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The fourth 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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MODERN TRENDS IN PUBLIC ADMINISTRATION

THE FUNCTIONING OF THE CONSTITUTIONAL COURT OF UKRAINE AS THE PART OF IMPROVING THE MECHANISMS OF PUBLIC ADMINISTRATION AND SUSTAINABLE DEVELOPMENT OF THE STATE

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Abstract. *The material of the article reveals the purpose of research in the field of sustainable functioning of the mechanism of state power through the lens of the activity of the body of constitutional justice. The main results of the research are the disclosure of the content of the activities of the Constitutional Court of Ukraine as a necessary condition for ensuring a constitutionally defined system of public authorities and improving the mechanisms of public administration. The article describes the main functional characteristics of the body of constitutional justice in Ukraine and their influence on the sustainability of the work of the state bodies in terms of division into branches of power. In the process of research the importance of constitutional justice for the construction of a legal, democratic state with authoritative institutions was highlighted, the content of the activity of the body of constitutional justice and the feasibility of widespread use of the possibilities of the Constitutional Court of Ukraine as a state body with special status were revealed. It is proposed to improve the functions and powers of the Constitutional Court of Ukraine in view of the comparative characteristics of the bodies of constitutional justice of individual European states. The scientific work substantiates the necessity of reviewing the legislatively defined powers of the Constitutional Court of Ukraine in terms of their extension and adaptation to modern challenges, investigates the significance of the decisions and conclusions of this body for improving the mechanisms of public administration, determined the role of the Court in the system of higher bodies of state power by the status of a state body. Based on the definition of strategic goals set by the Constitution of Ukraine on the Constitutional Court of Ukraine, the directions for improving the effectiveness of the application of decisions and conclusions of the Court, interaction with higher bodies of state power are justified, the directions of improvement of the mechanisms of public administration through the prism of the results of the Court's activity are proposed. Directions of improvement of the legislation with the purpose of increase of the efficiency of the Constitutional Court of Ukraine in the mechanism of realization of the state power are offered.*

Keywords: *the Constitutional Court of Ukraine, constitutional justice mechanisms of public administration, system of state power, constitutional guarantees, functions of constitutional justice, constitutional control.*

JEL Classification: H10, H79, K10, K40

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Introduction. The functioning of the constitutionally defined mechanism of state power is under constant pressure from various phenomena of social and political life, economic, social and so on. At the same time, the sustainability and efficiency of the functioning of public authorities is the result of the maturity of statehood. In the states of the "young democracy", the body of constitutional justice plays a

particularly important role in the period of statehood, institutional certainty, and stability of public administration mechanisms. Its activities are designed to bring stability, certainty, uniformity and synergy to the work of public authorities. Particularly striking the role of the body of constitutional justice manifested during political crisis or exacerbation.

The main condition for the sustainable development of public administration mechanisms is the resolution of current conflict situations that arise in the process of interaction of public authorities, namely: ensuring political stability and legal certainty. In other words, such situations include: the vagueness (inconsistency of decisions made by the public authority with the fundamental law) and the poor quality of decisions (decisions that duplicate or contradict each other and do not contribute to the effectiveness of the functioning of the public administration mechanism).

Literature Review. The research found that most current researchers (Ivanovska A., 2015; Kopylenko O., Baimuratov M. & Gryshova I., 2018; Martyniuk R., 2017) define the political and legal stability of public administration as a necessary condition for building social and economic developed state.

Therefore, we propose to consider the importance of the Constitutional Court of Ukraine as a supreme state body with a special status in the following aspects: ensuring the formation of effective mechanisms of public administration that function effectively in terms of achieving socio-economic results; improvement of the normative-legal regulation of the activity of the Constitutional Court of Ukraine in order to increase the efficiency of this body in the system of public authorities; carrying out regulatory regulation of the state-administrative processes in the country as a means of limiting the destructive and crisis manifestations of the mechanisms of public administration.

Aims. The purpose of the article is to improve the mechanisms of public administration and sustainable development of the state through the functioning of the constitutional court of Ukraine.

Methods. The methodological basis of the research in the analysis of the essence and significance of the Constitutional Court of Ukraine as a supreme state body with a special status, the influence of its functioning on the development of public administration mechanisms was made up of the use of dialectic and system-structural methods. The application of the historical-logical method, induction and deduction allowed to explore the basics of improving the mechanisms for exercising state power. Factor and retrospective analysis was used to identify key problems and prospects for the development of public administration mechanisms through the prism of the activities of the Constitutional Court of Ukraine. When substantiating the strategic directions for improving the public administration mechanisms in Ukraine, the heuristic methods were used, as well as the logical generalization methods. The empirical basis for the research was the legal acts regulating the activity of the Constitutional Court of Ukraine and the basic principles of organization of state power in Ukraine.

Results. It should be noted that the last decades in Ukraine have been marked by a number of reforms and transformations. Including the formation of constitutional justice bodies as a prerequisite for building a rule of law. Being newly formed and based only on the experience of such bodies in other states, the bodies of constitutional justice have not avoided errors and shortcomings in their activities. However, characterizing in general the activities of constitutional justice bodies in the "young democracy" states, can talk about their positive influence on the formation of the rule of law and civil society, an effective mechanism of public administration, and on the observance and implementation of the constitutionally enshrined principles of the rule of law and the priority of the rights and freedoms of man and citizen. And the experience gained over the years only adds weight to their decisions and conclusions.

