cases cause real damage to the state.

Literature review. The issue of cyber security and public policy aimed at its provision has been the subject of research by many leading scholars in the field of administrative, constitutional and other related areas of law, including: V.B. Averianov, I.V. Aristova, I.L. Bachylo, I.P. Holosnichenko, O.D. Dovhan, R.O. Dodonov, I.M. Doronin, L.V. Kuzenko, O.Ie. Kutafin, V.L. Manilov, O.V. Nesterenko, H.V. Padalko, V.P. Pietkov, S.V. Pietkov, V.L. Sydorenko, O.Iu. Syniavska, S.H. Stetsenko, V. Tertychko, M.M. Tyshchenko, Yu.P. Tykhomirov,

O.M. Shevchuk, V.K. Shkarupa and other, but also on improving the administrative and legal support of cybersecurity in Ukraine through EU and NATO experience in combating hybrid cyber threats still remain insufficiently addressed.

Aims. The aim of the article is to identify areas for improving the administrative and legal support of cybersecurity in Ukraine by borrowing the experience of the EU and NATO to combat hybrid cyber threats.

Methods. The methodological basis of the study is a system of general scientific and special methods of cognition, namely the formal-legal method, comparative legal method and method of scientific abstraction.

Results. Hybrid threats are aimed at exploiting the vulnerabilities of countries and are aimed at undermining fundamental democratic values and freedoms. The West's approaches to awareness of hybrid threats are based on countermeasures: the EU focuses on cybersecurity, countering organized crime, risk neutralization, strengthening the resilience of society, and information security.

NATO and the EU have a clear understanding that hybrid threats need to be prevented as «passive» elements, such as enhancing resilience to shocks or surprises, and more proactive, including strong measures to prepare and protect the functions and structures most likely to be targeted at hybrid attacks. In this context, it is impossible to exaggerate the importance of active action to strengthen civic preparedness, free press, an educated population and an effective legal structure [1].

The allocation of certain measures in the direction of counteracting hybrid threats clearly demonstrates the priority formed in the EU.

Further development of the cybersecurity system in the EU is quite thoroughly characterized in the final documents, which were issued in the form of:

–joint communiqués of the European Parliament and the European Council on the implementation of measures to combat hybrid threats in the European Union, in particular: 06.04.2016 [2]; 19.07.2017 [3]; June 13, 2018 [4];

–the report on implementation of the 2016 action plan to combat hybrid threats and the Joint Communication of 2018 on increasing resilience and strengthening opportunities to overcome hybrid threats from 28.05.2019 [5].

The general analysis of these EU documents forms a clear idea of hybridity of cyber threats and the main directions of administrative-legal and organizational support of cybersecurity, in particular, the fight against hybrid cyber threats in the European Union.

The main purpose of these annual reporting documents is to present a report to the European Community on the progress and next steps in implementing the actions in the four areas proposed in the Joint Activities: raising awareness of the situation: sustainability of society; strengthening the capacity to prevent and respond to crises, and coordinating the resumption and expansion of cooperation with NATO to ensure complementarity in activities.

In developing awareness-raising on hybrid cyber threats, the emphasis is on identifying societal vulnerabilities to them and coordinated action to assess these threats. To identify key vulnerabilities, taking into account specific hybrid indicators, an analysis of risks affecting institutions and networks is carried out.

With regard to the risk-based approach, it is appropriate to note the adoption of Resolution 57/239 «Elements for a Global Cyber Security Culture» [6] by the UN General Assembly on 20 December 2002, according to which the term «cybersecurity» has been actively used in legal terminology. It is significant that back in 2002, UN documents indicated the need to assess risks in order to identify threats and vulnerabilities.

Therefore, the global culture of cybersecurity involves nine interrelated elements, including:

– awareness (that is, participants need to be aware of the need for security of information systems and networks, and what they can do to increase security);

– responsibility (participants are responsible for network security according to their own role);

– response (participants should take timely and joint measures to prevent, detect and respond to security incidents, including the exchange of information and procedures that provide for prompt and effective cooperation in preventing, detecting and responding to such incidents); ethics (taking into account the legitimate interests of others);

– democracy (security must be ensured in a way that is consistent with democratic values, including the freedom of exchange of views and ideas, the free flow of information, confidentiality of information, proper protection of private information; openness and transparency); risk assessment (participants should carry out periodic risk assessments to identify threats and vulnerabilities, have appropriate technologies and control tools for this purpose, taking into account the importance of information being protected);

– design and implementation of security measures;

– reassessment (appropriate and timely measures to make changes in policy, security practices taking into account new and changes in existing threats) [7, p. 72-73].

The UN resolution is not the only international legal instrument that emphasizes the need to assess risks in the cybersecurity system. In particular, the EU Directive on measures to ensure a high general level of security of network and information systems throughout the Union (NIS Directive) [8] lays down uniform rules and requirements in the field of cybersecurity for all EU countries, but leaves each Member State the right to take its own measures concerning the implementation of this Directive's provisions into national law. Moreover, the Directive required Member States to implement these rules before 9 May 2018.

This implies that in order to increase the capacity to provide cybersecurity at the national level, EU Member States should develop a national network and information

security strategy, which should include: strategic goals, priorities and the state basis; measures to prepare for, respond to and recover from cyber incidents, principles of public-private partnership; a program of educational, training and awareness-raising activities; research plan; risk assessment and management plan; a list of stakeholders responsible for implementing the strategy; identify one or more public authorities that will be responsible for implementing the Directive; create one or more computer emergency response teams.

In general, in order to achieve the goal of the Directive, to ensure a higher level of network and information security within the European Union, three main areas have been identified as necessary measures: increasing the capacity of the cybersecurity system at the national level; raising the level of pan-European cooperation; introduction of risk management and the obligation to report cyber incidents to basic service operators and digital service providers.

Thus, risk management is defined by international law not only as a recommendation, but also as a mandatory element that raises awareness of vulnerability of the system in the field of cybersecurity.

To understand the problems that occur in the field of cybersecurity, as well as finding ways to solve them, it is important to study the history and logic of the concept of «risk» origin, its essence, content and place in modern social development.

In general, it should be noted that the development of society in a fairly long historical period, in some ways, was marked by risk. At the same time, a relatively new product of scientific thought development was the awareness of human activity's riskiness and the risk attributiveness in the processes of modern social development.

An important task is to clarify the possibilities of public management of social risks of information society development in Ukraine.

An important element of further development of Ukraine's cybersecurity system, especially in a hybrid war, is the need to implement the provisions of European Parliament and Council Directive (EU) 2016/1148 of 6 July 2016 on measures for a high common level of security of network and information systems in the Union (hereinafter – the NIS Directive) [9].

The provisions of this NIS Directive contain a number of requirements to improve the level of cybersecurity. In particular, national cybersecurity strategies address the following issues: goals and priorities of the national strategy for network and information systems security; governance framework to achieve the goals and priorities of the national strategy for the security of network and information systems, including the roles and responsibilities of government bodies and other relevant actors; identifying tools for preparedness, response and restoration, including cooperation between the public and private sectors; indicating educational, training, and awareness-raising programs related to the national strategy for the security of network and information systems; indication of research and development plans related to the national strategy for the network and information systems' security; risk assessment plan to identify risks; a list of various actors involved in the

implementation of the national strategy for the security of network and information systems.

In addition, in Art. Articles 14 and 16 of the first security and incident reporting requirement state that Member States shall ensure that basic service operators as well as digital service providers take appropriate and proportionate technical and organizational measures to manage network and information security risks systems they use in their operations. Given the latest knowledge, such measures should ensure a level of security of network and information systems that corresponds to the risk that has arisen.

In general, the text of the NIS Directive uses the term «risk» 17 times, which in Art. 4 «Terms and definitions» is defined as follows: «risk» means any circumstance or event that can reasonably be identified that has the potential to adversely affect the security of network and information systems [9].

Therefore, it should be noted that in connection with implementation of European legislation in Ukraine, we will be forced to implement these provisions of the NIS Directive to domestic legislation.

Discussion. The current Law of Ukraine «On Basic Principles of Cyber Security of Ukraine» does not provide for any activities to assess risks in the field of cyber security. In our opinion, this is a significant shortcoming of the current domestic legislation, which is motivated by us from several points of view:

–objectively, modern processes of social development require the introduction of the institute of scientific forecasting in management decisions, the provision of which is methodologically in security plane and is based on a risk-oriented approach to forecasting;

–risk assessment in the field of cybersecurity of Ukraine is not only a necessity of the current stage of development of society, but also a requirement of formal and legal international legislation, in particular, European, the further implementation of which in Ukraine requires implementation and enforcement;

From a methodological point of view, risk assessment involves not only informing about the magnitude of a threat in cybersphere, but also clarifying the resilience of society in combating these threats, which therefore forms the basis for identifying priorities for improving the resilience of cybersecurity's domestic system of Ukraine;

The current state of cybersecurity in Ukraine directly depends on aggressor's activity in cyberspace, and therefore cyber threats to our society, above all, do not lie in the plane of internal factors, but only - external targeted activities of the aggressor's intelligence services, which objectively motivates an effective national cybersecurity system in Ukraine;

Given the place of the institution of risk-oriented approach (risk assessment, risk management) in the mechanism of state regulation, it is objective to implement it in current legislation and identify an important tool in the mechanism of administrative-legal regulation as a preventive measure.

Conclusion. Thus, the current domestic legislation requires the introduction of appropriate rules for the introduction of a risk-oriented approach in cybersecurity activities in Ukraine. In particular, this applies to both the Law of Ukraine «On Basic Principles of Cyber Security of Ukraine» and the draft Law of Ukraine «On Critical Infrastructure and its Protection» of 27.05.2019 № 10328-III. In particular, innovation of this content should contain the following:

Definition of basic terms: risk-oriented approach to cybersecurity - the principle of cybersecurity, based on assessing the risks of violations of rights and freedoms, as well as the interests of society and the state in cyberspace, and taking appropriate risk management measures in a way and to the extent minimization of such risks depending on their level; risk-oriented approach to critical infrastructure protection - the principle of critical infrastructure protection, based on risk assessment of critical infrastructure security breaches, as well as taking appropriate risk management measures in a manner and to the extent that minimizes such risks depending on their level; risks - the real threat's level of violation of rights and freedoms, as well as the interests of society and the state in cyberspace (violation of the security of critical infrastructure); Risk management - a set of measures taken by cybersecurity entities (critical infrastructure operators): identification and assessment of threats and vulnerabilities of the national cybersecurity system (critical infrastructure), risk assessment of threats - and on this basis to make appropriate management decisions to minimize risks.

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INTERNATIONAL STANDARDS ON COMBATING MONEY LAUNDERING AND CORRUPTION CRIMES: SOME ASPECTS OF INVESTIGATIONS

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Abstract. *The article analyzes international standards on combating money laundering and corruption crimes. The evolution of The FATF Standards, which have been revised to strengthen global safeguards and further protect the integrity of the financial system by providing governments with stronger tools to take action against financial crime, has been investigated. At the same time, these new standards address new priority areas such as corruption and tax crimes. The aim of the article is to compare international legal acts that regulate the field of anti-money laundering and anti-corruption. The research methodology: the functional and analytical methods of comparative legal research were used as the most appropriate. In comparison with AML/CFT law, the international legal requirements regarding anti-corruption compliance are very general. Many countries do not have laws and regulations on anti-corruption compliance. Companies develop their compliance programmes based on international law, foreign law that has transnational application. Certain provisions of the above-mentioned international legal acts, in addition to their scope, regulate the investigation of crimes related to money laundering, terrorist financing and corruption crimes. The main results: the implementation of international standards in national law in some way unifies the approaches to the investigation of complex crimes, which are often combined in a scheme, and allows the introduction of effective methods of investigating such crimes.*

Keywords: *anti-money laundering laws, anti-money laundering acts, investigations, financial investigation, suspicious transaction report, United Nations Convention against Corruption (UNCAC), USA Patriot Act, UK Bribery Act, national anti-money laundering legislation, national anti-corruption legislation, FATF Recommendations.*

JEL Classification: D30, D73, D78

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Introduction. Recent academic studies and reports from international organizations and groups illustrate the close connections between corruption and moneylaundering [7, p.28-29]. Corrupt officials often have to legalize criminal proceeds because of the close scrutiny over their incomes, assets, and significant purchases [8, p. 6]. In some cases, criminals plan the receipt of a bribe and the laundering of this money in the framework of one scheme. The same shadow financial infrastructure has been used for payments between participants in a corrupt scheme and for the legalization of criminal proceeds. Under international law, there is a clear linkage between corruption and moneylaundering.

The United Nations Convention against Corruption [9, p.17] established obligations for States Parties to criminalize the laundering of proceeds of corruption offences and to take measures to prevent corruption. The International standards on

combating moneylaundering, the financing of terrorism, and proliferation [10, p.7] stipulate that corruption and bribery should be covered as predicate offences.

Aims. The aim of the article is to compare international legal acts that regulate the field of anti-money laundering and anti-corruption.

Methods. Functional and analytical methods of comparative legal research were used as the most appropriate. These methods allowed the author to examine international law and other regulations for similarities and differences between anti-money laundering and anti-terrorist financing legislation and anti-corruption legislation. Sources of research include international conventions, international law, reports and other documents of international intergovernmental and non-governmental organizations, national legislation and scientific publications [11, p.28-29]. Specific ideas and opinions are also based on the author's many years of practical experience in this field. This includes work in the Ukrainian Financial Intelligence Unit (FIU) and anti-corruption bodies, as well as training for law enforcement professionals and law enforcement officers from various jurisdictions. The purpose of the study is to identify existing problems in regulating anti-corruption legislation and possible ways to solve them.

Results. So let's consider the provisions of the main regulations that were first adopted in some jurisdictions, and due to the effective action of some of their provisions, the scope has been extended to other jurisdictions in the form of international legal acts.

Bank Secrecy Act adopted in 1970 established requirements for recordkeeping and reporting by private individuals, banks and other financial institutions. This act was designed to help identify the source, volume, and movement of currency and other monetary instruments transported or transmitted into or out of the United States or deposited in financial institutions

It required banks to (1) report cash transactions over $10,000 using the Currency Transaction Report; (2) properly identify persons conducting transactions; and (3) maintain a paper trail by keeping appropriate records of financial transactions [12].

The Bank Secrecy Act (BSA), 31 USC 5311 et seq., sets out requirements for programs, record keeping, and reporting for national banks, federal savings associations, federal affiliates, and foreign banking institutions.

The BSA was subsequently amended to reflect the provisions of the USA PATRIOT Act, which requires each bank to adopt a customer identification program as part of its BSA compliance program. In addition to using information provided by banks to investigate money laundering and terrorist financing, US law enforcement agencies also provide banks with access to resources and tools that can be used to strengthen BSA / AML risk management programs. [13]

In 1977, in order to make it illegal for certain classes of individuals and legal entities to make payments to foreign government officials to assist in obtaining or maintaining a business, the Foreign Corruption Act ("FCPA") was passed, as amended, 15 U.S.C. §§ 78dd-1 and others.

Specifically, the anti-bribery provisions of the FCPA prohibit the willful use of the mails or any means of instrumentality of interstate commerce corruptly in furtherance of any offer, payment, promise to pay, or authorization of the payment of money or anything of value to any person, while knowing that all or a portion of such money or thing of value will be offered, given or promised, directly or indirectly, to a foreign official to influence the foreign official in his or her official capacity, induce the foreign official to do or omit to do an act in violation of his or her lawful duty, or to secure any improper advantage in order to assist in obtaining or retaining business for or with, or directing business to, any person. [5]

Thus, the requirements of the FCPA clearly define the conditions for proper accounting and make it easy to navigate in reporting documents through a standardized approach and unification of reporting.

40 recommendations of the Financial Operations Working Group (FATF) (1990, last revision in 2016): the FATF recommendations provide a comprehensive and coherent system of measures to be implemented by countries to combat money laundering and terrorist financing, as well as the financing of the proliferation of weapons of mass destruction. Countries have different structures of legal, administrative and operational systems and different financial systems, and therefore not all can take identical measures to address these threats. Thus, the FATF Recommendations set international standards that countries must implement through measures tailored to specific circumstances. The FATF Recommendations set out the basic measures that countries should take to:

- risk identification and policy development and coordination at the national level;
- prosecution of money laundering, terrorist financing and financing the proliferation of weapons of mass destruction;
- application of safeguards for the financial sector and other identified sectors;
- establishing the powers and responsibilities of the competent authorities (e.g. investigative, law enforcement and supervisory authorities) and other institutional arrangements;
- increasing the transparency and accessibility of information on beneficial ownership of legal entities;
- as well as promoting international cooperation. [14, p.11]

Significant impact on the effectiveness of the country's AML /CFT measures includes the sophistication and complexity of the regulatory and supervisory regime in the country; the level of corruption and the impact of anti-corruption measures; or the level of financial exemptions. Such factors may affect the risks of AML/CFT and increase or decrease the effectiveness of AML/CFT measures. [14, p.14]

Thus, in this context, the effectiveness of the fight against money laundering and terrorist financing is closely linked to the general level of crime in society.

According to the FATF Recommendations, countries must ensure that designated law enforcement agencies are responsible for investigating money

laundering and terrorist financing within the framework of national anti-money laundering and anti-terrorist financing policies. In all cases involving major revenue-generating crimes, these designated law enforcement agencies should, on their own initiative, conduct a parallel investigation into the prosecution of money laundering, predicate offenses and terrorist financing. This should include cases where a related predicate offense is committed outside their jurisdiction. Countries should ensure that their competent authorities are responsible for the prompt identification, monitoring and initiation of action to freeze and confiscate property that is, may be, or is suspected of being criminal proceeds. Where appropriate, countries should also use permanent or temporary multidisciplinary teams that specialize in financial or asset investigations. Where appropriate, countries should ensure that joint investigations are conducted with the relevant competent authorities of foreign countries. [14, p.140]

Anti-corruption authorities are empowered to investigate money laundering and terrorist financing offenses or related to corruption offenses in accordance with FATF Recommendation 30, and should have sufficient authority to detect, monitor and initiate the freezing and seizure of assets.

"USA Patriot Act" (full title: Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001) terrorism "2001") - a federal law passed in the United States in October 2001, gave the government and police broad powers to oversee citizens. [15]

It was adopted after the terrorist attack of September 11, 2001. The law, in particular, expanded the FBI's rights to eavesdrop and electronic surveillance, which many saw as a violation of the Fourth Amendment to the US Constitution. The rationale for this act was the implementation of the principle that in order to effectively combat crime, it is necessary to make the potential gain from committing a crime less than the potential damage from punishment. This primarily concerns the deprivation of criminals of proceeds from crime.[16]

Since 2015, law enforcement powers to collect information have been somewhat limited (Instead of US Patriot Act now US Freedom Act is in force) - now surveillance is possible only with the court decision. The right to monitor and collect information introduced in Ukraine on the same principle.