The results of the research of the views of scientists on the nature and status of the body of constitutional justice made it possible to determine that the possibility of the influence of this body, as a body of constitutional control, on the activities of parliament, government and the president testify to its special role in the mechanism of state power. At the same time, the relative independence and legal independence of the Constitutional Court of Ukraine in the mechanism of state power, its accountability to other bodies of state power is conditional and is in the "system of checks and balances."

It should be noted that the classical system of mechanism of checks and balances does not imply the presence of a fourth branch of power - control. However, it would be appropriate to make an argument of a historical nature, which consisted in the fact that during the birth of the theory of separation of powers, there was no idea of constitutional control as a necessary element of the mechanism of state power. The principle of division of power is developing only in terms of dynamic equilibrium, which is in granting each branch of power its own competence independent of one another and autonomy of legal status in the exercise of its own powers. Therefore, in view of the competence of the Constitutional Court of Ukraine, there are no reasonable grounds to assign it to one of the branches. It is considered appropriate to assume that the Constitutional Court of Ukraine is a supreme state body with a special status.

It is necessary to note the importance of the role of the Constitutional Court of Ukraine in the mechanism of state power, which is essentially determined directly by the characteristics of the basic law of the state. Due to the peculiarities and legal characteristics of the acts issued by the Constitutional Court of Ukraine, this body exerts considerable influence on state-power relations and in some cases imposes a political imprint on public relations.

In addition, the special role of the Constitutional Court of Ukraine lies in the legal characteristics of the acts adopted by it. Since this body is the only body of constitutional control, its decisions are based primarily on the Constitution, and accordingly, even those positions which do not come directly from the Basic Law, but are the result of the interpretation of the principles of the rule of law or others, carry legal characteristics at the level of the constitution.

This is extremely important for the functioning of the mechanism of state power, since specific historical, socio-political, economic conditions, worldviews of decision-makers can make significant adjustments to the "purely constitutional nature" of decisions and conclusions that are essentially have duties of character to fulfill. In carrying out its activities, the Constitutional Court of Ukraine makes decisions and conclusions that directly affect to the law enforcement and indirectly make adjustments to the activities of the legislative body. Thus, the ultimate impact of such a decision is reflected in the activities of each of the public authorities, and therefore, relations are arranged in the mechanisms of public administration.

It is also important to note and direct impact on the mechanism of the state power in the exercise of the arbitration function by the Constitutional Court of Ukraine in resolving conflicts or potentially conflicting situations between higher bodies of state power. In such situations, constitutional justice resolves disputes related to the division of powers, or decides the constitutionality of a decision taken by a separate body, if it influences or affects the interests of another public authority.

In pursuing any line of business, the Constitutional Court of Ukraine faces a number of problems. The most important of these are the gaps in law and the lack of adequate normative legal regulation of public relations in Ukraine.

Researching activities of the Constitutional Court of Ukraine, it must be acknowledged that its activities would be deprived of content if it were not legally enshrined in the obligation to enforce the rulings. Exactly the result of the activity in the form of a decision is a reflection of the exercise of constitutional justice by certain functions through the lens of statutory authority.

Indeed, a recourse to the analysis of the legislation confirms the exceptional validity of the decisions of the constitutional justice bodies and the obligation to enforce them. Thus, in Art. 151-2 of the Constitution of Ukraine it is determined that the decisions and conclusions adopted by the Constitutional Court of Ukraine are binding, final and cannot be appealed. And in the Law of Ukraine “On the Constitutional Court of Ukraine” states that the decisions and conclusions of the Constitutional Court of Ukraine are equally binding. In particular, a separate chapter 14 of the same Law regulates the implementation of decisions and conclusions of the Constitutional Court of Ukraine. If necessary, the Constitutional Court of Ukraine may determine in its decision, the conclusion the procedure and terms of their implementation, as well as impose on the relevant state bodies the responsibility for ensuring the enforcement of the decision and the observance of the conclusion. The Constitutional Court of Ukraine shall have the right to request from the bodies referred to in this Article a written confirmation of the execution of the decision and the compliance with the opinion of the Constitutional Court of Ukraine. Failure decisions and noncompliance findings of the Constitutional Court of Ukraine entail liability in accordance with the law.

It should be noted that the decisions taken by the Constitutional Court of Ukraine cannot be considered separately from the processes that take place in society and the state, since they have a significant impact on legislative regulation, human rights and the functioning of the legal system as a whole. In this regard, it is

necessary to determine to what extent the Constitutional Court of Ukraine by its decisions may influence the mechanisms of public administration, and whether its decisions can make "adjustments" to the functioning of the system of state power in general.