Today, the main global document regulating the prevention, investigation and prosecution of corruption and the suspension of operations (freezing), arrest, confiscation and recovery of proceeds of crime is the UN Convention against Corruption, adopted at the 58th session of the UN General Assembly in October 2003, which established the theoretical basis for the adaptation of national legislation and defined the fundamental principles of anti-corruption policy of the member states of this international treaty.

The beginning of the development of international legal regulation in the field of anti-corruption can be considered the adoption on 15 December 1975 of UN General Assembly Resolution 3514 (XXX). The document calls on the governments of all

countries to take the necessary measures at the national level to prevent and combat corruption, which they deem appropriate, including legislation.

The tasks set by the resolution are clarified and detailed in various documents adopted within the UN. In particular:

- UN General Assembly resolution on combating corruption of 12 December 1996 (A / RES / 51/59); [17]

- UN Declaration against Corruption and Bribery in International Commercial Transactions (1996); [18]

- Guidelines for the effective implementation of the Code of Conduct for Law Enforcement Officials (1989); [19]

- The International Code of Conduct for Public Officials (1996) contains recommendations that public officials must comply with in order to perform their duties properly. [20]

These documents are of a recommendatory nature, but they have played a key role in the preparation of international legal acts that have established international standards for preventing and combating corruption.

According to the Article 30 of UNCAC: "Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention." [3, p.23]

In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived there from. (Article 50 UNCAC) [3, p.41]

According to the Article 53 of UNCAC each State Party shall, in accordance with its domestic law: take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention; take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to

recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention. [3, p.43]

The most important steps of the Council of Europe in the fight against corruption should be the development of modern anti-corruption standards, European anti-corruption conventions and the establishment of a specialized body for monitoring anti-corruption standards in Council of Europe member states - GRECO.

These are, in particular, the Criminal Law Convention on Corruption [21], the Civil Law Convention on Corruption [22] and the Additional Protocol to the Criminal Law Convention on Corruption [23].

The Criminal Law Convention on Corruption is a key international legal instrument of the Council of Europe, which defines the grounds for criminalization of corrupt practices, the list of them, the types and scope of international legal assistance, as well as international control measures.

The purpose of the Civil Convention against Corruption is to introduce effective means of "legal protection of persons harmed by acts of corruption, to enable such persons to defend their rights and interests, including the possibility of obtaining compensation for the damage caused." [21]

As of April 1, 2013, financial institutions must use the BSA Electronic Reporting System "On Bank Secrecy" to report suspicious activity. Under the Bank Secrecy Act (BSA), financial institutions are required to assist U.S. government agencies in detecting and preventing money laundering, such as:

- keep records of cash purchases of negotiable instruments,
- file reports of cash transactions exceeding $10,000 (daily aggregate amount), and
- report suspicious activity that might signal criminal activity (e.g., money laundering, tax evasion)

An amendment to the BSA incorporates provisions of the USA Patriot Act, which requires every bank to adopt a customer identification program as part of its BSA compliance program. [13]

As already mentioned, almost all countries have adopted national laws on combating money laundering and terrorist financing. Financial institutions and certain non-financial enterprises and professions have mandatory obligations to implement anti-money laundering and anti-terrorist financing systems that fully comply with these laws. In contrast, many countries do not have national laws and regulations that set formal requirements for compliance with anti-corruption standards. In such jurisdictions, the FCPA and the UK Bribery Act effectively replace national law, and companies develop anti-corruption programs under the influence of these laws and in accordance with them, together with the rules and guidelines adopted by the US and / or UK authorities.

Corruption risks are an additional factor that encourages the integration of FCPA requirements into anti-corruption programs. But such programs do not always take into account the national and local specifics of different countries. [25]

The lack of national laws and regulations on compliance with anti-corruption requirements raises two problems. Anti-corruption acts developed solely in accordance with foreign standards or copied from foreign law may not always be sufficient for a particular country. Statistics show a very active use of FCPA [26] and the UK Bribery Act to companies from different countries and industries. A recent report by the Anti-Corruption Committee of the International Bar Association (IBA) confirmed the risk of numerous legal actions and stressed the need to discuss conflicts between jurisdictions. [27, p.26]

In Ukrainian legislation, due to the "approximate copying" of norms from foreign regulations and in order to selectively bring into line with international standards of individual national legislation, there are still inconsistencies in national regulations, which causes problems with both the definition and with the investigation of crimes.

For example, in the Law on Combating Money Laundering and Terrorist Financing, the definition of PEP includes senior civil servants [14, p. 4-5], while in compliance with anti-corruption rules, companies pay special attention to relations with any civil servants. Moreover, the definition of a public official varies from country to country. The catalog of risks in the fight against money laundering and terrorist financing is much broader than in compliance with anti-corruption norms, as the regulation of anti-money laundering and terrorist financing is aimed at preventing and combating money laundering. However, corruption is a money laundering offense. As a result, the association of the user or beneficial owner with a jurisdiction with a high level of corruption is usually included in the AML / CFT risk catalogs.

Detection of suspicious transactions is probably not a top priority of anti-corruption standards, as is the case with AML/CFT. However, careful analysis of financial transactions can also be an effective way to prevent corruption. The scope of reporting obligations on compliance with anti-corruption rules depends on the country's legal provisions. National criminal law may impose an obligation to report corruption offenses involving serious or organized crime or by providing for a certain threshold of imprisonment as a liability. In other cases, disclosure depends on anti-corruption policy. In accordance with anti-money laundering and anti-terrorist financing rules, financial institutions and certain non-financial enterprises and professions are required to report controlled transactions in accordance with national law and to report suspicious transactions identified in the anti-money laundering and anti-terrorist financing program. Thus, both types of compliance involve a combination of binding reporting obligations and discretionary reporting. The similarities described above in compliance programs provide an opportunity for cooperation between law enforcement officers or units responsible for combating money laundering and terrorist financing and combating corruption. [1, p.17-18]

International standards have greatly influenced the rules and procedures for investigating money laundering and terrorist financing crimes. According to the latest revised recommendations of the FATF, the investigation of such crimes requires cooperation from law enforcement agencies. Motivation of law enforcement agencies to conduct investigations involves, in particular, optimization of organizational and functional structure, namely:

- study of European experience in improving the skills and professional skills of law enforcement personnel;
- increasing the analytical resources of law enforcement agencies by establishing an efficient and timely exchange of information, expanding the use of information solutions, methods of analysis and processing of data sets, systems of analysis and risk management;
- review of approaches to the system of personnel selection, development of knowledge, skills and abilities of employees, their stimulation and encouragement to honest and proactive performance of duties, based on the best world practices;
- elimination of duplication of functions related to combating economic crimes.

So, the key tasks of the investigation are:

- detection of criminal proceeds, search for assets and application of the procedure of confiscation of assets using security measures, such as suspension / arrest (if there are grounds), including:
- establishing the origin of funds or other assets received from or related to illegal activities;
- tracking the movement of cash or other assets related to illegal activities;
- establishing the location, relocation, change of form (transformation) of assets, as well as the acquisition, possession or use of funds or other assets obtained as a result of committing a socially dangerous illegal act;
- establishment of assets for future confiscation.
- initiating pre-trial investigations in criminal proceedings for money laundering (if there are grounds), in particular: establishing methods of concealment or disguise of illegal origin of funds or other assets, disclosure of financial and economic organized structures, undermining transnational criminal ties and obtaining information on types and nature criminal schemes; identification of persons who own such funds, assets or rights to such funds or assets.[10]

Given the growing risk of organized crime entering the economy, financial investigation is an important tool for a modern and effective response to criminal threats, including terrorist financing.

It can provide new evidence of criminal activity, prosecute entire criminal networks, including their transnational consequences, and is key in developing preventive and proactive action through the development of detection and control tools.

Financial investigation has a preventive and preventive added value. It is an important tool for detecting money laundering, terrorist financing and other serious crimes. It can be used against all criminal markets.

In many cases, financial investigations are needed to develop evidence against high-level sophisticated criminals in order to deactivate transnational and organized criminal networks. Financial investigations can also facilitate national risk assessment in the relevant jurisdiction, as it provides knowledge about the structures of crime.

Its benefits are evident in facilitating the investigation of criminal cases against all serious and organized criminals by:

- defining motives, associations and connections with people and places;
- identify the use of other services, such as telephones, transport and facilities that are relevant to the case;
- search or identification of suspects, witnesses or victims;
- providing information on the movement of the suspect (active, covert use of financial information);
- providing information to address the problem of fruitful and priority offenders, when no previous method has been successful;
- search for persons, including the missing.

More mobile, more flexible and better integrated into international criminal networks, organized criminals are now seeking, given the increasing pressure from law enforcement, to better penetrate the legal sphere in order to develop their illegal activities.

The advantages of the economic and financial spheres are obvious. There are no fingerprints, no DNA traces, no crime scene and no witness, so there is no evidence and therefore no conviction. However, as criminals have learned to rely on financial transactions and economic relations, the financial system and the general economic environment now provide concrete opportunities to fight organized criminals.

If the intrusion into the legitimate economy of modern criminal threats is clearly recognized, white-collar crimes remain difficult to investigate and criminals difficult to prosecute. Hence the growing gap between the evolution of modern criminals and the reaction of law enforcement agencies. Thus, there is a need to expand the capabilities and know-how of investigations.

EU countries have agreed to make financial investigations a fundamental component of all counter-terrorism investigations (revised EU Terrorist Financing Strategy). Discussions on the implementation of some international agreements (such as the UN Convention against Corruption, the Council of Europe Convention on Action against Crime or the G8 Marine Cocaine Action Plan) also emphasize the need to strengthen financial investigations and financial crime analysis at all stages of criminal investigations and prosecutions.

Despite the implementation of money laundering legislation, the results of convictions are unsatisfactory. The European Commission intends to support the

integration of financial investigation and analysis of financial crimes, so that it becomes a standard part of the investigation, law enforcement techniques in all Member States in all cases of serious and organized crime (not just financial crimes). Based on the Report of the 5-th Round of MONEYVAL Mutual Evaluation, Ukraine's law enforcement agencies disagreed on the meaning of the term "financial investigation" - money laundering investigation, or investigation of other financial offenses, or investigation of cases related to illegal income from offenses. In addition, there are no general instructions on when to initiate a financial investigation and what its purpose is.

Conclusions. Thus, the implementation of international standards in national law in some way unifies the approaches to the investigation of complex crimes, which are often combined in a scheme, and allows the introduction of effective methods of investigating such crimes. According to the FATF Recommendations, financial investigations typically lead to the detection of other, previously unknown crimes, as well as assets that have been acquired for proceeds of crime and, as a result, may be subject to confiscation [10]. Taking into account international standards, Ukraine managed to build a preventive APC / FT and anti-corruption system. In the context of reforming the anti-corruption system, Ukraine has now formed a legal framework that generally meets international standards developed in international treaties and the practice of many foreign countries.

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INSTITUTE OF PRESIDENCY IN HUNGARY AND UKRAINE: POLITICAL AND LEGAL ASPECT

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Abstract. *The article provides a comparative study of the constitutional powers granted to presidents in Ukraine and Hungary in the context of the political and legal aspect, and also an attempt to appraise the role of subjective factors involved in the exercise of state power and transformation of the presidency institute of the aforementioned states. The aim of the article: to comparative study of the constitutional and legal status of Hungarian and Ukrainian presidents in the political and legal context and performing an appraisal of the personal impact exerted by the head of state on the government of the above-said countries. The research methodology: to observation and generalization; ordering of all basic elements; method of scientific generalization, which made it possible to formulate conclusions. As a result, it is established that the institution of the presidency in Ukraine is the core of the executive branch, which dominates the state system. In Hungary, the executive and legislative branches make up a political bloc (alliance) which is counterbalanced in certain relations by the constitutional court and judicial power. The subjective factor, namely personal qualities of presidents – career path, role perception, interpretation of powers – determines the political heft of the head of state. Subject to sufficient individual traits, a constitutionally "weak" president is able to influence the country's development concept and the positioning strategy on the global scene.*

Keywords: *institute of presidency, president of Hungary, president of Ukraine*

JEL Classification: M10, M11, M21, H79, P35, E69

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Introduction. A comparative study of the specific ways the machinery of government functions in countries with positive experience in establishing the institute of presidency will help make the search for those mechanisms in Ukraine meaningful and understandable. Most scientists engaged in the research of the institute of presidency in post-Soviet Eastern European countries identify Hungary as an example of successful implementation of the parliamentary-presidential republic model.

The institute of presidency researchers point out that presidents have substantial personal influence on the state policy. With that in mind, the above-mentioned phenomenon of the subjective impact on the development of the presidency institute is worth attention and appraisal.

The comparison study in terms of the political and legal aspect of the presidency institutes of Hungary and Ukraine will enable an appraisal of the legal dissimilarities and of the influence of subjective factors on the exercise of public authority in the countries under consideration.

Literature review. Specific aspects of the political and legal status of the institute of presidency in Ukraine are covered in the works by D. M. Belov, Yu. M. Bisaga, A. I. Kudryachenko and Ye. I. Golovakha. The functioning of the state

mechanism in Hungary and the president's role are researched in Csink Lóránt's monograph. A comparative study of the constitutional legal status of the Hungarian presidency is offered in the papers by Ye. G. Uliashina and Szilárd Popovics. The state system of Hungary and specific legal differences between the presidencies of Hungary and Ukraine were researched by D. I. Tkach.

The research of functioning of the presidency institute in post-Soviet Eastern European countries had not yet included a comparative study of the institute of presidency in Hungary and Ukraine in the context of the political and legal aspect.

Aims. The article is aimed at conducting a comparative study of the constitutional and legal status of Hungarian and Ukrainian presidents in the political and legal context and performing an appraisal of the personal impact exerted by the head of state on the government of the above-said countries.

Methods. To solve this goal, the following research methods were used: observation and generalization; ordering of all basic elements; method of scientific generalization, which made it possible to formulate conclusions.

Results. *Scope of president's power in the system of state bodies*. Based on the comparative study we will identify the commonalities and differences of the constitutional powers of Ukrainian and Hungarian presidents. The basic criteria for determining the scope of head of state's authority are: 1) capacity to influence the executive branch; 2) capacity to appoint the government; 3) capacity to influence the legislature; 4) power to initiate legislation and right of veto; 5) president's foreign policy activity; 6) capacity to impact other state structures.

The comparative study of constitutional presidential powers has revealed that the overall scope of authorities granted to the president of Ukraine exceeds substantially the scope of authorities granted to the president of Hungary (Table 1).

The scope of the Ukrainian president's powers, even regardless of the fact that a portion thereof requires countersigning by the prime minister and competent minister, testifies to the functional dominance of the presidency institute in the power machinery of Ukraine. Based on the Constitution of Ukraine as of 1996 the president is entitled to appoint and dismiss single-handedly the prime minister and practically all key officials of the state, to cancel government instruments, to create and reorganize ministries, agencies and other bodies of the state executive branch. The 1996 Constitution of Ukraine, unlike the Hungarian one, provides the president with controls over state authorities, primarily over the executive power. The president of Ukraine has the right to create laws without countersigning, has the power of veto and has significant influence on the formation of the Constitutional Court and of the court authorities in general.

The competences of the Ukrainian president in the executive branch, complemented by the practically insuperable right to veto laws adopted by the Verkhvona Rada, makes the president's institute a central political institution in control of the political and economic life of Ukraine.

Table 1

Comparison of the main provisions of the Constitution of Hungary and Ukraine

Constitution of Hungary (Act XX of 1949) [15]	**Constitution of Ukraine (adopted on 28.06.1996) [16]**
Government	
recommends the candidate for the office of Prime Minister [15, Article 33 (3)] the Prime Minister is elected by the National Assembly [15, Article 19 (3) k)]	appoints the Prime Minister of Ukraine; terminates the authority of the Prime Minister of Ukraine and adopts a decision on his or her resignation [16, Article 106, para.9] Verkhovna Rada authorities include giving consent to the appointment of the Prime Minister of Ukraine by the President of Ukraine [16, Article 85, para.12]
appoints and dismisses ministers (based on the recommendation of the Prime Minister) [15, Article 33 (4)] the Prime Minister appoints a Deputy Prime Minister from among the ministers [15, Article 33 (2)] the Government is responsible to the National Assembly [15, Article 39 (1)]; members of the Government are responsible to the Government and the National Assembly [15, Article 39 (2)] members of the Government shall take an oath before the National Assembly [15, Article 33 (5)]	appoints ministers, chief officers of other central bodies of executive power, and also the heads of local state administrations (on the submission of the Prime Minister), and terminates their authority in these positions [16, Article 106, para.10] establishes and liquidates ministries and bodies of executive power (on the submission of the Prime Minister) [16, Article 106, para.15]; revokes acts of the Government [16, Article 106, para.16] The Government is accountable to the President and is guided, inter alia, by acts of the President of Ukraine [16, Article 113] The Government tenders its resignation to the newly-elected President [16, Article 115]
Judicial power	
recommends the candidate for the office of the President of the Supreme Court [15, Article 48 (1)] appoints Deputy Presidents of the Supreme Court (based on the recommendation made by the President of the Supreme Court) [15, Article 48 (1)] appoints professional judges [15, Article 48 (2)] (based on the recommendation made by the President of the Supreme Court) the President of the Supreme Court is elected by the National Assembly [15, Article 19 (3) k)] members of the Constitutional Court are elected by the National Assembly [15, Article 19 (3) k)] the President of the Constitutional Court is elected by Court members from among themselves by secret ballot [15, Article 32 / A (5)]	The Chairman of the Supreme Court is elected to office and dismissed from office by the Plenary Assembly of the Supreme Court by secret ballot, by the procedure established by law [16, Article 128] appoints professional judges [16, Article 128] appoints one-third of the composition to the Constitutional Court [16, Article 106, para.22] The Chairman of the Constitutional Court of Ukraine is elected by secret ballot at a special plenary meeting of the Constitutional Court of Ukraine from among the judges of the Constitutional Court [16, Article 148].
Prosecutor's Office	
recommends the candidate for the office of the Prosecutor General [15, Article 51 (1)] appoints deputies to the Prosecutor General [15, Article 52 (1)] (based on the	appoints and dismisses the Prosecutor General [16, Article 106, para.11] the authorities of Verkhovna Rada of Ukraine include granting consent for the appointment of the Prosecutor General of Ukraine by the President of Ukraine; declaring no confidence in the

Constitution of Hungary (Act XX of 1949) [15]	**Constitution of Ukraine (adopted on 28.06.1996) [16]**
recommendation made by the Prosecutor General) the Prosecutor General is elected by the National Assembly [15, Article 19 (3) k)] A majority of two thirds of the votes of the Members of Parliament present is required to pass the law on the Public Prosecution Service and on the Service Relation of Public Prosecutors [15, Article 53 (4)]	Prosecutor General of Ukraine that has the result of his or her resignation from office [16, Article 85, para.25]
National Bank	
appoints and dismisses the Governor and deputy governors of the National Bank [15, Article 30/A(1)i)] with countersignature of the Prime Minister or responsible Minister [15, Article 30/A (2)]	appoints one-half of the composition of the Council of the National Bank [16, Article 106, para.12] the authorities of Verkhovna Rada of Ukraine include appointment and dismissal of the Chairman of the National Bank of Ukraine on the submission of the President of Ukraine [16, Article 85, para.18]
Supervisory Bodies	
appoints and dismisses the President of the Financial Supervisory Authority [15, Article 30/ A. (1) i)] with countersignature of the Prime Minister or responsible Minister [15, Article 30 / A. (2)] Vice Presidents of the Financial Supervisory Authority are appointed by the Prime Minister [15, Article 40 / D. (2)] President and Vice Presidents of the State Audit Office are elected by the National Assembly [15, Article 19 (3) k)]	appoints and dismisses the Chairman of the Antimonopoly Committee of Ukraine and Chairman of the State Property Fund of Ukraine [16, Article 106, para.14] the authorities of Verkhovna Rada include granting consent for the appointment and dismissal by the President of Ukraine of the Chairman of the Antimonopoly Committee of Ukraine and Chairman of the State Property Fund of Ukraine [16, Article 85, para.24]
State media	
the President of the National Media and Infocommunications Authority is appointed by the Prime Minister [15, Article 40/ E (2)]	appoints and dismisses, with the consent of the Verkhovna Rada, the Chairman of the State Committee on Television and Radio Broadcasting of Ukraine [16, Article 106, para.14] appoints one-half of the composition of the National Council of Ukraine on Television and Radio Broadcasting [16, Article 106, para.13] the authorities of Verkhovna Rada include granting consent for the appointment and dismissal by the President of Ukraine of the Chairman of the State Committee on Television and Radio Broadcasting of Ukraine [16, Article 85, para.24]
Legislature	
legislation may be initiated by the President [15, Article 25 (1)] ratifies and orders the promulgation of laws adopted by the National Assembly [15, Article 26 (1)] or refers the law, along with his/her comments, to the National Assembly for reconsideration [15, Article 26 (2)] or may refer the law to the Constitutional Court for consideration [15, Article 26 (4)] has the right to initiate national referenda [15, Article 30/A (1) (g)] announces dates	has the right of legislative initiative at Verkhovna Rada; draft laws defined by the President of Ukraine as urgent are considered out of turn by the Verkhovna Rada [16, Article 93] signs laws adopted by the Verkhovna Rada of Ukraine [16, Article 106, para.29] has the right to veto laws adopted by the Verkhovna Rada with their subsequent return for reconsideration by the Verkhovna Rada [16, Article 106, para.30] proclaims an all-Ukrainian referendum on popular initiative; designates an all-Ukrainian

Constitution of Hungary (Act XX of 1949) [15]	**Constitution of Ukraine (adopted on 28.06.1996) [16]**
of national referenda [15, Article 30/ A (1) (d)] ratifies the law subject to national referendum if such law is confirmed by the national referendum [15, Article 26 (6)]	referendum regarding amendments to the Constitution of Ukraine [16, Article 106, para.6] a draft law on introducing amendments to the Constitution of Ukraine may be submitted to the Verkhovna Rada of Ukraine by the President [16, Article 154]
Regional and District Executive Power	
has the right to dissolve representative bodies of local government whose actions have been found unconstitutional [15, Article 19 (3) 1)] (based on the Government's recommendation) the Government shall ensure that the legal operation of local government is monitored [15, Article 35 (1) d)]; the fundamental rights of local governments may be restricted by the Government [15 , Article 44/C]	heads of local state administrations are appointed and dismissed by the President upon the submission of the Government [16, Article 118] In the exercise of their duties, the heads of local state administrations are responsible, in particular, to the President of Ukraine. Decisions of the heads of local state administrations that contravene the Constitution may be revoked by the President [16, Article 118] Local state administrations on their respective territory ensure, inter alia, the execution of acts of the President [16, Article 119 para.1]
International Relations, Participation in the Execution of International Agreements	
the President represents the State of Hungary [15, Article 30/ A (1) (a)]	the President represents the state in international relations, administers the foreign political activity of the State, conducts negotiations and concludes international treaties of Ukraine [16, Article 106, para.3]
concludes international treaties in the name of the Republic; if the subject of the treaty falls within its legislative competence, prior ratification by the Parliament is necessary for conclusion of the treaty [15, Article 30/ A (1) (б)]	acts of the President of Ukraine issued within the limits of authority as are cosigned by the Prime Minister of Ukraine and the Minister responsible for the act and its execution [16, Article 106] adopts decisions on the recognition of foreign states [16, Article 106, para.4]
accredits and receives ambassadors and envoys [15, Article 30/ A (1) (c)] with countersignature of the Prime Minister or responsible Minister [15, Article 30/ A (2)]	appoints and dismisses heads of diplomatic missions to other states and to international organisations; accepts credentials and letters of recall of diplomatic representatives of foreign states [16, Article 106, para.5]

Management of the foreign policy activities, national security and defense are within the sole competency of the president. The executive branch of power has the greatest influence on the state administration.

Under the Hungarian constitutional law, in our opinion, the president's role in the system of checks and balances of the state power is more of a coordinating one; his/her authorities are rather neutral in terms of choice and influence. The president of Hungary can nominate candidates for key government positions and is granted a weak suspensive veto on ratified legislature.

The Hungarian constitution places substantial emphasis on the execution of personnel decisions by the president while staff recruitment and scheduling are performed by the government coalition [1, page 116]. For all of his/her activities and orders the president needs a visa (countersignature) of the prime minister or relevant ministers. He/she can only revoke appointments or other staffing decisions when the decision will seriously damage the functioning of the state's democracy mechanism. The Hungarian president's capacity to interfere with the activities of the government and executive branch is limited by the Constitution; the National Assembly is the executive power holder.

Functional dominance in the power machinery is attributed to the government coalition. The latter and the prime minister virtually have a monopoly on the Republic's management decisions economy- and politics-wise. From the political viewpoint the president's maneuvering capacities are restricted by the fact that the parties able to form the government are in coalition and put forward a single candidate for the prime minister's position, so the president's powers under the public law to appoint head of government do not provide for an independent decision. The National Assembly is the central political institution in control of Hungary's political and economic life.

Considering the constitutional law aspect, the Hungarian president's political heft should be very moderate (as compared with the president of Ukraine), and his/her role in the national checks and balances system is limited to arbitration, as regarding the state's constitutional functioning.

Personal impact of presidents on the state policy and actual effects of the impact: Ukraine. Researchers note a certain discordance between constitutional provisions and political practice [2]. The subjective role of the president's personality always has transformative effect on the political climate and socio-political development in the country [3].

To understand the genesis and essence of the researched models of the presidency institute, it is necessary in our opinion to investigate the institutes in the context of presidents' personality in combination with the socio-cultural and political realities.

Formally, Ukraine chose a model of democratic governance which was not consistent with the country's informal institutes – there were persistent totalitarian traditions. Researchers have been voicing different opinions regarding the dominant influence in the problematic of implementation of the selected model and political system establishment in Ukraine [4][5][6][7].

We believe that objective and subjective factors involved in the transitioning from a parliamentary-presidential republic to the presidential one are as follows: objective factors – socio-cultural conditions of the post-totalitarian system, subjective ones – personal traits of the second President L. Kuchma.

Ukraine's institute of presidency became the nucleus of executive power, largely thanks to the personal qualities of the second president [8]. It should be noted that this is partly due to his longest presidency tenure and partly due to the fact that it was during that period of 1994-2004, according to researchers, that the institutional conditions leading to the establishment of the current political system in Ukraine were shaped.

The functioning of the presidency institute does not always fit within the framework of the president's formalized authorities. The president's subjective perception of order and justice, goals and means has essential influence on the forms and methods of exercising state power.

The formal model of state functioning was changed repeatedly: the 2004 Constitution allocating the president's powers to Verkhovna Rada and the government, restitution of the 1996 Constitution in 2010 which restored the authoritarian institute of presidency, and another reversion to the 2004 Constitution in 2014. Meanwhile, the practical state functioning model, namely the governance forms and methods, emerged in our opinion during the tenure of the second president of Ukraine and still remains in the framework of public governance and in socio-political life.

The president can take a considerably active part in the foreign policy branch. For instance, over the period from June 1994 to January 2005 Ukraine's foreign policy activities were fully dependent on the Ukrainian president [3]. From May 12, 1998 to January 1, 2005 Verkhovna Rada registered 553 bills, including 245 international agreements, which were initiated by the president [9].

Researchers note that the so-called "multi-vector approach" announced by the president in practice manifested itself at the time as uncertainty of the state's foreign policy [6, pages 776-785] [10].

In our opinion, lack of the country's clear positioning on the international scene was caused by the president attributing his personal sense of opportunities to the actual state of affairs. It was due to the personal traits of the incumbent president that the foreign policy of the time was dominated by uncertainty and lack of positioning strategies in the international context. There could have been intrinsic reasons to refrain from giving straight answers to the questions of more powerful neighbors but this does not mean there is no need for a nationally focused agenda in the foreign policy activities.

It is worth mentioning specifically that the foreign policy uncertainty and lack of a uniform positioning strategy on the international scene have negative effects in the context of succession. The elites failing to approve the state's development concept and its position in the international community contribute to the future risks during the transition of power which cannot be insured against with the personal relations established by the previous individuals in power.

Considering the obvious disharmony between constitutional and legal provisions and the political practice, formal political institutes do not assure legal implementation of the power transit in the country.

Personal impact of presidents on the state policy and actual effects of the impact: Hungary. Researchers believe that Hungarians chose the presidential-parliamentary form of rule as it permits to control the executive power with maximum efficiency through democratic institutes and to prevent voluntarism and arbitrariness of authorities [1, page 115].

The constitutional powers of the Hungarian president are significantly restricted and can only be exercised if countersigned, and the limitation of his/her political heft is contingent on the party policy logic – the winning party nominates their leader for prime minister while the president is elected by the parliamentary majority, guided by political and constitutional consensus. According to the formal governance model of Hungary, the constitutional and political center of gravity is evidently concentrated around the head of government while the president remains a symbolic and representative entity. In practice intrinsic and human factors can substantially transform the selected model.

According to research, election of the Hungarian president in 1990 was preceded by the consensus of two major political parties – the Hungarian Democratic Forum and the Alliance of Free Democrats. Nomination of Árpád Göncz for president was a political compromise between the winning party and opposition [11].

The oppositional politician was elected the president of the Republic by parliamentary majority, creating an adequate opportunity to use the presidential office as a political counterbalance in the governmental system although the president is not a counterbalance in the constitutional law logic. Objective factors enabled the opportunities; however, according to researchers, it was the individual traits of Árpád Göncz that attached real political weight to the presidency [12].

Of particular use is a monograph by Ukrainian diplomat Dmytro Tkach dedicated to the politology study of political transformations in Hungary. The researcher points out that during various periods of the recent epoch the parties in office were built upon personal commitment to the party leader and severe discipline. Leaders of incumbent parties gravitated towards single-handed steering of the party, defining its policies, agenda and methods of the political race; they pursued to carry the dictate inside their party to the dictate in the government, including staffing matters [1, page 95]. Mr. Tkach also notes that the practice of forming the parliament majority which in its turn forms the government majority helped eliminate the opposition of the branches of power, laying the groundwork for meaningful work [1, page 106].

As for the president's legislative activity, Árpád Göncz opposed 10 bills during his two terms in office: he addressed the Constitutional Court 8 times and sent a bill to the National Assembly for review twice.

Speaking of the president's influence on the executive branch, researchers mention the political struggle around the scope of authorities granted to the president of state and the conflict caused by obstruction of the appointment of mass media

presidents, during the government of Hungary's 1990-1993 Prime Minister József Antall. The fight resulted in Constitutional Court resolutions further restricting the president's constitutional powers [13].

During the subsequent governments of G. Horn (1994-1998) and V. Orbán (1998-2002) there were no attempts on the part of the president to transform key political institutes of the state while the prime minister predominantly focused on economic issues [14].

In our opinion, the state governance system of Hungary at the time reached an equilibrium, with the interaction of branches acquiring optimum characteristics and the work of institutes becoming meaningful.

Hungary's foreign policy invariably includes chief priorities: Euro-Atlantic integration, relations with neighboring countries, protection of the rights of Hungarians residing in those countries.

Guided by the above priorities, each new government during the 1990-1999 period identified three basic directions in the domain of foreign policy: integration into European and Euro-Atlantic institutions, establishment of neighborly relations with bordering states, defense of the rights of the Hungarian national minorities in the said states.

From the viewpoint of legal analysis, the authorities the Constitution of Hungary grants to the president make him a symbolic representative subject. However, with subjective factors coming into play, the institute of presidency can transform into an active component of the political and legal system, and impact the state's development concept and positioning strategy on the international scene.

Discussion. It should be stressed that with the above power model the risks involved in the transition of power are substantially mitigated. The party-state leadership logic provides for the development of the political establishment in the country and reaching agreement on the open rules of the game – political practice conforms to the constitutional and legal provisions.

Conclusions. The comparative study of constitutional powers of presidents reveals that generally the scope of authorities granted to the Ukrainian president far exceeds that of the Hungarian president. The institute of presidency in Ukraine constitutes the nucleus of executive power which dominates the state system. In Hungary, the executive and legislative branches make up a political bloc (alliance) which is counterbalanced in certain relations by the constitutional court and judicial power. The subjective factor, namely personal qualities of presidents – career path, role perception, interpretation of powers – determines the political heft of the head of state. Subject to sufficient individual traits, a constitutionally "weak" president is able to influence the country's development concept and the positioning strategy on the global scene.

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GLOBAL VIEW OF THE MAIN REASONS TERRORISM EMERGENCE

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Abstract. *Whereas global lives under globalization system, many things became easy to be available for normal and non-extremist people meanwhile the same thing is true for the extremist and terror groups. When resources become more then the reasons become more and diverse as well especially when the subjects are about human rights, deprivation of basic services such as speaking in their mother tongue, perform religious rituals, living in very hard situation and poverty, lack of having enough teaching centers, schools, medical centers. In another hand using violence, planting hating and enmity among people by using media, technology, fliers or any other means which motivate extremist, terror , attract other feeling, is another problem nowadays. The article aims to know the main and maximum reasons, root causes of violence, extremist and terror, study every single situation a lone, what are motivations behind them, what can we do understand the situation better, diagnose the problem, what is the best way for solving the issue, how the procedures will be, what we can do in case if we could not reach to the right point in future, how we can distinguish cases from time to time and from place to place according to its case and situation, how to lessen hating, violence, and several other issues that mentioned during the article. Based on it, the article contains several researches, studying, diverse other articles meanwhile different ways and methods are used to have maximum information about the issue in different lines and corners, which can be useful for further researchers or study.*

Keywords: *terror, violence, radical, extremists, terrorism determinants, media, economic, political system, discrimination, counter terrorism plans, reasons*

JEL Classification: K4, K10, K11, K14, K24, K41, K42

Formulas: 0; fig.: 1; tabl.: 0; bibl.: 11.

Introduction: Although international communities are considered terrorism the most dangerous act in both national and international levels, tried to face the challenge, eliminate and tackle it all together but they did not pay too much attention to factors behind those acts which might be different from place to another and time to time. These reasons are still the major challenges before states, communities, meanwhile, the role of UN, international organizations and other legal institutions are weak or not at the required level.

Literature Review: Various international views on the reasons behind terrorism are reviewed independently in the article due tremendous difference global views on terrorism acts and deal with. In this study they will be analyzed and compared against one another to analyze the differences and similarities in how the countries, UN member states, other entities is treated with terrorism according to their views.

Aims: The goal of the study is to outline and analyse views on the appearance of terrorism within various international organization, states, communities in order to know the real and fact reasons behind terrorism on the ground and then work with it properly.

Methods: Methodology of the study based on theoretical basis and other methods are used such as gathering ideas, analytical, synthesize the elements of the different studies, the logical structures as well as the comparative studies.

Results: Throughout the history the worldwide has been seen different levels of terrorism acts, in term of strategy some academics identified the concept as "Waves of Terrorism" which can arise and fall in different times and places. The wave theory further reflects that terrorist groups can dissolve when no longer capable of inspiring others to continue with violent acts. This point also suggests that terrorism and its motivations are clearly impacted by the conditions of and changes in social and political cultures. In contrast, others posit that violent terrorist situations occur around the world not so much in waves, but because terrorist actors are motivated by different goals such as socialism, nationalism, religious, extremism, exclusionism and others. These underlying motivators are not chronologically sequential and do not agree with one strain dies and a new one arises. Instead, they can work in parallel, and can occasionally overlap, to motivate different terrorist movements according to their needs [1].

Most definitions of terrorism recognize that terrorists don't just pursue violence for the sake of it but have a specific purpose and it could be social and political injustice, religious beliefs, ideological beliefs, socio-economic factors or anything else which be different by groups to others meanwhile from place and time to another. Individuals or groups may use terrorism because they don't agree with the current situation of society and they want to change it. They may believe that violence, or the threat of violence, will coerce society or other parties into making a change or accept the change when happens. Throughout history many terrorists have stated that they turned to violence after long deliberation, because they felt they had no other choice [2].

Others see reasons for terrorism are an example of the so-called system of communicating vessels. This means that they are a sum total of a plethora of different elements, their mutual relations and the conditions that influence them. Therefore, they are ← 49 | 50 → a "system" coupled with other elements of terrorism such as tactics, strategies, or the consequences of terrorist activities. One can divide them into simple and complex ones if we attempt to classify the reasons of terrorism. The simple group characterized and defined motive predominates or the so-called anti-abortion terrorism. The latter group involves complex reasons, where various motives, e.g. religious, ethnic, political, overlap. This applies to a majority of cases of terrorism. In the opinion of A. Cronin, all reasons for terrorism can be divided into four levels. The first one is the individual level which is provided by external factors that lead an individual to become involved in terrorist activities, and the personal traits specify involvement more or less likely. The second level is of organizational nature, related to a group dynamics and the issues of group identification. Shared ideology, belief systems, and the activities of a given group are of key significance. Feeling of injustice and harm is one of the strongest psychological conditions to the first and second levels. The third level is related to the activities of the state and the need to analyze the different ways in which states take advantage of terrorism. The fourth and last one is focused on the international system and ← 51 | 52 → refers to Samuel Huntington's theory of the clash of civilizations, or the transformations that accompany globalization, secularization, etc. [3]. Terrorism continued to spread to

more violent acts in more countries as much as possible. Terrorism is largely centralized in the Middle East and North Africa (MENA), South Asia and sub-Saharan Africa regions, The countries located are most impacted by terrorism which together account for 84 per cent of attacks and 95 per cent of deaths.