Exploring the essence of solutions of the Constitutional Court of Ukraine should pay attention to the fact that they have a normative and legal nature, affect the most important social relations, targeted at all participants in the legal relationship, have a binding and final character. The established decisions of the Constitutional Court of Ukraine are binding for all law enforcement agencies and state authorities to apply in the exercise of their powers. In addition, the decisions of the Constitutional Court of Ukraine have a significant influence on the formation of legal doctrine. As rightly notes M.P. Orzikh "... the prescriptions and practices of the Constitutional Court of Ukraine, the content of individual opinions of judges give reason to consider the doctrine as a source of law, the role of which for the Constitutional Court of Ukraine will grow only to determine it as a court of doctrinal law" (Orzikh M. (2011).

Owing to the powers conferred on it and the granting of decisions of the Constitutional Court of Ukraine with particular legal force, it is possible to speak about the real possibility of the Court to influence the functioning of the public administration system and the mechanism of state power as a whole by making decisions that can be further used in the exercise of their powers by the state authorities.

Making decisions here is a danger that the Constitutional Court of Ukraine will go beyond interpretation, which is present because there is a considerable amount of evaluation concepts in constitutional and current legislation and because of the imperfection of legal terminology, which provokes the Court to "adjust" the meaning of the rule by interpreting it. In this case, violation of the Constitution of Ukraine becomes especially probable, since the interpretation may be based on non-legal criteria.

Scientists pay particular attention to the problem of politicization of the decisions of the Constitutional Court of Ukraine and, thus, influence on the existing legal system of political factors. This issue is updated due to the fact that a large part of the cases considered by the Constitutional Court of Ukraine has political in nature.

Considerable public attention appealed to one of the decisions of the Constitutional Court of Ukraine, namely the decision of January 25, 2012 No. 3-rp / 2012, which interpreted the norms of the Constitution of Ukraine regarding the application by the courts of Ukraine of normative-legal acts of the Cabinet of Ministers of Ukraine and regulating by these acts the procedure and amounts of social payments and assistance financed at the expense of the State Budget of Ukraine, in accordance with the Constitution and laws of Ukraine. One of the issues to be considered by the Court was the issue of the mandatory application by the courts of Ukraine of normative-legal acts of the Cabinet of Ministers of Ukraine on issues of social protection of citizens issued in compliance with the requirements of the Budget Code of Ukraine, the Law on the State Budget of Ukraine for the respective year and other laws of Ukraine.

In essence, the Constitutional Court of Ukraine answered this question affirmatively, confirming that the Cabinet of Ministers of Ukraine regulates the procedure and amounts of social payments and benefits financed by the State Budget of Ukraine in accordance with the Constitution and laws of Ukraine. This decision caused considerable resonance in the society and became the basis for the discussion on the possibility of limiting by-laws, issued by the Cabinet of Ministers of Ukraine, enshrined in the Constitution and the laws of mandatory social payments.

The question became debatable on granting the Cabinet of Ministers of Ukraine the power to issue by-laws in order to regulate such relations of social security, based on the decisions of the Constitutional Court of Ukraine and on the socio-economic opportunities of the state. This is due to the fact that these social relations should be governed only by the laws, as stated in Art. 92 of the Constitution of Ukraine, in particular, in paragraph 6 it stipulates regulation solely by the laws of social and pension security.

Therefore, the decisions of the body of constitutional justice are intended, first of all, to resolve the question of the conformity of the Constitution with a certain normative act and to introduce legal uniformity in the application of certain provisions of the Basic Law, but they cannot be used as a legal instrument in solving particular political problems.

The impact of the decisions of the Constitutional Court of Ukraine on the legal system established in the state is obvious. In its decisions, the Constitutional Court of Ukraine must guarantee the supremacy of the Constitution of Ukraine; ensure the constitutional legality and stability of the functioning of the legal system on the basis of the principle of the rule of law, which excludes the possibility to influence any decision of the Constitutional Court of Ukraine of any non-legal factors.

Based on the above, it is worth noting that one of the problematic aspects in the practical implementation of the powers of the Constitutional Court of Ukraine is the problem of implementation of its decisions, without which it is difficult to speak of effective guarantee of the supremacy of the Constitution of Ukraine. Moreover, it is necessary to speak not only about the obligation to comply with the resolution part of the Constitutional Court's decision, but also about compliance with the basic principles laid down in the text of the Constitutional Court's decision. The above problematic issues is the result of the low level of legal accountability, legal culture and legal consciousness of the persons to whom the decisions of the Constitutional Court of Ukraine are addressed.

As noted above, the Constitutional Court of Ukraine may determine in its decision the procedure and terms of execution of the decision and oblige the relevant authorities to comply with the decision. The Constitutional Court of Ukraine itself interprets the provisions of the Law of Ukraine “On the Constitutional Court of Ukraine” regarding the execution of the decisions of the Constitutional Court of Ukraine in the decision of December 14, 2000, so that the decision of the Constitutional Court of Ukraine, irrespective of the order and terms of their implementation or not, is compulsory for implementation throughout Ukraine. State authorities, bodies of the Autonomous Republic of Crimea, bodies of local self-

government, enterprises, institutions, organizations, officials and officials, citizens and their associations, foreigners, stateless persons should refrain from applying or using legal acts or their provisions declared unconstitutional.