Different levels of foundations, organizations, entities including public and private sectors are targeted by terrorism which some of acts done by ethnic militants and groups of semi-nomadic. The majority of deaths in some countries are classified as a result of warfare among ethnics, nationalities, religious, and other groups rather than acts of terrorism. However, terrorism has been deployed as a tactic by some of the rebel forces.

Many of the countries previously suffering from moderate levels of terrorist activity. There were improvements in countries with very low levels of terrorism. There are divergent trends for countries that experienced terrorist activity that if they giving more freedom violent acts will decrease [4].

The rise in terrorism in these countries is reflective of a global trend, some of these countries were involved in internal conflict, which has facilitated and led to an increase in terrorism. With the exception of these countries which have terrorist groups that are responsible for the majority of deaths. However, other countries have been impacted by events which have led to the rise of terrorist groups and make instability in security, social, economic, political as well as several crises, that's why more countries are experiencing moderate to high levels of terrorism. In other countries terrorism has followed the destabilization of the government, while in others terrorism has resulted from a foreign power invasion. There are regional variations in terms of who is attacked and the methods used however in all regions civilians are frequently targeted more than others. There are regional variations in terms of economic-political or other interests, countries use methods of aggressive pressure and intimidation against each other and then it leads to create terrorism and extremist groups and however in all regions civilians are frequently targeted more than others. Terrorism is linked to the instability of the internal and international levels, this rapid deterioration of instability highlights the creation of terrorism [5].

The political change may create political vacuums which terrorist groups use to push their agendas. Such vacuums are attractive as radical groups are less likely to be challenged by an instable, thus weak government Also, an individual may find it more attractive to join or support a radical organization because there are few non-violent alternatives. Instable or failed states may even serve as schools of international terrorism, where in phases of domestic instability individuals gain an 'education' in violence that they can also use for internationalized terrorist campaigns . Several studies find that more liberal and democratic countries are significantly less likely to produce transnational terrorism. That's why unveiling the causes of terrorism and deriving sound policy advice is important so as to know where is the problem and how can we deal with it. [6] Many terrorisms exist, and their character has changed over time and from country to country. The endeavor to find a "general theory" of terrorism, one overall explanation of its roots, is a futile and misguided enterprise. Terrorism has changed over time and so have the terrorists, their motives,

and the causes of terrorism. Psychiatrist Jerrold Post makes that caveat even more directly applicable to an exploration of the psychological dimension of terrorism. He cautions that "there is a broad spectrum of terrorist groups and organizations, each of which has a different psychology, motivation and decision making structure.

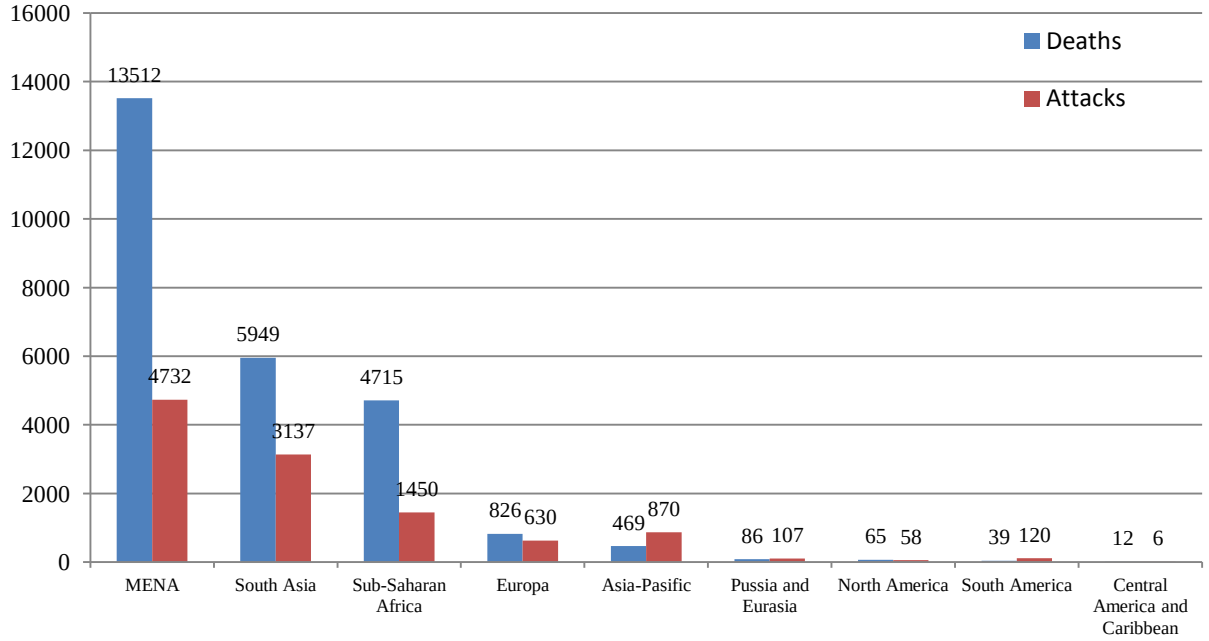

Fig. 1. Number of deaths and attacks by terrorism in 2016 by region, Source: global terrorism index-vision of humanity, 2017 [5]

Indeed, one should not speak of terrorist psychology in the singular, but rather of terrorist psychologies. General observation is that most violence can be usefully viewed as intentional. It is chosen as a strategy of action. It is purposeful (goal-directed) and intended to achieve some valued outcome for the actor. It is not the product of innate, nor is it the inevitable consequence of predetermining psychological and social forces. Obviously, many factors influence that decision and the competing options available, but humans typically are not passive vessels for involuntary displays of behavior. Certainly, there are exceptions. One can conceive of circumstances where an individual might have some brain dysfunction that causes general disinhibition and/or emotional instability that may result in aggression or violence. This would be inconsistent, though, with the kind of organization and planning necessary to carry out a terrorist attack. In reviewing explanatory theories and empirical models, it is perhaps not surprising to learn that the discipline of psychology has yet to develop or discover (much less agree upon) any that substantially explain violent behavior, particularly across its many contexts, motivations and actors.

The problem is not that researchers, scholars and practitioners have not tried to locate such an explanation, but the "holy grail" has proved to be elusive. In fact, it is probably fair to say that psychological theoretical development in explaining violence has been given less attention, and has made less progress than in many behavioral realms of substantially lesser social importance or consequence. Social scientists who

seek to understand terrorism should take account of the possibility that biological or physiological variables may play a role in bringing an individual to the point of performing an act of terrorism [7].

Previous research suggests that multiple variables cause terrorism. Most likely, many circumstances converge to create the conditions for terrorism and the chances of terrorism taking place increase dramatically. There are different forms of terrorism, and each form has its own causes. Terrorism happens in both poor and rich countries, and regardless of the type of government. What is most likely is that any certain form of terrorism is the result of a combination of factors. Including political and economic modernization, deprivation, and class structure. The term used by the political science community to refer to these variables are "root causes", either direct or indirect factors that help us understand various incidents of terrorism. There are main causes which contribute to the violence and terrorism such as problem with the poverty variable is that is can encompass a large variety of other smaller variables that all contribute to what can define someone as being impoverished.

In the Middle East, many societies have great potential yet there are many citizens left without jobs and this causes a lower standing of living. When social inequality develops, many people become angry because they are unable to achieve what others are easily able to, thus creating internal conflict within certain geographic areas, and making it more likely for terrorism to occur as a result. One study found that lack of economic opportunities and economies with slow growth had strong ties with numerous terrorist activities, meanwhile interesting theory is that natural disasters create opportunities for terrorism.

However, this is another variation of the poverty theory, and some researchers argue that natural disasters create strain and hardship within societies. In addition an alternative theory says that political factors like government repression leads to terrorism. Examples of variables used to measure government repression are political rights and civil liberties. Unstable, and according to some, undemocratic societies form weak governments causing the people to suffer. Human rights abuses would also fall into this category since this is a direct result of government action, and would then be considered a form of repression. Human rights violations, including dispossession and humiliation, result in people having severe grievances against the government. Certain studies show that terrorism has a strong link with social injustice at the hands of the government rather than poverty. When the government is unable to provide basic standard of living, citizens become displeased and this is when terrorist organizations are able to recruit. It is up to the government to provide the resources necessary for the people to survive. This includes hospitals, medical care, jobs and schooling. Many believe it is the job of the government to provide political freedom to their citizens. Some other possible variables may be related to social issues. Levels of education have been mentioned in a few different studies, but there has not been much evidence to validate it as an important variable. However, it is still a good indicator of a social issue within a country and is therefore worth testing in my study.

The Human Development Index includes per capita income, life expectancy, and education into account in regards to terrorism, and found that there is a correlation between terrorism and human development. Religion is another social aspect that needs to be considered. Modern terrorism has seen an enormous increase in religious extremism, the scale of violence has intensified, and the global reach has expanded. Religious terrorism can be defined as political violence that is motivated by an absolute belief that another-worldly power has sanctioned, or sometimes commanded, terrorist violence for the greater glory of the faith. People who partake in religious terrorism believe that any acts they commit will be forgiven and perhaps rewarded in the afterlife [8].

Radicalism more accurately reflects the political and ideological dimension of the threat. No matter how diverse the causes, motivations, and ideologies behind terrorism, all attempts at premeditated violence against civilians share the traits of violent radicalism. While terrorism is a deadly security challenge, radicalism is primarily a political threat against which non-coercive measures should be given a chance. There is nothing preordained in the possible transition from radicalism to terrorism. All terrorists, by definition, are radicals. Yet all radicals do not end up as terrorists. In fact, only a few radicals venture into terrorism. At the same time, it is clear that most terrorists start their individual journey towards extremist violence first by becoming radicalized militants. Since radicalism is often a precursor to terrorism, focusing on radicalism amounts to preventing terrorism at an earlier stage, before it is too late for non-coercive measures. Finally, radicalism, unlike terrorism, has social dimensions.

There are radicalized societies where acts of terrorism find some sympathy and degree of support. It is impossible to talk about terrorism as a social phenomenon, however. There are no 'terrorist' societies. This is why focusing on the collective grievances behind radicalism is probably the most effective way of addressing the root causes of terrorism. This effort at prevention can be conceived of as a first line of defense against terrorism. The goal is to reduce the social, economic, and political appeal of terrorism by isolating terrorists and winning over potential recruits. Once the challenge is defined as such, the next and more difficult step is to identify an effective strategy to fight radicalism. Breeding grounds for radicalism and terrorist recruitment emerge not necessarily under conditions of abject poverty and deprivation, but rather when negative social, economic, and political trends converge. In fact, when analyzed in a broader framework of socio-economic and political deprivation, the societal support for terrorism and radicalism gains greater relevance. Dismissing the social and economic causes of radicalism on the grounds that some terrorists have middle-class backgrounds is simplistic and misleading. Weak, failing, and failed states; ungoverned spaces; and civil wars that create safe havens for terrorism are all in underdeveloped parts of the world, not in the industrialized West. Terrorism is not necessarily caused by socioeconomic problems. But there is certainly a correlation between deprivation and radicalism [9].

Today's terrorists are ultimately more apocalyptic in their perspective and methods. For many violent and radical organizations, terror has evolved from being a

means to an end, to becoming the end in itself. The National Commission on Terrorism quoted R. James Woolsey: "Today's terrorists don't want a seat at the table, they want to destroy the table and everyone sitting at it. Some analysts argue that the evolution of terrorism represents continuity rather than change, which mass-casualty bombings have long been characteristic of terrorist methods, and that radical extremism has always dominated terrorist motivations. Most recent scholarship, however, has taken the perspective that contemporary terrorism represents a significant departure from the past.

Various factors have led to the development of this new type of terrorism. Paul Wilkinson pondered the increase in indiscriminateness among terrorists, and he posited several possible reasons accounting for this upsurge. First, the saturation of the media with images of terrorist atrocity has raised the bar on the level of destruction that will attract headline attention. Second, terrorists have realized that civilian soft targets involve lower risk to themselves. Finally, there has been a shift from the politically-minded terrorist to the vengeful and hardline fanatic. While Wilkinson's factors accurately describe developments in terrorist strategy and tactics, there are more fundamental forces at work.

The world has undergone a variety of changes on several levels. While it is impossible to link all social changes to terrorism today, it is possible to track several distinct factors that have converged to evolve a form of terrorism that is unprecedented in the level of threat it poses around the world, which explores these factors from cultural, political, and technological perspectives. At the same time that globalization has provided a motivation for terrorism, it has also facilitated methods for it." In addition to the cultural and religious motivations of terrorists and the political and organizational enabling factors, technology has evolved in ways that provide unprecedented opportunities for terrorists.

However, nonnuclear weapons of mass destruction and information technology also have created opportunities for terrorists that are in many ways more threatening than radiological terrorism because these alternatives are more probable. Some theorists have argued that weapons of mass destruction do not represent a weapon of choice for most terrorists, even in these changing times. Stern writes that "most terrorists will continue to avoid weapons of mass destruction (WMD) for a variety of reasons," preferring the "gun and the bomb". Brian Jenkins agreed that most terrorist organizations are technologically conservative, but he also noted that the self-imposed moral restraints which once governed terrorist actions are fading away. As the trends in the preceding sections reach fullness, increasing the proclivity toward mass-casualty terrorism, terrorists may turn more to these weapons that will better fit their objectives and moralities.

Walter Liqueur's New Terrorism emphasizes the availability of very powerful weapons of mass destruction as the major current danger facing the industrialized world. Aside from the nuclear variety of WMD, biological and chemical weapons pose serious dangers. Biological weapons can come in a variety of forms, including viruses, bacteria, and rickettsia (bacteria that can live inside host cells like viruses). Chemical toxins differ from biological weapons in that they are nonliving pathogens

and require direct infection and contact with the victim. This negates the continual spread of the weapon, but it entails more direct and possibly more damaging effects. [10]

Modern terrorism is media terrorism. The media are attracted by extreme terrorist acts not only because it is their duty to report on any major event but also because, at the same time, the dramaturgy of terrorism attracts large scale attention. Today's terrorists have picked up this dynamic and take action not only to make their victims suffer but also to create maximum attention around the world. Terrorists have become "media competent" by knowing and applying the principles of attracting media attention in most of their activities. Not only do they now own the necessary technical equipment such as video cameras and Internet facilities, they also usually know how to time and create those images which can guarantee a maximum impact through the media. This dynamic could lead to the conclusion that a major option for the prevention of terrorism would be not to allow journalists and the media to report on terrorist activities or events or at least to inhibit coverage as much as possible. Several countries indeed have chosen this option and it is difficult in those countries to have access to information or events that are related to terrorist activities.

Modern democracy is however characterized to a high extent by its freedom of expression and the possibility to access relevant political or societal information. As soon as information related to terrorism is blocked by governments or other political or societal institutions, terrorists may have gained one of their goals, namely to compromise the values of modern democracy.

Thus, political institutions, as well as the media, are faced with the basic dilemma that on the one hand media coverage may be instrumentalised by terrorists in order to get maximum attention while, on the other hand, if such information is inhibited, the basic principle and value of freedom of expression and information is under threat. Concentrating on the terrorist events themselves and not on the motives when reporting on terrorism may of course limit the number of people who may be called terrorists. Journalists can cover any aspect of political violence including supporters and groups which may be sympathetic with terrorist goals. But it can be dangerous to "over-generalize" the label "terrorist" to include a larger number of people and who may be drawn deeper into terrorist tendencies exactly because they are already labelled as such.

In fact, political integration into the democratic system with convincing means of trust and education may be a more efficient way of preventing a terrorist "periphery" from growing into violence than creation, at an early stage, of a whole out-group of "enemies" by classifying every member of a certain grouping as terrorists without distinguishing between actual attackers and others only loosely linked with these attackers. One should also consider that terrorism may also actually be supported by the fact that "normal" criminal activities when labelled ""terrorism" receive a certain, if negative glorification and attraction for those who appreciate being (anti-) heroes. Many so-called terrorist activities are more based on normal criminal behavior than on political motives. That does not make them better or worse for the victims or the political system but it may create a different context or

connotation for them in the media and limit the probability that their actions are perceived as being rewarding for a higher, ideological goal. Many, if not most attacks in the context of "terrorism" serve goals other than to reach or realize political objectives. They are about money, attention, status, other advantages, or just about keeping a group alive and intact [11].

Discussion: During the study we found out that some academics see terrorism acts like inheritance which is transmitted from generation to another or from predecessor to successor with little political and cultural influences and it is just a wave that cannot be stopped, linked to each other in a series groups hand over and groups take over but with slight difference in acts. In contrary others see terrorism acts cannot be linked but occur around the world without chronologically sequential but motivated by different achievements might be socialism, nationalism, religious or any other factors who push them to act violently.

Hence, some definitions of terrorism identify that terrorists use violence not for sake of it but for reasons and specific purposes that they fight for, they want to get them in the use of violence, they thing using violence is the way that they can change the situation and nothing else. They believe after waiting for a long time without changing the situations then it's the time to change it by force and exactly in using terror and violence, feel have no other choice. There are different elements, conditions that influence groups, individual to make terrorism and violent acts but these elements, conditions are not enough sometime to get their acts done, related with other elements of terrorism such as tactics, strategies, or the consequences of terrorist activities.

These reasons can be in different kind of levels, might be in individual level which some external factors lead the person to occur terrorism acts, here the personal traits has a big relation to the act which makes involvement more or less likely, or might be in groups and have organization nature, they have same ideology, beliefs because individual, groups feel injustice and harm that's why want to use some kind of violent acts and they see it's a suitable revenge for them. There is also another level that some specific state organization support terrorism groups to make some kind of hostility and enmity against other state, country or society for political, economic and other reasons.

Another level is related to international system which leads to clash of civilizations, or the transformations that accompany globalization, secularization, development in technology, other fields among communities, societies, it is because some cannot accept others and always want to make unfair rival and competition due to several issues such as economic, technology, etc.

The statistics shows us that no country, region or community is far from terrorism but the rate is different from place to another and from time to time which most violent acts occur in those countries where the human rights in general are violated or in minimum level, the highest number of deaths, attacks of terrorism have done in south Asia and sub Saharan Africa where there is discrimination among ethnics, religious, sectarian, and other groups .It is appeared to the world that any kind of reginal and international conflicts create hatred among societies in general

and increase violence and terrorism in particularly, thus, this conflict is not in the interest of any country or society, and as result it negatively affects the whole world which might be difficult to control it or return to the starting point. It is not fair and true if we say in all situation of changing political system there will be production of terrorist, meanwhile there might be existing of terrorists even in stable and strong states and countries. Besides it depends on the cultural level of the people who live in that country as well as the feeling and sense of responsibility before the state and people, thus both weak and strong governments can attractive terrorists or gathering radical group without changing political system or having political vaccums.

Some researchers, including psychologists believe that psychological factors are primary motivation for perpetrating violence and terrorism in society and then goes from place to another and exploiting them by others in solidarity with other fluctuations and changes such as political system, economic, other circumstances which make the individual to think about violence and hurts others by using terror, killing, kidnapping, hijacking, others, besides they say that who have this issue and then do violence intentionally for some purposes which make them feel well and to have their goals.

According to the researchers there are multiple variables cause violence and terrorism which some of them are root causes and there are other circumstances which facilitate the conditions to create terrorism and make extremist group interested in violence, that any certain form of terrorism is the result of a combination of factors and there is a big relationship between the factors and the act of terrorism. Those factors might be poverty, political, social, religion, violating of basic human rights or any other reasons and factors which contribute to terrorism, all agree the scale of terrorism and violence has increased in both the national and international levels. On the flip side other analyzers see there is certainly a correlation between deprivation and radicalism and radicalism has a big reflects on the violence and terrorism in particular, no matter what are the causes are reasons behind the terrorism act. Facing radicalism and extremist needs non coercive ways because as they see all terrorists are radicalism, but still there are some radicals do not venture to terrorism, there are still chance to bring them back on the right way as the radicalism has a social dimensions, terrorism is not a social phenomenon but also heinous act which hurts all community in general regardless the race, sex, nationality, religion or other backgrounds.

Whereas some authors think terrorists just want to circumvent and exploit time to have developed technologies to strike society, people and have weapons that will better fit their objectives and moralities. New Terrorism tries to have a very strong weapons of mass destruction such as Biological weapons which can come in a variety of forms, including viruses, bacteria, and other forms as well as chemical weapons which already used by some of extremist groups and it is a real dangerous on all human beings on the ground. The technology has developed nowadays and it facilitated extremist groups to have recent nuclear and nonnuclear weapons, so that there is no resistance against them and to repel them they try hardest to have newest methods and technologies. Then again media is used in a large scale by extremist

groups so their heinous work can be promoted through media such as social media, internet, radio, TV and other means, which leads to intimidate people in the same time attract and gain people`s feeling and attention in some specific cases, so in general media is under threaten and became the most dangerous means to publish violence and terror.

Conclusions. When we talk about terrorism we should analyze reasons of terrorism and what makes terrorism, terrorism acts is not such as inheritance but there are factors which push them to do violent acts and all human being were born equally and without premeditation.it shows that individuals and groups fight for specific purposes and they see that their rights have been taken by others it might be solved if they negotiate in another way. Unfair rival and unjust completions among societies, communities make escalation of terrorism acts, and the injustice and harm by authority, governments other organization make individual, group feel second grade. We see all ethnics, religious, cast, sectarian and other groups are impacted by terrorism and violent acts without any exceptions and terrorism has no specific religious, goals or legitimate rights but they exploit ethnics, religious, sectarian, political and other groups to facilitate their actions and make strife and discord among those various of communities and tells them that authority, government or specific groups do not give your people right to practice your religious ritual, political and social rights.

The instability in security, social, economic, political ….etc. have impact on all countries, communities and it is like environment that effect every place and people, nowadays worldwide became a small and everyone knows about another which if there is no freedom in specific country then will effect another one, and because of needs of life necessary then life has become more difficult n\and needs more struggle to live.

In addition another reason of terrorism emergence is the countries themselves which there are countries use some kind of pressure or make some crises in different countries which their political views are not the same or might there are some problems and issues among them in term of economic, borders, financial,… etc. then support some specific ethnic, religious and other groups against each other to force them to accept and subjugate its demand otherwise there will not be instability. Unfortunately that kind of issue is visible nowadays and many states, countries other institutions follow this method in both national and international levels.

All states, entities even political parties have systems which they can go with according to their atmospheres, economic, social relations …etc. these systems can be changed from place to place or from time to another with according to the adaption of the situation, so why we fear from changing system of the one of these foresaid mentioned? Why we do not fear from changing of technologies, weather, air pollution, suppress freedom, killing innocent people just because of their color, ethnic, languages and religion? Does international community want dictator system? What and how if some political system is toppled in a country for whatever the reason? How if there is transitional government in a state till an elected or legitimate government is formed within standard time? In addition there are other cases might

be happen, so it is the freedom of people to choose any political system and it does not mean there will be terrorism acts in case if other states do not interfere to that countries, the problem is not with the system or with the changing of political system or having political vacuums but the problem is with the states itself and how harsh the government or the political system was. In general every normal human being is born in a best conditions without any physical or mental problems or handicaps as the God says in holy Qur'an at the verse 4 in Surah (Fig-Tin) "We created man in the best calendar(situations)", except for people who are born with some kind of physical or mental disability from the very beginning of birth, most of them are taking care by their families or specific medical center or therapy which in almost all situations do not use violence acts to terrorize other people, but there are other factors out of the internal control of human being make singular to have mental or psychological problem which might lead to use violence, killing people, terrorize society and it poses dangerous to the individual at first then to the national and international community.

The most important thing is to diagnose the problems before we get ill, because taking care of our society, understanding their problems knowing the issues by the authority before we have such as kind of people which makes us not to control the situation or become so hard and so late. It is something quite odd that still researchers have not found the exact root causes of the terrorism or they have not found the solutions for the root causes in case if they are already found in spite of mentioning many reasons and factors which lead to use violence in general and terror in particular.

On the other hand we see sometimes even the researchers have some kind of partiality to a party against another in field of religion, nationality, racism or any other interests which leads to change the main reasons of the terror, cannot have correct information in the same time accumulation and worsening of the situation from bad to worse without real and fact solutions for the case. It sounds this issue has relating with implementing internal, regional and external agendas including interference in internal affairs by another foreign country, the best example on it, the middle east countries are almost richest countries in some natural resources such as oil, other things but the most people there still live in poverty, illiterate, jobless, live under militaristic and an authoritarian regime, human rights are under threat, lack of freedom of performing religious and social rituals, and other several violations and intervention by the regime under the name of fighting terror or any other names. Although the radicalism is the beginning and earlier stage for the terrorism but neither a person was born as evil nor as terrorism or radical, all human beings were born as same and equal, but there are secondary things, atmosphere which makes a man to think in another way which using violence, being radical is one of them.

Unfortunately nowadays we see there are some states support some extremist groups against other groups inside the country or abroad especially in those countries which the wars or civil war is going on, even it is illegal and terror in the same time makes other parties to think about self-defense which sometimes leading to create armed groups or militia but also using violence in return and no doubt during this

there will be civil victims on the ground, making displaced people and refugee, causing humanitarian and environmental disaster as well as depriving many people from basic rights, educations and other basic rights. Every issue can be solved in peace way instead of using coercive way because using coercive increasing problems, crisis, making the issue more deeper and then get out of control and all parties will regret for and at the end there is no other choices only sitting together and discus their issues peacefully among themselves and negotiate to compromise and reach at least rid of war.

Now we live in an era of nuclear weapons, where a number of countries possess nuclear weapons, weapons of mass destructions, missile across continents, so that they pose a real threat on international peace and security. In one hand this itself makes and create extremist group and makes a big motivation by some people to think about using violence and terror as well as there is a great fear of transferring the technology to the extremist groups which can have it in any time and use them to have mass destruction, kill innocent people, destroy humanity and spread fear among community.

In another hand some extremist groups have given developed weapons by some states against other states, ethnic, other nationality just to impose their political ideas or to have some personal interests by the high rank officials, even for some of them a small sum of money or interests is more than human lives and no matter if how many people go die or be victims, but when they come on TV and speak they show sympathy, lie to community, help with relief just to trick general opinion but on the ground is totally different and contrary to it, most of us believe what they proclaim, so they use public fund, formal TV and other social media just to personal interests, which create some kind of enmity, make aversion and unwillingness as leads to violence in future. Whereas Media is an important thing in current situation which can reach information, exchange ideas, technologies, learn many good things from it but is used in bad ways by the extremists and terrorist groups as well, some groups have exclusive broadcasting channels to publish their activities, frighten people, show their ability, attract others as well as cultivation of evil and enmity among people by using and exploiting religion, ethnic, color, race, sex or based on other things.

Unfortunately they sometimes broadcast live killing people, destroying buildings and public properties through social media, so these things need to be deprived from broadcasting by the original source and do not let them to publish what extremist groups want not only by them but for others is true who wants the same or to urge violence, terror among society, globalization has its good role which we can know and be familiar with what is going on wherever things happen but almost everything looks like a double edged sword which can be used in both right and wrong ways and media is one of the important thing for the time being and has a big effect on individual in particular and on society in general. Unfortunately sometimes we see some programs, movies, dramas, other visible or invisible things publish by the formal broadcasting networks which funds by the formal government and create extremist groups or at least motivate people to use violence and other coercive ways instead of other peaceful ways. There should be an extensive observation on formal

and informal broadcasting channels which do not allow them to insult and attack on religion rituals, deface reputation, or any other using which makes bad effect on individual and people that increase violence and terror among people, makes people to think about revenge in case if there is deprivation of basic rights and serves by the majority in society or by the government itself when there are more than a nations and ethnics live in the country. Most of time minority feel they are second degree of citizens inside the country especially in the dictator regime.

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SANCTIONS FOR ILLEGAL CONDUCT WITH POISONOUS AND DRASTIC SUBSTANCES OR POISONOUS AND DRASTIC PHARMACEUTICAL DRUGS

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Abstract. *The article is devoted to the investigation of criminal legal norm, namely, to one of its parts – sanction. In this aspect, a brief overview of general theoretical problems is made, their importance and prospects in further study for science and practice are shown. The aim of the article: to analyze the general concept of criminal legal sanction, to investigate the sanctions of norms provided by Art. 321 of the CC of Ukraine, to identify the shortcomings of their design and to suggest ways of their improvement. The research methodology: historical-legal, comparative-legal, logical ones, the method of analysis and synthesis. The definition of the concept of sanction is described, as well as what types of sanctions exist, which prevail in the norms of the law of Ukraine on criminal liability, etc. In addition, the peculiarities of the sanction design, in particular in comparison with foreign criminal legislation, and the existing shortcomings in the domestic criminal law are provided. In total, this provided an opportunity to analyze Art. 321 of the Criminal Code of Ukraine (hereinafter – the CC of Ukraine), and to formulate ways to improve it. The main results: to apply the experience of foreign criminal law, which provides the gradation of even each type of punishment, the use of arithmetic rules to increase and decrease the amount of punishment in case of existence of mitigating or aggravating circumstances, etc., at least for the most common crimes.*

Keywords: *criminal law, criminal legal norm, punishment, sanction, design of sanction, relatively defined sanction, alternative sanction, cumulative sanction, fine, detention, corrective labor, imprisonment.*

JEL Classification: K10, K14, K39, K42

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Introduction. Sanction is a part of the criminal legal norm, which is often changed by the legislator and this fact causes a lot of discussions. Not only the fate of a convict depends on the punishment provided by the relevant sanction, but also the general idea of the crime, the severity, the proportionality of the punishment provided for the offense, the general preventive function of criminal law. Due to the sanction, it is possible to trace partially the direction of the criminal policy on the severity of punishment for certain types of crimes, etc. Thus, there is every reason to say that this area of research is always relevant.

Literature Review. The study is based on the analysis of scientific works of both domestic and foreign scholars, including references to monographs, scientific articles, scientific and practical commentaries on criminal law, as well as the provisions of the CC of Ukraine, in particular the studied Art. 321 of the CC of Ukraine. Foreign criminal law has been used.

Aims. To analyze the general concept of criminal legal sanction, to investigate the sanctions of norms provided by Art. 321 of the CC of Ukraine, to identify the shortcomings of their design and to suggest ways of their improvement.

Methods. In this study, various methods have been applied, including historical-legal, comparative-legal, logical ones, the method of analysis and synthesis.

Results. The word sanction translated from Latin (sanctio) means inviolable law, the strictest resolution. Sanction is most often defined as a part of the article of the Special Part of the CC of Ukraine, which upon its content and severity reflects the nature and degree of public danger of relevant crime.

For a long time, the science of criminal law has developed many definitions of "sanction", which pay attention to various aspects, looking at the sanction not only as a part of the norm, since still this term is quite ambiguous.

It is impossible to give all the definitions, but it is also impossible to ignore the scientific developments of Oleg Leist, which had a determining influence on the development of the sanctions doctrine. He defined the sanction of a legal norm as a normative definition of compulsory measures applied in case of a crime commission, which contain its final legal assessment [10, p. 7].

Domestic scholar O. Soproniuk amongst the vast majority of definitions of the concept of a legal norm sanction identified the following essential features: 1) this is an element of a legal norm; 2) it acts as a way to protect a certain rule of conduct, enshrined in the disposition of a legal norm, from its possible violations, and in order to prevent their commission; 3) this is an indication of adverse consequences that occur in case of violation of a legal norm; 4) it is applied by the subjects authorized to bring to criminal liability [19, p. 238].

The structure of the criminal legal norm also includes hypothesis and disposition.

The very concept of three-element (three-chain) today is generally accepted in the science of criminal law, which is believed to have been proposed in the late first half of the twentieth century by Sergei Golunski and Mikhail Strogovich. According to this concept, the relationship of these three elements (hypothesis, disposition and sanction) is reduced to the formula "if…, then…, otherwise…" [24, p. 125].

And in relation to the above, the opinion of Yurii Zhytsinskii is mentioned, which has been expressed by this scholar about 40 years ago, relevant to this day, that without disposition the norm is unthinkable, without hypothesis – meaningless, without sanction – incapable [7, p. 44].

Though this three-element concept is currently often criticized, and it is not always possible to establish all three elements in a legal norm.

The Criminal Code of Ukraine provides sanctions for committing a certain criminal act only in the norms of the Special Part.

Thus, in the norms of the Special Part of the Criminal Code of Ukraine the hypothesis is usually not distinguished, it is common to all norms of this Special Part and is set out in Art. 2 of the General Part of this Code, which stipulates what should be considered the ground for criminal liability. Thus, this ground is acknowledged as the commission of an act that contains all the elements of a crime under the Criminal Code of Ukraine.

The application of sanctions is not the main core of the criminal legal norm, but a backup mechanism for ensuring law and order. Since the requirement to impose liability on a person guilty of the crime is derived from the requirement of the norm (rules of conduct, disposition) [18, p. 65–66].

Sanction provides punishment for the socially dangerous act, the statement of which is contained in the disposition. According to the punishment noted in the sanction, crimes are distinguished pursuant to the degree of public danger.

A punishment provided by the sanction must be fair, adequate and proportionate to the offense, so that it is commensurate with the act set out in the disposition, at the same time so as not to cause abuse of judicial discretion.

In this respect, the opinions of scholar Yurii Filei regarding the general preventive effect of criminal legal sanctions are valid. The effect of general prevention arises from the interaction between sanctions and their application in specific cases. He believes that the mechanism of preventive effect of a sanction on the public consciousness is carried out due to the so-called threat of sentencing before the commission of a criminal act, namely in the form of individual penalty imposition by a court. The preventive effect is also carried out in the form of execution of this punishment [21, p. 389–390].

Therefore, while agreeing with the above, it should be noted that in case of partial or complete non-application of a sanction, it can be asserted that it undermines the general preventive function of criminal legal sanctions and generally weakens the preventive effect of criminal law.

The effectiveness of a sanction is determined accordingly by its correct application in judicial practice, if the courts do not consider it necessary, so to speak, to overcome it.

Thus, if courts often resort to Art. 75 of the Criminal Code of Ukraine, which provides the release of a convict from serving a probation sentence, or Art. 69 of the CC of Ukraine, according to which a sentence below the lowest limit can be imposed, or judges may decide to move to another type of punishment, not specified in the sanction of the article, the conclusion about the effectiveness of the sanction is obvious.

Domestic scientist Oleksii Horokh conducted a detailed analysis of the existing problems of designing sanctions of criminal legal norms. Amongst ten scientific works, he singled out nine most common shortcomings in designing sanctions of norms from the Special Part of the Criminal Code of Ukraine, in particular, such as a certain inconsistency in determining the types of penalties, in other words, the deviation from the general rule on designing sanctions (according to which penalties range from less to more severe); inexpediency of specifying the minimum limit of punishment in the sanction of the article, which is already established in the General Part of the CC of Ukraine; the equivocacy of predictability of a significant number of basic punishments for the same crime in the article sanction (because in some cases this number reaches five types), etc. Accordingly, this scientist proposed eight basic rules for designing sanctions of special criminal legal norms, namely how the sanction should change with increasing degree of public danger of the act, the proportionality of the predictability of the main punishment together with additional ones and others [5].

It is impossible to ignore the opinion of scholar Yevheniia Vecherova as for the fact that the imperfection of the criminal legal sanctions design at the level of law

enforcement can cause the following problems: 1) the problem of artificial alternatives; 2) the right to the existence of mandatory sanctions; 3) the problem of differences in the definition of minimum and maximum limits of the sanction (in the situation of a large gap between the minimum and maximum limit) [4, p. 65].

Regarding the sanction design in the CC of Ukraine, the following aspect should also be highlighted. In the science of criminal law, discussions have been going on for a long time – *does criminal law punish certain criminal acts or the subject of criminal liability, who has committed them?*

Yes, indeed, bringing a person to criminal liability begins with the commission of a socially dangerous act by him/her that is recognized as a crime. Criminal liability is realized through individualized punishment of the guilty person for the act he/she has committed. Thus, the commission of a certain crime results in applying the sanction of the criminal law to a certain criminal, and first of all the gravity of the committed determines the punishment severity.

Regarding the above, it is worth mentioning the statement of the famous scholar Franz von Liszt that an act and a figure are not two opposites, as fatal legal delusion suggests, and an act belongs to a figure… We are asked: what is the consequence of a theft, instead of asking, what does the thief deserve? It is not the concept that is punished, but the figure, therefore the measure of punishment should be determined not according to the concept, but to the act of the figure. That is perfectly understandable, and in the meantime, it is still considered heresy [11, p. 58–59].

Herewith, it should be noted that it is clear why discussions continue on what is punishable first – the act or the offender, as it is due to the construction of the norms of the Special Part of the Criminal Code of Ukraine, because the emphasis in the norm is put on the act.

Thus, the disposition of any article of the Special Part of the Criminal Code of Ukraine, as a rule, begins with the name of a crime or list of illegal actions (for example, "High treason…" Part 1 of Article 111 of the CC of Ukraine, "Murder, that is willful unlawful causing death of another person" Part 1 of Article 115 of the CC of Ukraine, "A covert stealing of somebody else's property (theft)" Part 1 of Article 185 of the CC of Ukraine, or as in Part 1 of Article 321 of the CC of Ukraine "Illegal production, making, purchasing…").

Therefore, before describing the sanction of the article, there must be an irrespective and impersonal "shall be punishable".

Thus, with such a construction of the norm, it is seen that the criminal law punishes the act.