The decisions of the Constitutional Court of Ukraine have direct effect and do not require confirmation by any state authority to enter into force. The obligation to execute a judgment of the Constitutional Court of Ukraine is a requirement of the Constitution of Ukraine Part Two of Article 150), which has the highest legal force with respect to all other regulations (Part Two of Article 8).

In view of the actual state of implementation of the decisions of the Constitutional Court of Ukraine and its contemplative position on exercising control over the implementation of its acts, despite the frequent cases of ignoring decisions by the entities to whom these decisions are addressed, one should agree with the thesis that to achieve the effectiveness of each Court's decision has so far failed for reasons beyond the control of the Constitutional Court and beyond its powers.

Therefore, it seems that one of the necessary steps in this direction is a strict legislative regulation of the procedure and terms of execution of decisions and conclusions of the Constitutional Court of Ukraine. In this regard, the experience of some neighboring countries with similar issues of state and political life seems positive.

For example, the issue of implementation of the decisions of the Constitutional Justice body in the legislation of the Republic of Belarus is regulated in a detailed form. So, in Art. 85 of the Law of the Republic of Belarus "On Constitutional Judicial Procedure" has determined the validity of the conclusions and decisions of the Constitutional Court of Belarus and stated that they are final and are not subject to appeal. The provision also addresses the legal force of normative acts, which were examined by the Constitutional Court.

In Art. 86 of the said Law of Belarus "On Constitutional Judicial Procedure" defines the terms of execution of judgments and decisions of the Constitutional Court and specifies specific measures that must be taken by the authorized bodies within the specified time limits. Article 88 specified regulatory act provided the responsibility for failure to enforce, improperly enforce or impede the execution of decisions of the Constitutional Court.

Positive and important can be considered the consolidation of the Belarusian law in the law analyzed above (Article 87), which imposes an obligation on the Constitutional Court of Belarus to control the implementation of its decisions and conclusions. What is important is that the body of constitutional justice acts as the only body of the state that can evaluate the appropriateness of the implementation of the decision made by the specific entity to which it is addressed. Moreover, consequently, respond as necessary to clarify decisions or take action to hold the entity liable. In addition, the legislator grants freedom to the body of constitutional justice in the control measures carried out, formulating a rule of law in such a way that the procedure for exercising such control is determined by the Constitutional Court independently.

The legislation of the Republic of Moldova also contains rules that determine the finality and binding of the implementation of the decisions of the Constitutional Court. So, Art. 140 of the Constitution of Moldova provides for the finality and impossibility of challenging the decisions of the Constitutional Court. Also, in the Law of the Republic of Moldova "On the Constitutional Court" in Art. 28, 281, 282 set out the issues of enforcement of decisions, the time limits for the execution of decisions of the Constitutional Court and, in some cases, specific actions that are required of public authorities. Quite interesting is the norm enshrined in Art. 281 of the aforementioned law, which provides for the elimination of gaps in the legislation, which the Constitutional Court draws attention to when considering individual cases. Thus, the Constitutional Court is able to really influence law-making activities and to realize its full potential.

It should also be noted that the procedure for implementing the decisions of the Constitutional Court of Moldova is also governed by Chapter 10 of the Code of Constitutional Jurisdiction. Similar to the legislation of Belarus, in the above the normative act regulates the issue of enforcement of decisions of the Constitutional Court and control over the enforcement of decisions. Therefore, the experience of Moldova and Belarus, which has the responsibility to monitor the enforcement of decisions directly to the Constitutional Court, can be considered as positive. As noted above, only the Constitutional Court can assess the appropriateness of its decisions.

So positive is the experience of Belarus and Moldova with regard to legislative regulation of the procedure, terms and control over the implementation of decisions of bodies of constitutional justice. Therefore, it is relevant for Ukraine to draw on the experience of these states in regulating the enforcement of decisions and monitoring the enforcement of decisions of the Constitutional Court of Ukraine.

It is worth noting that the legislation of Poland, Czech Republic, and Hungary also enshrines the rules that determine the decisions of constitutional justice bodies final and binding.

Since the decision of the body of constitutional justice is the result of the exercise of its powers, the realization of the functions of constitutional justice is possible only if its decisions are fulfilled. In this connection, the problematic aspects of the implementation of the functions of the constitutional justice body are to some extent related to the issue of the implementation of its decisions.

The issue of the essence of the body of constitutional justice in Ukraine was discussed above and it was established that it is a supreme body of state power with a special status. The research of the experience of the states of Eastern Europe (Moldova, Poland, Czech Republic, and Belarus) indicates that it is advisable in the national legislation regulating the activity of constitutional justice to improve the competence of the Constitutional Court of Ukraine and give it "active" powers.

The important value for the functioning of the mechanism of state power is the solution of conflict situations between public authorities. Based on the systematic analysis, it can be noted that such a function (indirectly) in the system of bodies of state power is vested with a body of constitutional justice - the Constitutional Court of Ukraine.