But this feature of the construction of criminal law norms is generally not typical for the criminal codes of other countries, for example, European countries:

– in the Criminal Code of the Republic of Lithuania, the disposition of the article begins with the words "A person who… shall be punished" or immediately with the title of the position held by the perpetrator;

– in the Criminal Code of the Republic of Poland "Whoever, … shall be subject to the penalty" or "If the perpetrator… shall be subject to the penalty";

– in the Criminal Code of the Republic of Bulgaria "A person who commits

violence … shall be punished" or "A person who is obliged … shall be punished", etc.

As for the types of sanctions, domestic scholars suggest using the division of sanctions, which, depending on the existence or lack of additional penalties, may be simple and cumulative; according to the number of main types of punishments – single and alternative; according to the punishment choice for the court – absolutely defined and relatively defined [14, p. 80].

The Criminal Code of Ukraine currently uses three types of sanctions – alternative, relatively defined and cumulative ones.

To find out how these sanctions differ, it is necessary to use the definitions provided by Viacheslav Borysov. He defines each of these sanctions as follows:

– a sanction that indicates one type of punishment and defines its limits is *relatively defined*. The Criminal Code of Ukraine applies its two types: a sanction, which defines both the minimum and maximum limits of the same type of punishment and a sanction, which specifies only the maximum limit of punishment;

– an *alternative* sanction states two or more types of basic punishments, amongst which the court chooses only one. It is believed that such a sanction gives the court wider opportunities to choose the necessary punishment, more individually determined;

– in a *cumulative sanction*, in addition to the main punishment, relatively defined or alternative sanctions may contain an indication of one or more additional punishments of a certain type, which may be imposed by the court as additional to the main one. The additional punishment can be absolutely certain or relatively certain. Additional penalties are specified in the sanctions either as mandatory or optional. In the latter case, depending on the circumstances of the case, the court decides on the application or non-application of this punishment [3, p. 871–872].

Sanctions are also divided into coercive and incentive ones.

At the same time, the analyzed Article 321 of the Criminal Code of Ukraine provides these two types of sanctions, coercive ones are enshrined in parts 1–4. Part 5 of this article regulates a special type of a person's release from criminal liability, in other words criminal liability is not realized, and the punishment is not applied.

Pursuant to Article 321 of the Criminal Code of Ukraine the illegal conduct with poisonous and drastic substances or poisonous and drastic pharmaceutical drugs shall be punishable.

However, for clarity, it is not superfluous to quote the content of the article under study, the sanctions of which will be further considered.

"Article 321. Illegal production, making, purchasing, transportation, sending, storage for selling purposes, or sale of poisonous and drastic substances or poisonous and drastic pharmaceutical drugs

1. Illegal production, making, purchasing, transportation, sending, storage for selling purposes, or sale of poisonous and drastic substances, other than narcotics, psychotropic substances or their analogues, or poisonous and drastic pharmaceutical drugs and also any such actions in regard of any equipment devised for the production or making of poisonous and drastic substances or poisonous and drastic

pharmaceutical drugs, where these actions were not duly authorized, -

shall be punishable by a fine from one thousand up to four thousand tax-free minimum incomes, or detention for a term of three to six months, or imprisonment for a term up to three years.

2. Violation of rules related to production, making, purchasing, storage, dispensation, inventorying, transportation or sending of poisonous and drastic substances, other than narcotics, psychotropic substances or their analogues, or poisonous and drastic pharmaceutical drugs, -

shall be punishable by a fine from one thousand up to four thousand tax-free minimum incomes, or detention for a term of three to six months, or imprisonment for a term up to three years.

3. Acts provided in Parts 1 and 2 of this Article, if committed repeatedly, or by a group of persons upon their prior conspiracy, or if subject of such actions were poisonous and drastic substances which are not being narcotic or psychotropic substances or their analogues, or poisonous and drastic pharmaceutical drugs in large quantities, -

shall be punishable by imprisonment for a term of three to five years.

4. Acts provided for in Parts 1 and 2 of this Article, if committed by an organized group of persons, or if subject of such actions were poisonous and drastic substances which are not being narcotics or psychotropic substances or their analogues, or poisonous and drastic pharmaceutical drugs in especially large quantities,-

shall be punishable by imprisonment for a term of five to ten years".

By the way, the frequent variability of sanctions depending on the legislator's will should be remarked. Thus, the sanctions of Parts 1 and 2 of the studied Art. 321 of the Criminal Code of Ukraine were last amended on the grounds of the Law of Ukraine No. 2617-VIII of November 22, 2018, which entered into force on July 1, 2020, in terms of increasing the fine previously determined within 50 to 100 tax-free minimum incomes, and currently – from 1000 (× 17 UAH) to 4000 tax-free minimum incomes.

Thus, the sanctions established by paragraphs 1–4 generally provide three types of punishment: a fine, detention, and imprisonment, herewith the latter punishment is provided in parts 3–4 as mandatory.

According to part 1 of Art. 321 of the Criminal Code of Ukraine, illegal actions with poisonous/drastic substances or pharmaceutical drugs are punishable by: 1) a fine from one thousand to four thousand tax-free minimum incomes, or 2) detention from three to six months, or 3) imprisonment for up to three years (in the latest version of the Law No. 2617-VIII of November 22, 2018, which entered into force on July 1, 2020).

Thus, the noted sanction testifies that this crime, according to the classification of criminal offenses, is referred to minor offences (Article 12 of the Criminal Code of Ukraine in the latest version of the Law of Ukraine No. 2617-VIII of November 22, 2018, which entered into force on July 1, 2020).

It should also be noted that the criminal law of Ukraine in comparison with the

criminal law of foreign countries provides one of the most extensive punishment systems, which provides 12 types of penalty.

These penalties are fixed in Art. 51 of the Criminal Code of Ukraine on the principle from the least severe to the most severe.

However, in accordance with the gradation of the analyzed alternative punishments under Part 1 of Art. 321 of the Criminal Code of Ukraine, taking into account their severity, they occupy: the first (fine), eighth (detention) and eleventh (imprisonment) steps.

That is, "on the way" of the formation of sanctions under Part 1 of Art. 321 of the Criminal Code of Ukraine – from a fine to detention, the legislator had the opportunity to provide a number of punishments, namely: community service, corrective labor; from detention to imprisonment there is also a reserve – the possibility of imposing custodial restraint (we think, of course, also taking into account the amendments made to the law – *de lege ferenda*).

The fine is a monetary penalty. It can be imposed both as the main punishment, and as an additional one. It does not have any exceptions, i.e. it can be assigned to all subjects of the crime, including minors. In the analyzed sanction of Part 1 of Art. 321 of the Criminal Code of Ukraine, the fine was actually set at a minimum, as its lower limit was set at 30 tax-free minimum incomes. After the latest amendments to the abovementioned Law No. 2617-VIII, the amount of the fine was significantly increased; we consider it to be a positive trend. Currently, the lower limit of the fine under Part 1 of this article is 1 000 tax-free minimum incomes, which is 17 000 UAH.

However, it can be stated that, in general, the fine, unfortunately, is not so often applied in judicial practice. The above also relates to the imposition of this punishment under Part 1 of Art. 321 of the Criminal Code of Ukraine. This is due, in particular, to the complicated economic situation in the country, unemployment and so on.

But this is not a reason to abandon this type of punishment, choosing one of the most severe – imprisonment, only because of the difficult financial situation of the perpetrator.

In this regard, it would be important to develop and implement at the legislative level a mechanism for installment payment of fines and under certain conditions, for example, when the convict begins to mend his/her ways (changes the residence, registers at the office of expert in narcology and mental physician, acquires another specialty, becomes engaged in socially beneficial activities, etc.), not to oblige him/her to pay the full amount of the fine imposed by the court.

A similar situation applies to the imposition of such a type of punishment as detention. Among the reasons for the infrequent use of the latter type of punishment in Ukraine, there are problems with the execution of such sentences (a proper system of detention facilities has not been established yet).

According to Part 2 of Art. 321 of the Criminal Code of Ukraine illegal actions with poisonous/drastic substances or pharmaceutical drugs shall be punishable by a fine from one thousand (17 000 UAH) up to four thousand (68 000 UAH) tax-free

minimum incomes, or detention for a term of three to six months, or imprisonment for a period of up to three years (in the latest version of Law No. 2617-VIII of November 22, 2018, which entered into force on July 1, 2020).

The crime noted in Part 2 of Art. 321 of the Criminal Code of Ukraine, is mostly committed by special entities (bearing in mind pharmaceutical and health professionals). At the same time, qualified and especially qualified corpus delicti provide liability for the actions provided in Part 2 of Art. 321 of the Criminal Code of Ukraine, so the legislative decision to supplement the sanctions of Parts 2-4 of Article 321 of the Criminal Code of Ukraine with such a punishment as deprivation of the right to hold certain positions or to be engaged in certain activities (in Part 2 – one of the main types of punishment, in Parts 3-4 – as an additional one) is completely justified.

Finally, it will be effective for law enforcement, particularly under Part 2 of Art. 321 of the CC of Ukraine, not only to remove the perpetrator from office or to deprive him/her from the right to be engaged in certain activities related to the committed crime, but also, adhering to the principle of saving criminal repression, to extend punishments in the form of monetary redress – fines and corrective labor.

In the science of criminal law of Ukraine it is rightly suggested to the legislator, when designing sanctions in norms with qualifying and especially qualifying features, to apply one of schemes of transition from the sanction of the norm providing the basic corpus delicti to the sanction of the norm describing a qualified corpus delicti: a) not to change either types, or number of alternatively provided types of punishment, but to increase proportionally their amounts; b) not to change the number of alternatively defined types of punishment, but to reduce the number of milder types of punishment and, at the same time, to increase the number of more severe types of punishment; c) to move gradually from the most alternative sanction to the least alternative or completely mandatory one by means of reducing the number of lenient types of punishments [8, p. 212].

However, when designing the sanction of Part 3 of Art. 321 of the Criminal Code of Ukraine, which provides a qualified corpus delicti in comparison with Parts 1 and 2 of this article, i.e. increased degree of public danger of the act provided in it, the gradual increase in the sanction is not observed.

The disposition of Part 3 of Art. 321 of the Criminal Code of Ukraine contains three qualifying features – the commission of a crime "repeatedly" or "by a group of persons upon their prior conspiracy", or if the subject of criminal acts was represented by poisonous/drastic substances or pharmaceutical drugs "in large quantities".

Instead, the sanction is relatively specified, but it has not changed very proportionally in comparison with the basic corpus delicti, as it provides only one type of punishment, namely imprisonment for a term of three to five years.

The situation is similar, when the legislator designs a sanction for an especially qualified corpus delicti. The disposition of Part 4 of Art. 321 of the Criminal Code of Ukraine provides especially qualifying features – commission of this crime by an "organized group" or, if the subject of criminal actions was represented by

poisonous/drastic substances or pharmaceutical drugs, "in especially large quantities". The sanction is also relatively specified and provides only one type of punishment in the form of imprisonment, but for a longer term – of five to ten years.

Discussion. It is believed that the design of sanctions in articles is debatable and devoid of any universal solution [16, p. 96]; in the opinion of scholar Viacheslav Navrotskyi, proposals to determine the limits of sanctions usually have emotional coloring [15, p. 8]; scholar Mykola Melnyk notes that proposals as for determining the punishment for a particular type of crime are based mainly on the subjective vision of the author [13, p. 18].

I support the opinion of domestic scholars Anatolii Muzyka and Oleksii Horokh, according to which it is hardly possible to completely avoid the subjective moment while establishing sanctions of criminal legal norms in the law [14, p. 78].

Certainly, it is impossible to completely rule out the existence of a subjective vision while creating sanctions, but this does not mean that it is irrelevant to think about the introduction of standard sanctions.

Conclusion. The introduction of standard sanctions for Ukraine is a rather promising trend, quite relevant and necessary, given the repressive nature of the penalties prevailing in the criminal law of Ukraine. As a result, this results in a possible abuse of judicial discretion, which negatively affects public opinion reflecting trust in the judiciary.

It would also be useful to apply the experience of foreign criminal law, which provides the gradation of even each type of punishment, the use of arithmetic rules to increase and decrease the amount of punishment in case of existence of mitigating or aggravating circumstances, etc., at least for the most common crimes.

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ON PUBLIC DANGER AS A FACTOR OF CRIMINALIZATION (DECRIMINALIZATION) OF VIOLATION OF THE ESTABLISHED RULES OF CIRCULATION OF NARCOTIC DRUGS

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Abstract. *The article examines the problem of social conditionality of criminal legal prohibition. The phenomenon of public danger is analyzed as a factor of criminalization (decriminalization) of violation of the established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors intended for the production or manufacture of these drugs or substances. The aim of the article: to establish the existence or lack of social conditionality of criminal liability for the violation of established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors through the perception of the phenomenon of public danger as a factor of criminalization (decriminalization) of certain acts. The research methodology: historical and legal, systemic, dogmatic, hermeneutic ones. The debatable provisions of this issue are considered, the author's critical considerations are stated. The scientific position of Ukrainian criminologists is supported, according to which the feature "public danger" of an act should not be applied in the legislative definition of a crime. However, this does not mean that the legislator should be deprived of the need to take into account the public danger (or lack thereof) of certain actions in the process of resolving the issue of their criminalization (decriminalization). The expediency of editorial adjustment of Part 1 of Art. 320 of the Criminal Code of Ukraine has been substantiated. The criminal consequence, which is planned to express significant harm, should be the shortage of narcotic drugs, psychotropic substances, their analogues or precursors on a large scale.*

Keywords: *public danger, crime, social conditionality, criminalization (decriminalization) of an act, factors of criminalization, circulation of narcotic drugs, narcotic drugs, psychotropic substances and their analogues, precursors.*

JEL Classification: K10, K14, K39

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Introduction. The problem of social conditionality of criminal legal prohibition is closely related to such a method of criminal legal policy as criminalization of acts. Having established the existence of grounds for acknowledging a certain act as criminal (or the lack of such grounds), the legislator quite reasonably makes a relevant decision. This indicates the relevance of the study of the declared topic. In the theory of criminal law, these problems are paid with considerable attention, but it cannot be considered sufficient. Creative efforts are required both at the level of the general doctrine of the social conditionality of criminal liability, and at the level of perception of the analyzed issues in relation to certain individual corpus delicti.

Literature Review. The study is based on domestic and foreign doctrine. Various criminal law sources have been applied – the Criminal Code of Ukraine, monographs, theses, textbooks, encyclopaedic publications, articles, judgments of the Supreme Court of Ukraine.

Aims. The aim of the article is to establish the existence or lack of social conditionality of criminal liability for the violation of established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors through the

perception of the phenomenon of public danger as a factor of criminalization (decriminalization) of certain acts.

Methods. The study has applied traditional methodological tools, in particular such methods as historical and legal, systemic, dogmatic, hermeneutic ones.

Results. In the educational literature on criminal law, the term "criminalization" means the definition of certain acts as crimes with the provision of the elements of the crime and the establishment of punishment for its commission in a relevant article of the Special Part of the criminal law [1, p. 113].

The author of the above definition refers to the concept of criminalization formulated by Sviatoslav Tararukhin in Volume 3 of the Juridical Encyclopaedia of 2001 [2, p. 392].

Another definition of criminalization has been proposed by Oleksandr Dudorov in the Big Ukrainian Legal Encyclopaedia: "criminalization is a term used in criminal law to denote the process and result of classifying acts as crimes. Criminalization is the detection of socially dangerous manifestations of human behaviour, acknowledgement by the state of the possibility and necessity of applying criminal liability measures against them and enshrining features of socially dangerous acts recognized as crimes in criminal law" [3, p. 459].

Thus, the above indicates more or less stable doctrinal comprehension of the concept of criminalization. However, this is not the case with other aspects of criminalization theory. Thus, Oleksandr Dudorov has rightly remarked: "Herewith, the issue of the concept of grounds, principles, conditions, reasons for criminalization, their number, classification, content and correlation are referred to debatable ones". Nevertheless, this scholar expressed the opinion that the relevant discussions had not so much substantive as terminological nature, in fact, they were not about the essence of the criminalization rules, but about their systematization (grouping) and the general name of such requirements [3, p. 461].

In the thesis of Daria Balobanova the opinion about necessity of consideration of two groups of the factors influencing criminalization is made: 1) the grounds for the criminal legal prohibition which serve as objective preconditions for its establishment; 2) the principles of criminalization related to the legislative technique [4, p. 177]. We emphasize that in the future we will first consider the first group of factors, or the grounds for the criminal legal prohibition.

The problematics of factors (reasons, grounds, etc.) of criminalization has been studied for some time by the theory of criminal law, resulting in several proposed systems of accounting such factors. According to Kazakh researcher Bakhtybai Zhunusov, in total there are about 20 factors of criminalization [5, p. 40].

The analysis of criminalization factor systems proposed in science goes beyond the subject of our research and needs separate study; we deliberately limit the depth of research on this issue and try to choose a system that effectively performs the tasks set before it and is recognized by most scholars. In our opinion, one of these is the system of grounds (more precisely, factors) of criminalization proposed by Alexander Korobeev. This scholar identifies three groups of factors of criminalization

(decriminalization): legal-criminological, socio-economic, socio-psychological [6, p. 69].

The first group (legal-criminological) is formed by: a) the degree of public danger of the act; b) the relative prevalence of acts and their typicality; c) the dynamics of actions, taking into account the causes and conditions that give rise to them; d) the possibility of influencing these acts by criminal legal means in the absence of the possibility of effective struggle by less repressive means; e) the possibilities of the criminal justice system. The second group (socio-economic) is consists of: a) material or moral damage caused by the act; b) the absence of possible side effects of criminalization of the act; c) the availability of material resources for the implementation of the ban. The third group (socio-psychological) includes: a) a certain level of social legal awareness and psychology; b) historical traditions [6, p. 69]. The fact that O. Pashchenko, a domestic researcher of the social conditionality of the law on criminal liability, largely supports the views of Alexander Korobeev, may be indicative for the perception of Alexander Korobeev's approach [7, p. 127, 130].

Let us analyze the ***"degree of public danger of the act"*** – a factor of criminalization, belonging to the first group. This factor is not accidentally in the first place, because it is given a leading role in the theory of criminalization. However, the key concept that serves as the basis for this factor is debatable in the theory of criminal law. It is about the meaning of the concept of "public danger".

First of all, we note that in the science of criminal law of the Soviet period, the concept of "public danger" was perceived as fundamental, one that permeates the entire system of criminal law. Some discussions revolved around the meaning of the public danger concept, the nature and degree of public danger, etc., but the need for the existence of the "public danger" category as a constituent element of offence was not questioned. The situation has changed radically in the contemporary criminal law science of Ukraine. Domestic scholars have recently begun to pay attention to the content of public danger and its criminal legal significance.

Denys Azarov devoted a number of scientific works to the problem of public danger. Thus, in the article "Social danger of crime and analogy of criminal law (retrospective view in the XIX – XX centuries)" the scholar proves the existence of a close connection between the existence of the substantive definition of the crime, which was based on the category of public danger, in the Criminal Code of the Ukrainian Socialist Soviet Republic (USSR) of 1922 and in its revised edition of 1927, and the application of criminal law by analogy. In addition, a hypothesis is expressed about the need to exclude a feature of public danger from the current legislative definition of "crime" and the feasibility of restructuring the existing system of differentiation and individualization of criminal liability using clear formalized criteria [8, p. 139–145].

At the same time, Denys Azarov makes the following warning: “The above raises serious doubts concerning the rationality of transforming public danger into a cornerstone of criminal law, on the subjective assessment of which almost any decision in the criminal law sphere now depends. However, the substantiation of these doubts requires arguments that cannot be included into this publication (in

particular, the averment of the lack of unambiguous perception of the public danger category in science and in practice, the establishment of this category importance for the differentiation and individualization of criminal liability, the publication of the results of comparative legal research). Therefore, presently, I have the right to speak only about the hypothetical expediency of excluding the feature of public danger from the legal definition of the term "crime". Public danger as the ability of an act to cause or create a threat of harm is certainly the main substantive quality of a crime, regardless of whether such a quality is enshrined in law. However, in my opinion, this law should be based on much more formalized categories, which should be founded, particularly, on the results of scientific research on the public danger of certain types of crimes" [8, p. 144]. As can be seen from the above, at that time Denys Azarov did not deny that public danger was the main substantive feature of the crime; the scholar only expressed doubts regarding the need to enshrine this category in the legislative definition of the concept of crime.

In his further scientific investigations, he was finally convinced of his rightness [9, p. 3–18] and his substantiated research results undoubtedly influenced the attitude of members of the working group on the development of criminal law within the Commission for Legal Reform, established by the Decree of the President of Ukraine of August 7, 2019, to this problem. In their draft General Part of the Criminal Code, the concept of a crime is defined without the use of the feature "public danger" [10]. We share this approach. However, this does not mean that the legislator should be deprived of the need to take into account the public danger (or lack thereof) of certain actions in the process of resolving the issue of their criminalization (decriminalization).

Less balanced and more categorical approach is followed by Volodymyr Shablystyi, according to whom “public danger as a key category of criminal law is an artificially created rudiment of the Soviet legal heritage, because in the early twentieth century the phrases "socially dangerous" and "criminal" were synonymous; in fact, such a situation ruled out illegality as a feature of a crime and became the basis for the applying the analogy of criminal law. Public danger should not be acknowledged as a determining factor in distinguishing crimes from other offenses, because in the current Criminal Code of Ukraine there are crimes that are not clearly dangerous (for example, Part 1 of Article 185 of the Criminal Code of Ukraine)” [11, p. 11]. Regarding the position of this scholar, we should note the following. The history of the development of scientific schools of criminal law proves that the concept of an action’s danger to society arose in the depths of the sociological school of criminal law (XIX century), so there is no sufficient basis to consider the category of "public danger" as a product of Soviet criminal legal science.

Let us try to find out what is the social danger of violating the established rules of the circulation of narcotic drugs, psychotropic substances, their analogues or precursors, what is its degree and whether such an act is really socially dangerous.

First, let us resort to the design of the relevant article (Article 320 of the Criminal Code of Ukraine). The article provides two parts of such content:

"1. Violation of established rules on planting or cultivation of opium poppy or cannabis, and also violation of rules on production, making, storage, inventorying, dispensation, distribution, commercial sale, transportation, sending or use of narcotic drugs, psychotropic substances, their analogues or precursors designated for production or making of such drugs or substances, –

shall be punishable by a fine up to 70 tax-free minimum incomes, or detention for a term up to six months, or restraint of liberty for a term up to four years, or imprisonment for a term up to three years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years.

2. The same actions, if repeated, or where they resulted in shortage of narcotic drugs, psychotropic substances, their analogues or precursors in gross amounts, or in stealing, appropriation, extortion of narcotic drugs, psychotropic substances, their analogues or precursors or their abstraction by fraud or abuse of office, –

shall be punishable by a fine of 70 to 120 tax-free minimum incomes, or detention for a term of three to six months, or imprisonment for a term of three to five years, with the deprivation of the right to occupy certain positions or engage in certain activities for a term up to three years".

It is important to emphasize that Part 1 of Art. 320 of the Criminal Code of Ukraine contains a corpus delicti, which by the design of the objective side belongs to the formal ones. The crime will be considered completed from the moment of committing any of the acts provided by the disposition of the criminal legal norm. In our opinion, such a design of corpus delicti creates a number of risks for citizens, who legally participate in circulation of narcotic drugs. Any, even insignificant, deviation from the rules may already constitute a crime under Part 1 of Art. 320 of the Criminal Code of Ukraine. Understanding this, some authors (including Yurii Baulin) while providing their scientific and practical commentaries on the relevant article tried to add legal certainty to these rules through the following provisions: "Liability for the crime under Part 1 of Art. 320 of the Criminal Code is incurred, only when the violation of these rules is fundamental, i.e. creates a real danger to human health or the loss of control over narcotic drugs, psychotropic substances, their analogues or precursors. Minor violation of these rules in accordance with Part 2 of Art. 11 of the Criminal Code is not recognized as a crime" [12, p. 665–666]. However, the evaluative nature of the concept of "fundamental violation of the rules" again deprives the possibility of a clear division between criminal and non-criminal forms of behaviour. In addition, textually Part 1 of Art. 320 of the Criminal Code of Ukraine does not contain instructions on the concept of "fundamental" violation.

The concept of "substantial harm" belongs to the pervasive criminal legal categories, but it has not often been the subject of scientific study. In Ukraine, only in 2017, the first thesis was devoted to the study of the concept of "substantial harm" [13]. The author of this work R. Lemekha drew an inference about the content of the concept of substantial harm, resulting in his proposal of the following obligatory features of this concept: "such harm is a direct actual damage; may be pecuniary, as well as expressed in the negative consequences of physical, moral or other non-monetary nature; the harm is substantial under a certain amount, which is not the

same regarding individual corpus delicti; indicates such changes in the object, which confirm the public danger of encroachment, substantiate criminalization and the lack of insignificance" [14, p. 11]. In our opinion, in general, the approach of R. Lemekha can be accepted. The features of substantial harm identified by this author are supported by patterns found in previous studies of the problem, carried out in Soviet times. Emphases on the consequences, changes in the object, the significance for criminalization are important.

At the same time, we believe that the doctrine of criminal law has proposed simpler, but no less effective lists of factors that reveal the meaning of the concept of "substantial harm". Thus, while considering public danger as a criterion for criminalization, Rashid Sabitov notes that the act must be criminalized, when it causes or threatens to cause substantial harm to the object. The scholar believes that the harm can be regarded as substantial upon availability of certain factors: the value of social relations, to which it is caused, the quantitative characteristics of the harm, the socio-political situation in which the act is committed [15, p. 25]. We agree with Mr. Sabitov's approach and consider it necessary to extend it to the analysis of factors that collectively form the concept of substantial harm, especially since substantial harm is an integral attribute of the degree of public danger of the act. Thus, the components that form the content of the substantiality of harm concept are: 1) the value of social relations, to which this harm is inflicted; 2) quantitative characteristics of the harm; 3) the socio-political situation in which the act is committed. Let us consider them.

The danger of the spreading drug addiction for public relations is analyzed in detail in the works of Anatolii Muzyka. "Drug addiction as a disease and drug trafficking are among the global problems of today. These phenomena are characterized by a high degree of public danger, due to severe consequences not only for the health of an individual, but also for public health (health of the population), the economy, for each individual family and society as a whole", – the scholar emphasizes [16, p. 8]. It seems that the value of the objects of criminal legal protection mentioned in the above quote is beyond any doubt.

The socio-political situation in which the act is committed is characterized as drug addiction epidemic [16, c. 9].

From December 25, 1979 till February 15, 1989, the Soviet invasion of Afghanistan continued. This period is characterized by a significant increase in "narcotic" criminality and the spread of drug addiction in the USSR. Last but not least, this happened as a result of the involvement of our military servicemen in drug use, due to the smuggling of the latter from Afghanistan to Ukraine and other republics of the Union.

In addition, if we talk about the need to maintain criminal liability for violating the established rules of narcotic drugs circulation, since February 2014, our country has been attacked by the Russian Federation, which resulted in the occupation of 44 thousand square kilometres or 7% of the territory of Ukraine. We are in fact at war with the north-eastern "neighbour"; this fact inevitably affects the socio-psychological state of a significant number of people. Under such unstable

conditions, the mental health becomes vulnerable to the influence of the media, various totalitarian sects, pseudo-religious organizations, alcohol and psychoactive substance abuse. In the described socio-political situation, the state must resort to systematic measures to counteract the spread of non-medical drug use and introduce criminal legal norms of double prevention.

In the doctrine of criminal law since the mid-60's of the XX century attention is drawn to a special group of criminal legal norms called "double prevention norms". Thus, Anatolii Zelinskyi noted in his thesis that "there is a typical species relationship between different types of crimes. It is manifested in the fact that some crimes create conditions for others, often more serious. We can distinguish a relatively small group of crimes, the public danger of which is characterized by the creation of typical conditions for criminality. Fighting against them has an important preventive value" [17, p. 9–14]. Another researcher of the preventive function of criminal legal norms E. Sarkisova has rightly noted that these norms perform their general preventive function by means of imposing sanctions for actions that may result in even more serious crimes or contribute to the commission of offenses. These, according to the scholar, include: threat of murder, drunk driving, careless storage of firearms, involvement of minors in criminal activities, malicious violation of the rules of administrative supervision and other norms [18, p. 16].

In our opinion, there is every reason to consider the provisions of Art. 320 of the Criminal Code of Ukraine as double prevention norms. The social danger of violating the established rules of the circulation of narcotic drugs, psychotropic substances, their analogues or precursors is caused by the fact that such acts may serve as determinants of other crimes in the field of circulation of narcotic drugs. This point can be confirmed not only by empirical research or logical methods, but also by the position of the legislator, who had noted directly in Part 2 of Art. 320 of the Criminal Code that the actions provided in Part 1 of this article may result in the theft, misappropriation, extortion of narcotic drugs, psychotropic substances, their analogues or precursors or their acquisition by fraud or abuse of office by an official. In addition, the loss of control over narcotic drugs can result in their sale to other persons (Article 307 of the Criminal Code of Ukraine), to their illegal injection in the body of another person against his/her will (Article 314 of the Criminal Code of Ukraine), and so on.

Thus, the socio-political situation, in which the violation of established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors is committed, is a condition for acknowledging the substantial nature of the harm caused (or which may be caused) as a result of these acts.

The last factor of the substantiality of harm is its quantitative characteristics. First of all, we note: due to the fact that the quantitative characteristics of the harm from the acts provided in Part 1 of Art. 320 of the Criminal Code of Ukraine has not yet been determined by the legislator, we are obliged to draw attention to this and to correct this shortcoming on a theoretical level. We believe that to characterize the substantiality of harm in this case, it is difficult to take into account only the value of social relations and socio-political situation.

Study of peculiarities of legislative technique of designing Parts 1 and 2 of Art. 320 of the Criminal Code of Ukraine raises the opinion on a significant gap in the degree of public danger between the acts provided in Parts 1 and 2 of this article. The first part of the analyzed article does not envisage the ensuing of consequences in the form of shortages of narcotic drugs, psychotropic substances, their analogues or precursors, while the second part envisages such a shortage in *gross* amounts.

Conclusion. As a result of our research, we found that public danger is inherent in violation of the established rules of circulation of narcotic drugs, psychotropic substances, their analogues or precursors intended for the production or manufacture of these drugs or substances (Article 320 of the Criminal Code of Ukraine). This indicates the existence of social conditionality in the criminalization of such acts. At the same time, Part 1 of this article needs to be improved, as it contains the corpus delicti, which by the construction of the objective element belongs to the formal ones. The crime will be considered completed from the moment of committing any of the acts provided by the disposition of the criminal legal norm. We believe that this design of the corpus delicti creates a number of risks for citizens who legally participate in circulation of narcotic drugs. Any, even insignificant, deviation from the rules may already constitute the corpus delicti under Part 1 of Art. 320 of the Criminal Code of Ukraine.

In our opinion, the corpus delicti currently contained in Part 1 of Art. 320 of the Criminal Code of Ukraine and does not provide the consequences of violating certain norms, should be transferred to the category of misdemeanour offense. In return, Part 1 of Art. 320 of the Criminal Code of Ukraine needs to be stated in a new edition, as the logic of the design of article and the legislative technique require to transform this corpus delicti from formal to substantive. The criminal consequence, which is planned to express substantial harm, should be represented by the shortage of narcotic drugs, psychotropic substances, their analogues or precursors on a *large* scale.

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LEGAL ASPECTS OF MEDICAL REFORM'S IMPLEMENTATION: POLAND'S EXPERIENCE FOR UKRAINE

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Abstract. *The academic paper has analyzed the experience of implementing the reform of the health care system in Poland, taking into account the legal regulation of the measures taken.The attention is focused on the basic stages of the medical reform, as well as the features of each stage. The legal aspects of the process of reforming the health care system in Poland have been investigated; they determine the sources and methods of financing health services, the level of quality of health care and the functioning of the health care system in general. The individual components of the health care system related to compulsory health insurance have been described. Based on the analysis, it has been proved that in practice there is no single universal model of financing the health care system. The experience of the functioning of health care in Poland has shown that the experience of reforming the health care system in Poland can be successfully implemented in the practice of medical reform in Ukraine, provided that the historical, economic and cultural features of the country are taken into account. It has been concluded that in order to improve measures to reform the medical system of Ukraine it is necessary to develop and implement measures aimed at the development of health insurance and medical self-government. Introduction of health insurance in Ukraine will help improve medical services, improve the management of the entire health care system and its financing.*

Keywords: *health care system; medical reform; medical insurance; medical services; medical self-government; financing system; legal aspects; Ministry of Health of Poland; compulsory health insurance; voluntary health insurance.*

JEL Classification: G18, G28, H12, H55, H56, I18.

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Introduction. In Ukraine, the process of reforming the health care system has been carrying on, the urgent tasks of which center around the legislative introduction of insurance medicine and medical self-government.After signing the Association Agreement with EU, the Ukrainian state has simultaneously agreed to adopt formal laws and principles for organizing activities in the sphere of medicine. The experience of foreign countries proves the need and effectiveness of such changes, because insurance medicine "unloads" the budget, and the self-government of doctors, nurses and pharmacists; it promotes the development of the medical industry and creates healthy competition for public medicine. However, currently in Ukraine the health care sector is completely controlled by the state because of lack of medical self-government and the system of voluntary insurance, which can really improve the medical system. Therefore, the best practices of countries that have already passed the basic stages of health care reform, should help Ukraine identify key priorities for further development of the health care system. The experience of Poland is the most

interesting and useful in this context; consequently, it has become the subject matter of this academic paper.

Literature review. The issue of health care reform in Ukraine and abroad has been studied by modern legal scholars, as well as researchers in the field of public management and administration. Thus, Ye. Linnakko, U. Mattila, W. Rudy [6] have studied foreign experience in ensuring the right to health care in EU and, in particular, in Poland; H. Muliar has studied foreign experience in reforming the field of medicine in the context of ensuring the right to health care [7]; D. Haidash has investigated the public administration mechanisms of health care reform in Poland [2]. The issues of reforming the health care system in Poland were also studied by Polish scientists: V. Brosovska, Ts. Vlodarchyk, L. Koliarska-Bobinska, Yu. Ploskonka, Ya. Sepiol, K. Tymovska, Ye. Tsikhotska and others.In addition, the theoretical aspects of studying the legal instruments of state influence on the process of reforming the health care sector have been investigated by M. Bilynska, M. Buchkevych, L. Zhalilo, O. Martyniuk [1] and a number of others. However, despite the extensive coverage of the problems of reforming Ukrainian and European medicine, there is a need for a deeper legal study of the course of medical reform in Poland for its further application in Ukraine.

Aims. The purpose of this academic paper is to analyze the experience of health care reform in Poland with an emphasis on the legal aspects of health care reform in this country. The result of this analysis lies in identifying the positive and negative consequences of the reform, which will help determine further ways of health care reform in Ukraine.

Methods. The authors have used the method of analysis of scientific literature and regulations in the article, as well as the method of comparing current legislation in the medical field of Ukraine and Poland.In addition, in the course of studying the process of health care reform in Poland, historical and logical methods have been applied, and the method of generalization has been used to draw conclusions. The outlined methods have contributed to achieving the purpose set in the academic paper.

Results. The problem of reforming the health care system is urgent for most countries in the world; insomuch as rising spending on medicines, increasing demand for health care due to an aging population, and the introduction of new costly medical technologies require the authorities to change the structure of care, approaches to its financing, and the division of responsibilities between the state, private sector, and citizens. One of the ways to adequately change the health care system is to reform it.The countries of Central and Eastern Europe have chosen the scheme of health insurance and medical self-government in order to reform the health care system. Forasmuch as health care reform has been launched later in Ukraine than in European countries, it has a unique opportunity to study the experience of these countries and apply it, avoiding unwanted mistakes. It should be noted that all European countries that hadalready implemented health care reform, tried different models, looking for the best solutions and models that would meet the conditions of a particular country [6].

During the implementation of reforms in different countries, it has been revealed that one of the leading areas of reform is to address the problem of financing the health sector. In this context, modern scholars - jurists are actively discussing the feasibility of transforming medical institutions from budgetary institutions into non-profit entities, predicting the possibility of the existence of medical institutions as business entities and focusing on public contracts for medical care [10]. The legal aspects of the process of reforming medicine in such conditions are especially interesting for Ukraine, and the experience of Poland,in particular, can help find ways to solve the painful problems of Ukrainian medical reform. And although the Polish health care system is not exemplary, many elements that are currently being implemented in Ukraine, are functioning quite effectively in Poland.

Considering the way Poland has undergone in the process of reforming medicine, it is necessary to examine more specifically the stages that took place after the end of the socialist era. At that time, there was an urgent need in Poland to change the high-cost model of the health care system, which was a heavy burden on the country's budget. This was the reason for launching the medical reform, which began with large-scale transformations in the state in 1989. In the first period of the reform, health care providers began to carefully calculate costs and produce only services that were beneficial to them in the new financial environment. Subsequently, health care facilities began to limit costs by reducing the number of employees and by reducing the quality of medical services. Hence, the new reform should have helped to raise additional funds for the maintenance of the country's health care system, as the funds received through the collection of insurance premiums were insufficient. Serious legislative amendments were required to attract additional funds through the development of voluntary patient insurance, as well as the introduction of payment for services that were not provided by the terms of general insurance [2].