Analyzing the function of securing the principle of separation of powers (the arbitration function), it can be argued that it is inherent in all bodies of constitutional justice of European states. The manifestation of this function is one of the powers of the bodies of constitutional justice to settle competence disputes between public authorities and bodies of local self-government. Due to the finality of the decisions of the constitutional justice bodies aimed at resolving the conflict between the state authorities, it is possible to maintain a balance in the mechanism of checks and balances.

One of the problematic aspects of the work of constitutional justice bodies is the existence of gaps in law. In particular, the Constitutional Court of Ukraine, unlike similar bodies of individual states, is not empowered with special powers to assess the constitutionality of legal gaps. Nevertheless, in practice, the court not only notes the existence of a gap, but also applies measures to overcome or eliminate it. Based on the above, the function of detecting gaps in law should be considered one of the most important mechanisms for the functioning of public administration.

The body of constitutional justice most often identifies and eliminates identified gaps and conflicts of law. Due to the legal force of the decisions made by the bodies of constitutional justice, it manages to eliminate legal conflicts by abolishing certain norms. However, it is more difficult to understand the role of constitutional justice in closing the gaps in law. In particular, the decisions taken by the constitutional justice body have the characteristics of a normative legal act, but they cannot replace them by themselves.

The following approaches apply to addressing the constitutional justice gap in the various Eastern European countries. Thus, in the Law of the Republic of Belarus "On Constitutional Judicial Procedure" a separate chapter is devoted to the elimination of gaps in the normative-legal acts, eliminating conflicts and legal uncertainty.

In particular, in Chapter 24 of the mentioned normative act states that the grounds for initiating proceedings in the case of the elimination of gaps in the legal acts, the exclusion of collisions and legal uncertainty thereof have been sent to the Constitutional Court by appeals of state bodies, other organizations, as well as citizens, number of sole proprietors, containing information about the existence of gaps, conflicts and legal uncertainty in the regulatory legal acts. Proceedings in the case of elimination of gaps in the normative legal acts, elimination of conflicts in them and legal uncertainty may also be initiated by the Constitutional Court on its own initiative.

Discussion. Thus, the legislature provided the Constitutional Court of Belarus with the opportunity to take an active position and take initiative in the issues of elimination of gaps, conflicts and legal uncertainty.

Based on the results of the case, the Constitutional Court of Belarus makes a decision stating the existence of gaps, conflicts, legal uncertainty in the normative legal acts, as well as formulating a proposal to a specific state body, an official about the need to eliminate these acts according to their competence, gaps they have collisions and legal uncertainty.

Since the enforcement of decisions in Belarus is directly controlled by the body of constitutional justice, its activities to eliminate gaps, conflicts and legal uncertainty are quite effective.

The legislation of Moldova is regulated in a similar way. Thus, in Art. 79 of the Code of Constitutional Jurisdiction of Moldova states that in case of detection of gaps in the legislation related to the non-implementation of the provisions of the Constitution, the Constitutional Court shall send a submission to the appropriate body, which draws attention to the need to eliminate the identified gaps.

Conclusion. In summary, it is worth noting that the Constitutional Court of Ukraine faces a number of problems in the exercise of its powers. This is due to the fact that the mechanism of government is undergoing institutional formation and the search for an effective model of functioning. Most of the Eastern European states, like Ukraine, are new democracies, in which, unlike in Western European states, constitutional justice was not formed under deep democratic conditions. Thus, the practice of constitutional justice reflects the instability of socio-political processes, non-standard models of judicial behavior, and conflicts with the executive and legislative branches of power. As a consequence, quite controversial decisions emerge due to the complexity of national political processes or the excessive caution of judges. However, the experience of individual states shows that the body of constitutional justice is an effective element of the mechanism of state power.

In the course of the research, the priority directions of improvement of mechanisms of public administration in modern conditions are considered. As a result of the conducted research, it is proposed to consider the body of constitutional justice as an element of the mechanism of state power with significant influence on the system of bodies of state power.

Considering the need to improve the mechanisms of public administration, it is proposed to improve the current legislation of Ukraine in terms of empowering the Constitutional Court of Ukraine. The activity of the constitutional justice bodies in Ukraine and the individual states of Eastern Europe is analyzed and the common and distinctive features in the possibility of influencing the mechanisms of public administration through the lens of functional characteristics are determined. Some effective approaches to the organization of stable and efficient functioning of the mechanism of state power are proposed.

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THE CONCEPT OF INFORMATION SECURITY IN THE CONTEXT OF THE SCIENCE OF PUBLIC ADMINISTRATION

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Abstract. *The article summarizes the views of the Ukrainian scientists on the essence, content and functions of information security, gives the author's vision of this societal phenomenon. The aim of article is to reveal the ontological essence and components of the societal phenomenon "information policy" in the context of the science of public administration. The author used the methods of logical comparison, systematization and generalization, which made it possible to achieve the goal of the study. It is noted that the information space of the state as an integral part of the global information space of mankind is an important system-forming factor of the modern statehood and includes both broad opportunities for access to information, operation and use for their own purposes, and unprecedented opportunities and abuse, in principle new forms of crime, which raises the issue of information security of the state. It is concluded that information security in a globalized information society plays a key role in the further civilizational development of mankind, as modern information security means not only and not so much technical and technological measures to protect the information systems and networks, identify and eliminate various information threats, how much protection of the national information sovereignty of the state, information interests of the society and man, maintenance of the socio-political, spiritual-cultural, moral-ethical and other interests of the citizens functioning in the information space, stability of the state system and political system of the country.*

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

JEL Classification: C80, H55, H79, K24

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Introduction. The main characteristic of modernity is the deep penetration of information systems and information and communication technologies in all spheres of the human life, society, the state and the growing influence of the information society on the state of public relations and processes, especially the realization of personal, social and national interests. The information revolution, having just begun, has already led to the dependence of man on the computer and smartphone - at work, at leisure, in communication, education, learning about the world. Simultaneously with the wide possibilities of access to information, its use and use for their own purposes, previously unseen opportunities and its abuse have opened up, fundamentally new forms of crime, such as hacking, theft of confidential information, burglary of the banking system to steal funds, electronic industrial espionage, theft from networks of the public authorities of state secrets, telephone conversations of the first persons of the state, implementation by means of electronic networks of separatist, extremist and terrorist activity.

Thus, the information space of the state as an integral part of the global information space of mankind is an important system-forming factor of the modern state formation, regulation of the social and power relations, which comprehensively affects the state and development of defense, political, economic, social, spiritual, cultural and other components of the national security of the state, and therefore - the

growing importance and role of information security of man, society and the state as a central element of the national security.

Literature Review. This trend of civilizational progress is emphasized by the Ukrainian researchers M. Nikiforov, I. Pampukha and V. Loza, who emphasize that "today the information struggle is becoming one of the main forms of resolving conflicts between the states… No war can be won until victory is won on the information front. You can have or get state-of-the-art weapons, win a battle, but the final victory in the war without victory on the information front of the struggle for public consciousness is impossible to achieve" [7, p. 139]. The importance of information security in the modern world is emphasized by our compatriot A. Turchak, who believes that "the states that are unable to ensure their own information security, become uncompetitive and, as a result, lose the ability to fight for markets and resources" [12, p. 45]. To a greater or lesser extent, the issue of information security is raised by such Ukrainian scientists as M. Hnatko, O. Kyrychenko, I. Korzh, L. Kochubey, Ye. Manuilov, Yu. Kalynovsky, M. Nikiforov, O. Nishchymenko, O. Oliynyk, P. Snitsarenko, V. Toryanyk, A. Turchak, V. Furashev and others.

Aims. The aim of the article is to reveal the ontological essence and components of the societal phenomenon "information policy" in the context of the science of public administration.

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

Results. The existing contradictions between the states and civilizations in the world intensify their information confrontation to the point of information war, trying to destabilize all the processes of the social life of the opponent, undermine his state system, sow discord in the society by promoting and supporting the ideas of separatism, xenophobia, extremism, radical nationalism, religious fanaticism, etc. - all that undermines the national unity and threatens the true interests of the man, society and the state in general and in the information sphere in particular. Consequently, modern states make significant efforts to protect their national interests, especially in the information sphere. As O. Nishchymenko notes, "protecting its information interests, Ukraine must take care of its information security, the same is required for the strengthening of the Ukrainian statehood" [8, p. 17]. However, according to experts, due to very poorly defined mechanisms for protecting and defending the main information national interests of the state, the Doctrine of Information Security of Ukraine adopted in Ukraine looks like an empty declaration [1] rather than a strategic state document, which determines the activities of the public authorities and society in this area.

Along with the lack of mechanisms to protect our information interests, according to military experts P. Snitsarenko, Yu. Sarychev and V. Tkachenko "to date, the problem of developing the theoretical foundations of the information security of Ukraine remains unsolved, where the main obstacle should be considered underdevelopment, imperfection and inconsistency of the terminological base. This slows down the general process of creating a full-fledged theory of this subject area

and does not allow in today's dynamic conditions of the information processes to most rationally implement practical measures" [10, p. 62].

Thus, first of all, there is the task of determining the ontological essence and content of the societal phenomenon "information security". The absence in the scientific discourse of a generally accepted definition presupposes the existence of many quite different scientific points of view on this phenomenon. Thus, V. Toryanyk defines information security as "a state of security of the information space, which ensures the formation and development of this space in the interests of the individual, society and the state" [11, p. 153]; Ye. Manuilov and Yu. Kalynovsky - as the protection of the vital interests of the man and citizen, society and the state, which ensures sustainable development of the society, timely detection, prevention and neutralization of real and potential threats to the national interests in the fields of science and technology and innovation policy, cultural development of the population, ensuring freedom of speech and information security, protection of information, communication, information technologies in the event of negative tendencies to create potential or real threats to the national interests" [6, p. 15].

A. Turchak considers information security "as a state in which the vital personal, public and state interests are protected, losses caused by incompleteness, untimeliness and inaccuracy of information, negative information impact, negative consequences of the functioning of technologies in the information sphere, as well as unauthorized dissemination of data are minimized" [12, p. 46]. V. Furashev provides a comprehensive interpretation of information security as "a state of protection of the vital interests of the man, society and the state, which prevents harm through: negative information impact through, first of all, unauthorized creation, dissemination, use of incomplete, untimely, unreliable and biased information deliberately aimed at a specific purpose; negative consequences of the use of the information technology; unauthorized violation of the regime of access to information with its further dissemination and use" [13, p.164].