Polish health care reform is also linked to the adoption of laws on health care facilities (1991) and compulsory health insurance (1997). The basic priorities of the medical sector in the reform process are the completeness, quality and availability of medical services (Figure 1) [2].

The right of all Polish citizens to health care and free medical care is declared in Article 68 of the Constitution (1997). The basic objectives of health care reform center around increasing the efficiency of the use of limited resources and the need to increase public spending on health care. Laws on the professional activities of doctors, nurses and their self-government,adopted over the past few years, have played an important role in the process of reforming the health care system [5].

Each period of development of medical reform had its own features and consequences, which determined the subsequent actions of the Polish government concerning adoption new legal acts to regulate changes in the health care system (Table 1) [2].

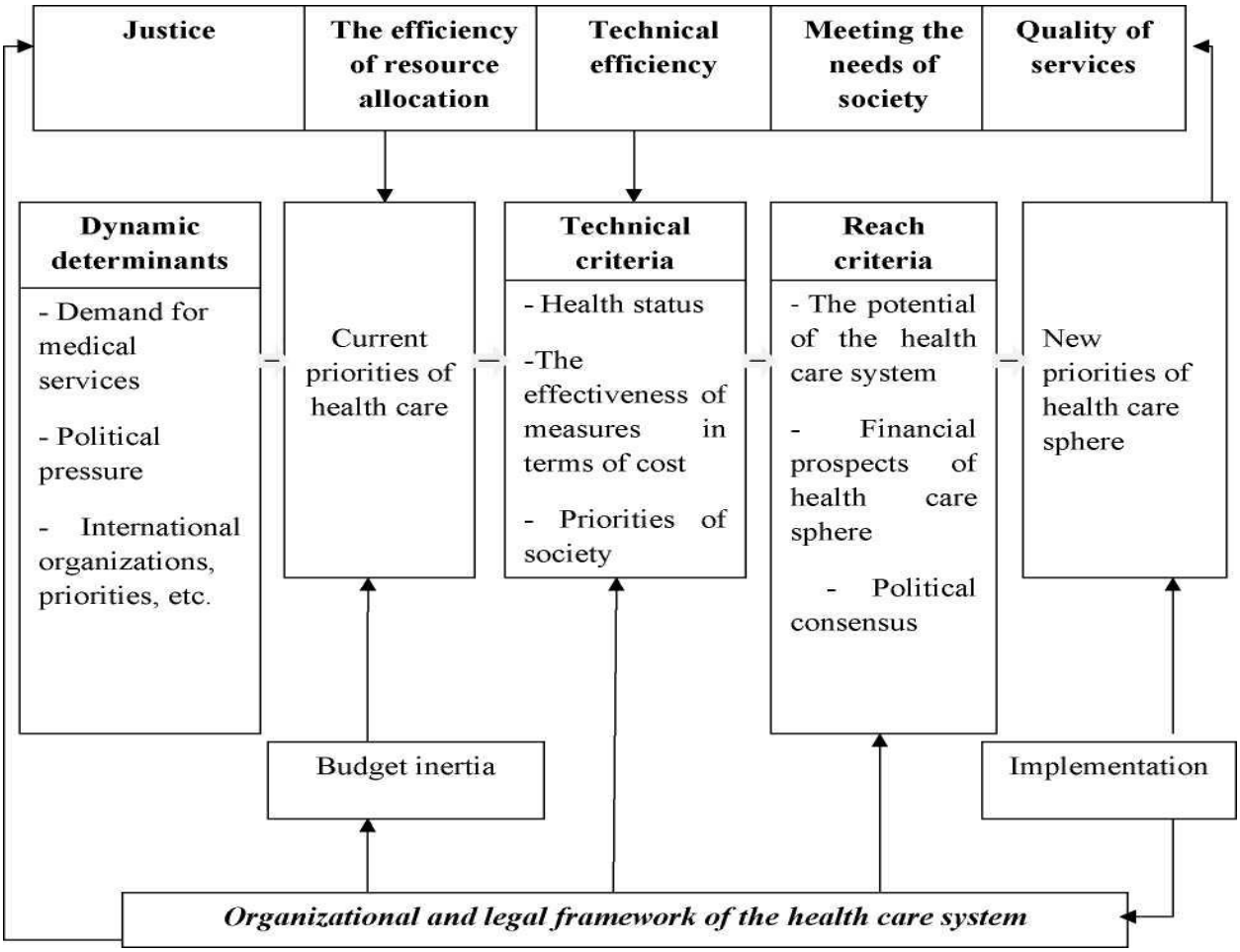

Fig. Priorities of development of health care system

The reform program was actively pursued in 2008, when it was thoroughly discussed with the participation of trade unions, local governments and social groups.An important proposal of the Ministry of Health of Poland was to provide greater autonomy to state health centers and turn them into companies governed by the Commercial Code. Other proposals from the Ministry also included the introduction of additional private health insurance sector. In addition, due to the adoption of the Law on Accreditation in the Health Care System as of 2008, accreditation was taken into account in the distribution of the National Health Fund and drafting of a contract; it contributed to improving the quality of health care in Poland.

In April 2009, the Law on state aid to territorial self-government bodies for the transformation of hospitals into commercial companies came into force. However, it did not indicate new financial sources from which local governments could cover monetary losses, making commercialization a reality. Some experts had been considering this as direct privatization and, therefore, suggested leaving institutions that would belong to local governments. A further stage in the development of the reform was the adoption of the law on medical care in 2009, which strengthened the rights of patients in the provision of medical care. This law, in particular, introduced the position of mediator for complaints, responsible

for the interests of patients. As a result, the "bottom-up"initiative has strengthened the patient's position within the health care system [9].

Table 1

Features of the periods of reforming the medical sphere in Poland

Years	Features of periods of medical reform
1989-1997	Significant influence of the political rivalry on the change of directions of reform. Proclaiming an intention to move away from an expensive healthcare model. The government's concept of extremely cautious changes to create institutions of mixed funding, the gradual introduction of health insurance. Development of health insurance funds as centers of co-payment for medical services. Adoption of the Law on Health Insurance.
1998-2002	Implementation of the Law on Health Insurance. Uncertainty of goals and principles of reform. Reduction of the network of state and communal health care facilities. Rising unemployment of health workers, resistance to reforms. Dissatisfaction of the population with the availability and quality of medical care. Uncontrolled corruption activities of health insurance funds. The decision on the establishment of the State Health Insurance Fund.
2003 – till present time	Creation of the National Insurance Fund, introduction of a model of mixed form of payment for medical services. Accession to EU, implementation of European principles of ensuring the right to health care, support for the development of the health care system by EU grants, achieving significant improvement of state of public health.

Improving health care financing and health reform measures have focused on identifying new sources of income and improving the effectiveness of reform's efforts. The adoption of theAmendments Act to the Law on Public Health-Funded Health Care in June 2009 introduced the concept of a "positive medical basket of services"("pozytywnykoszykusług") into the Polish health care system. The basic purpose of the Law is to compile detailed lists of guaranteed health care services within the public system, which should serve as a source of information for both patients and health care providers.

The basic objectives of the reform in the field of medicine include all aspects of health care management, in particular, such as standardization of services, financing of health care institutions, anti-corruption, etc. Thus, in accordance with the Law "On the Information System in Health Care", adopted in 2011, the Register of Medical Legal Entities was created as an effective tool for collecting and combining information on the provision of health services, which contains a list of all legal entities involved in therapeutic activities. This law has also established patients' access to information on completed and planned medical care, as well as the ability to exchange information for diagnostic purposes by sending an electronic request or application [7].

Legislative changes adopted to regulate the process of reforming the Polish medical system have facilitated the transfer of self-government health care facilities, which have acquired the status of economic entities with the possibility of concluding external contracts for services with relevant payers and internal contracts with their own employees. The specified regulations have enabled each

legal entity (individual or legal entity) to be the founder and ensure the activities of medical facilities. Due to these legislative changes, outpatient care was separated from inpatient care, and the payer - from the organizer of medical services. The reform made it possible to strengthen the role of the institute of family doctors, as well as a gradual increase in the structure of health care, the share of cheaper and more effective medical technologies. In addition, due to changes in legislation, the vast majority of types of medical services have been funded through compulsory health insurance through contracts between payers (represented by insurance funds) and health care providers (family doctors, hospitals and ambulance crews)[4].

According to the legal norms, governing the process of health care reform, all levels of self-government have received the appropriate powers in the field of health care. There was also a clear division of powers in the medical sphere between public administration and self-government bodies (Table 2) [2].

It should be noted that almost 99% of all health care facilities in Poland are public institutions and belong to local governments; herewith, only about 30 institutions at the national level are subordinated to the Ministry of Health. The Ministry of Health fully or partially finances at the expense of the state budget only highly specialized medical services such as heart or vascular surgery, organ transplants, etc. In this case, contracts for the provision of such services are concluded between the Ministry of Health and the relevant medical institutions, which can ensure the implementation of appropriate interventions. Funding of other medical services is provided at the expense of compulsory health insurance.

The Law on Compulsory Health Insurance, which entered into force on 1 January 1999, required every Polish citizen to pay a compulsory insurance premium of 7,75% of gross income and offset by a corresponding reduction in income tax. The collected funds are accumulated by the Pension Fund, which distributes them between the 16 fully autonomous regional and 1 departmental compulsory health insurance funds created in accordance with the law. ("health insurance funds" - 16 regional and 1 branch). Each patient has the right to choose one of two possible health insurance funds; the majority usually uses the regional health insurance fund according to the territory of residence of the insured person. The system of compulsory health insurance also covers the cost of medicines, orthopedic products and devices, some preventive vaccinations aimed at immunoprophylaxis of infectious diseases, etc. [7].

With regard to the continuation of medical reform in Poland under modern conditions, it should be noted that currently the reform measures are aimed at achieving the basic goals of the renewed health care system in Poland, namely:

1) decentralization of the medical system;

2) financing of health care by independent health insurance funds and the National Health Fund;

3) development of family medicine;

4) introduction of hospital accreditation system.

Table 2

Distribution of powers in the field of medicine between public administration and self-government bodies

Authorities	**Powers in the sphere of medicine**
State administrations (at the level of voivodships)	- maintaining a register of health care facilities in the subordinate territory, making decisions on entering or removing public and non-public institutions from this register; - establishment of public health care facilities in cases set forth by the law on sanitary inspection; - recommendatory assessments of decisions of territorial self-government bodies on liquidation or reorganization of public health care institutions; - appointment of representatives to public councils operating at public health facilities; - control over the activities of health care facilities operating in the voivodship.
Self-government of voivodships	- implementation of issues referred to its competence by law, including tasks in the field of health care and promotion; - influence on the activities of the relevant regional fund of compulsory health insurance (health insurance funds) by electing members of the supervisory board of this fund; -performing the function of the founder in relation to public health care institutions (making collective decisions on the establishment, reorganization and liquidation of institutions, appointment of the head and public council of the institution; supervision of the activities of institutions); - ensuring the provision of medical services by other institutions in case of liquidation of a public health care facility; - development of a voivodship's strategy in the field of health care.
Self-government at the county level	- implementation of tasks referred to its competence by law, including issues in the field of health care and promotion; -performing the function of the founder in relation to public health care institutions (making collective decisions on the establishment, reorganization and liquidation of institutions, appointment of the head and public council of the institution; supervision of the activities of institutions); - ensuring the provision of medical services by other institutions in case of liquidation of a public health care facility.
Self-government at the gmina level	- meeting the common needs of the community, including in the field of health care; - performing the function of the founder in relation to public health care institutions (making collective decisions on the establishment, reorganization and liquidation of institutions, appointment of the head and public council of the institution; supervision of the activities of institutions); - ensuring the provision of medical services by other institutions in case of liquidation of a public health care facility.

The outlined reform measures should be implemented through: improving the information system; increasing the availability of medical care; improving the organization and financing of the inpatient care sector; the fight against corruption

in the health care sector; strengthening the rights of patients; improving the financing system of the health care sector; improving cost recovery mechanisms for health care providers; improving the quality of medical care. The modern health care system of this European country is based primarily on Poland's health care concept "Health for All". This concept includes global priorities for the first two decades of the XXI century and 10 main objectives, which are aimed at creating appropriate conditions for people to achieve and maintain the best level of health. This concept is a social justice program that provides evidence-based guidance and describes a process that leads to a gradual improvement of human health [5].

Currently, measures in accordance with The National Health Programs (NPZs) are being implemented in Poland; they are key documents of the national health strategy for the period 2016-2020. The basic strategic goal of these programs is to prolong the healthy life of citizens in order to improve the quality of life and economic development of the country. This objective is in line with the goals of the state's health policy and the overall development strategy of Poland (DSRK). In addition, in accordance with the World Health Policy set by the World Health Organization, the Ministry of Health, together with the Ministry of Finance, is given more powers to defend the need of investing in human health and his social determinants. Herewith, within the conditions of growing demand for medical services, the medical system should function as efficiently as possible, and the Ministry of Health should ensure a positive return on the funds invested in the medical system [3].

Discussion. The conducted analysis of measures to reform the sphere of medicine in Poland has evidenced that this medical reform in general has both positive and negative aspects. The obvious positive aspects of the reform include, first of all, the separation of earmarked funds for health care from the budget, which helps prevent the negative consequences connected with possible "failures" of the budget. Another positive feature of the reforms is the possibility of ensuring public control over funds in the health care system, as well as the development of this system on a solidary basis, the gradual formation of the market for medical services and improving their quality. In addition, the positive consequences of the reform include the introduction of changes in the stereotype of interaction between patients and health care providers, when the former become more responsible for their own health, and the latter are fully responsible for the quality of care and economically rational use of appropriate financial, material-and-technical, and human resources. Along with this, the introduction of a general drug reimbursement system can be considered a successful experience of Poland, when all drugs, prescribed by doctors in accordance with the approved indications and included in the relevant state list, are covered by the Fund with a certain patient co-payment.

At the same time, there are certain shortcomings of the Polish health care system that Ukraine should take into account during the reform's implementation. Thus, the basic issue of Poland's health care system is its underfunding. This is

connected with the fact that the amount of funds of the National Health Fund at the end of the budget year is constantly decreasing, making it more difficult for patients to sign up for a planned operation at the end of the year. Therefore, for most citizens, receiving the most expensive medical care for free throughout the years remains a ghost, and covering the costs of treatment of many cancers and similar high-cost diseases still falls on the shoulders of Poles.

Another shortcoming is the weak promotion of the reform. The lack of an appropriate information campaign related to the introduction of changes in the medical sector has caused numerous shortcomings and failed to provide timely preparation for the introduction of innovations of various health care participants, especially patients and health care providers, thus leading to low satisfaction with the reform. Along with this, many problems and difficulties are caused by the lack of relevant bylaws at the level of executive power and self-government, the need for which was determined by the Law on compulsory health insurance. An equally important shortcoming of the reform is the unreasonably large autonomy of health insurance funds, which results in a lack of quality approaches to the content and structure of documentation required by health insurance providers. There are also problems, as follows: the lack of universal methods of financing service providers and the principles of determining the cost of medical services and the relevant contracts for their supply; lack of guarantees of equal access to medical services for patients who are insured in different health insurance funds; system of providing "state" medical services, which is limited by the legislative rule of 100% state coverage from the Fund and the prohibition of co-payment; lack of sufficient competition among health care facilities (due to the fact that private medical facilities are not sufficiently actively funded by the Fund); overstatement due to insufficient competition for the cost of certain medical services provided by state providers [2; 7].

It should also be noted that Polish medicine, despite progressive reform measures, also falls under global challenges, such as: - population aging; - increasing patients' expectations; – innovative treatment technologies, although, they give a better effect and hope to terminally ill patients, however, they require more funding; - electronic medical infrastructure, without which proper ensuring the efficiency of the medical system is impossible, it requires constant investment. All this makes the shortcomings of the Polish medical system particularly noticeable, and at the same time helps identify directions for the next stages of reforms.

Conclusion. The experience of Poland, where compulsory health insurance is currently regulated by law, confirms that state regulation of the system of medical care in the field of health care, which is based on the principle of compulsory state health insurance and medical self-government, is much more effective than state funding of health care facilities. The achieved results of the reform indicate the receipt of the vast majority of positive indicators in the medical sphere.At the same time, it is obvious that Ukraine, which is just at the beginning of medical reforms, needs to adopt a number of examples of Polish medical reform.

Taking into account the measures, already taken to reform the health care system of Ukraine, and the corresponding adopted legislative acts, we can state that a number of problematic issues in the field of medicine still remain.First of all, they concern the system of financing medicine**.**All aspects of the reform are important, however, domestic medicine has no chance for revival and significant developmentwithout a change in the funding system. It is the introduction of the reform of the financing of medical services and the reimbursement of medicines that has given impetus to all the progress, taken place in Polish medicine over the last 20 years. Consequently, the decision formed by the Ukrainian medical reform - not to introduce a new tax on medicine, so as not to stimulate the already highly shadowed economy, and finally to start using the available financial resources of the budget efficiently and transparently - is likely to be reviewed in the near future.

The second important aspect to pay attention to is that during the implementation of the reform in Ukraine one should beware of populism and promises of "free medicine". The introduction of tax deductions to the health insurance fund in Poland has had a huge positive effect and ensured the real availability of a significant amount of medical care services for the entire population. The proposed shift away from the imitation of free medicine within the framework of the Ukrainian medical reform, the provision of a state-guaranteed level of free medical services, the introduction of co-payments for other services and the expansion of the drug reimbursement system are changes that can bring the system to a new level.

The Law of Ukraine "On State Guarantees in the Field of Health Care" adopted in 2017, which introduced a modern system with a single payer (National Health Service of Ukraine - NHS) and a single national budget with general taxation, can be considered as a positive path to this goal outlined. The implementation of this law provides new methods of financing and preparation for work in the eHealth system [11].

The direction of development of the medical sphere of Ukraine is another general idea, supported by most researchers; it is based on the introduction of insurance medicine and the active involvement of extrabudgetary funds (by providing a legally defined list of paid services, leasing of fixed assets, non-core activities, charitable funds, etc.). This means the transition to a budget-insurance form of financing the sphere. In this context, the development of medical self-government is also relevant, which will expand the capabilities of both doctors and patients in the process of providing and receiving medical services. Herewith, the implementation of reform measures aimed at attracting private health care providers should be implemented only when they really provide better results and / or reduce the cost of providing services of the same quality. In this regard, one of the priorities of the reform is also the formation of a database with information on the quality of service, which is currently absent in Ukraine [8].

Without doubt, the experience of reforming medicine in Poland will make it possible for Ukraine not only to implement these measures, but also to avoid some problems and mistakes. At the same time, it is necessary to take into account the

difference in historical, economic and cultural conditions of the reform in the process of adopting such experience, because each country has its own features that determine the process of reform.

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