Summarizing the views of the Ukrainian scholars, we will try to provide an integrative definition of "information security" as a certain stable state of the society that provides reliable and maximum protection of the information needs and interests of the individuals, local communities, society and the state, the entire infrastructure of the national information space from the harmful effects of natural and man-made threats of a special information and communication type, aimed at undermining the legitimacy of the public administration and destabilizing the socio-political system, deformation of the socio-power relations, increasing the socio-political and psychological tensions in the society, inhibition of the social progress and civilizational development of the state.

Highlighting the national information space as a substantial basis for the concept of information security of the state and defining the man, territorial communities, society as a whole and the state, embodied by the public authorities as the main actors of the information space and information security, we can talk about the principles and functions of the information security. In relation to the information security as a relevant scientific theory and tasks of the public authorities in their activities to

ensure the information security of the state "principles of the information security are the starting point for the formation and functioning of the information security as a system-forming factor of all the components of the national security, norms and rules of conduct of the citizens, state and public institutions of Ukraine in this area" [9, p. 77].

If the principle is a rule that underlies the activities of a particular organization, the main objectives of such activities are defined as functions. In particular, I. Korzh notes that "the information activity of the state on the implementation of the relevant tasks mediates its information function, which has a complex nature. In the general information function of the state it is possible to allocate such its integral component as information and security function under which the direction and the party of activity of the state expressing its essence and social purpose concerning the maintenance of security of the state and storage of information related to the state security)" [4, p. 111].

O. Kyrychenko calls the following the main functions of the state in ensuring information security:

- adoption and implementation of state legislative regulations that create a regulatory framework for the information security of the state;
- formation of actions aimed at providing information resources; regulation of the processes of formation of information resources;
- development and implementation of the principles of the state information policy and regulation of the information security processes of the state;
- state registration of the information resources;
- creating conditions for safe and efficient use of the information resources;
- creation of conditions for normative-legal, material-technical, production-technological maintenance of the security and development of the information processes in Ukraine;
- providing the conditions necessary for the creation and promotion of the information technology, information infrastructure and efficient use of the information resources;
- implementation of state programs for the creation and development of the information society and the security of its functioning;
- creation of mechanisms to ensure the security of the information resources;
- state regulation in the field of information cooperation in the use of information resources within the state and in the international information space;
- formation and implementation of information and information and communication policy of the state, information and analytical support in the field of the information resources management;
- staffing in the field of the information resources management [3, p. 21].

In turn, the functions of any system, body, institution are detailed in the relevant functional tasks. Since the main subject of the information security of the state are the public authorities, so the main tasks to ensure information security of the state are entrusted to them. Such tasks in conditions of modern Ukraine are:

- legislative definition of the essence of the state information policy of Ukraine on the basis of a clear and correct conceptual apparatus and clarification of the directions of its implementation, the main of which should be ensuring the information security of the state (P. Snitsarenko, Yu. Sarychev and V. Tkachenko [10, p. 66]);

- development of a regulatory framework that would regulate the solution of all the tasks related to the information protection;

- creation of a system of structures that would be responsible for maintaining the information security and addressing issues related to information protection and automation;

- high-quality informing of people and free access to various information databases, with the possibility of controlling actions on non-dissemination of classified information;

- maintaining the society intact, protection from any negative information impact;

- organization of training of specialists in the relevant specialty (A. Turchak [12, p. 46]);

- balance of the state policy of the information security of Ukraine on the basis of the legal democratic state, development and realization of the corresponding national doctrines, strategies, concepts and programs according to the current legislation (O. Nishchymenko [8, p. 22]);

- consistency and continuity of the process of organizing the activities of the state in matters of information security, aimed at developing and implementing legal, organizational, technical and other measures in this area (L. Kochubey [5, p. 22]);

- subjectively, expediently, consciously, consistently and purposefully to influence the level of the national security of the state through appropriate tools, activity, activities to establish a high level of information national security of the state and increase it (M. Hnatko [2, p. 121]).

Conclusion. Summing up the results of the study of the ontological essence and components of the societal phenomenon of "information security", principles and functions of the information security of the state in the context of public administration science, we note that information security in a globalized information society plays a key role in the further civilizational development of mankind, as the problem of the modern information security means not only and not so much technical and technological measures to protect the information systems and networks, identify and eliminate various information threats, how much protection of the national information sovereignty of the state, information interests of the society and the man, maintenance of the socio-political, spiritual-cultural, moral-ethical and other interests of the citizens functioning in the information space, stability of the state system and political system of the country.

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CONCEPTUAL MODEL OF THE SYSTEM OF MODERN COMMUNICATIONS IN PUBLIC GOVERNANCE

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Abstract. *The academic paper considers the issues of substantiation of the application of mechanisms for the implementation of communications in the sphere of public administration and the development of practical recommendations to the authorities to improve their work in this area. The process of forming a communicative interaction mechanism as a consistent application of legal and organizational measures is based on fundamental principles, purposefulness and application of certain management methods aimed at meeting the information environment and communication needs of the community, the organization of effective functioning of the state. The possibility of improving the processes of formation of public (social) opinion has been considered, using the definition of its main components, which should be taken into account during the implementation of mechanisms of communication. The existing methods of using voluntary mutual communication between community members have been considered, which should be used during the operation of communication mechanisms in the sphere of public administration, namely: mailboxes, Internet access, using of frequently asked questions (FAQ). It has been recommended to pay attention to the following directions: strengthening openness and transparency of work; development and use of the latest mechanisms in interaction with community members and their public organizations; application of the newest methods of studying social and economic and political processes in work, the account and monitoring of opinions of various groups and layers of civil society; strengthening the responsibility of the authorities to the community through the introduction of various types of intersectoral social partnership in solving important problems for the community; achieving the required level of mutual trust, social understanding, integration and consolidation.*

Keywords: *state administration (governance), communication, communication (communicative) interaction, public (social) management, communication behavior, act of communication, communication process, communication partnership.*

JEL Classification: H70, M10, M14, M15

Formulas: 0; fig .: 1; tab .: 0; ref.: 15

Introduction. Application of various methods and forms of civil communication, free access of community members to information at all stages of decision-making and functioning of central and local authorities, participation of civil society institutions in the work of expert, advisory, consultative public councils on the expression and protection of civil rights and freedoms, public control, direct electronic access to public services, etc. are important factors in the implementation of democratic principles of state governance. After all, we are talking about a conscious focus on new values of individuals and groups, their specific participation in the democratic organization of life of the state and society. The main issue in this context is that the rational consensus of civil society and the state is the basis of

universal status and a strategic resource for the development of a democratic society. Thus, communication in the society, taking into account the components of democratization of state governance by bodies, acquires special significance not only for state authorities, but also for civil society institutions.

Literature review. The concept of "communication" is very often used in modern interpretation. Scientists have paid considerable attention to the study of this category, namely: Cooley C. (study of the theory of small groups in the society), Lazarsfeld P., Laswell G., McLuhan M. (study of the influence of electronic communication on the formation of the human and the society, in particular, the concept of global society), Noelle-Neumann E., Park R. (study of behavior in urban and other spheres of the society), Khabermas Yu. et al. (study of communicative interactions of the society as a basis in which rational arguments are put forward and rejected; study of communicative action, discourse and rationality); they have considered communicativeness as a system in which the process of mutual action takes place and the types of mutual communication are used, which make it possible to reproduce, transmit and receive information of various kinds [1]. A review of the scientific opinions of scholars shows that, despite the fact that the category of "communication" is the subject of research and use of a fairly large range of natural sciences and humanities, the issues concerning the functional specifics of communication and the democratic resource of systemic influence on the effectiveness of the interaction of state authorities and the public have not yet found a comprehensive solution in the science of state institutions' management [2, 6]. Furthermore, the problem of the impact of civil communication on the formation and further development of democratic governance in Ukraine, taking into account the experience and requirements of European standards of democratic principles of development, has not become a special object of research yet.

Numerous different approaches, practical solutions and technical methods of accomplishment are used in the implementation of management measures, which make it possible to streamline, unilaterally direct and more effectively ensure the organization of the tasks facing the stages, functional actions, operations and procedures required to identify and make an effective decision [9]. Their accumulation constitutes tools and techniques of management, justifying the chosen methods of carrying out management activities and are used in determining, setting and achieving the expected goal. There are three basic models of the decision-making process in the practice of management theory, namely: the classical model; behavioral model and irrational model [1, 12].

The use of modern information technologies and technological results of development of mass media sphere in the field of information terrorism is an interesting, still insufficiently researched direction of application of communicative information systems in the public information environment. Using the mass media tools, it is possible to gain powerful levers of influence on consciousness, which through manipulative technologies, neurolinguistic programming methods and other means of information influence become important enough to cause destabilization in a society, inflame fears and panic and, as a result, get a real opportunity to impose

their demands. However, this kind of information is openly lopsided and achieves its goal not due to the quality of manipulative influence, but due to its volume.

If the objects of such influence successfully achieve the necessary emotional and psychological state, it becomes quite possible to use artificially created "public opinion" to put pressure on the government in order to force the latter to make inadequate management decisions. This, in turn, directly affects the security situation, the state of the economy and the social sphere.

Aims. The purpose of the study was a theoretical and methodological consideration of civil communications in terms of strategic resources for further democratization of state governance and specification of proposals for the application of the results obtained in the functioning of public administration. Investigation of the peculiarities of the state governance's influence on the process of public administration provides the widespread use and application of various democratic forms and methods of government, namely: free access of citizens to information in the process of making managerial decisions and actions, participation of civil society institutions in the work of expert, advisory, consultative public councils on the protection of the rights and freedoms of citizens; civil control; direct electronic receipt of public services, etc.

Methods. Methods of logical comparison, systematization and generalization were used, which made it possible to achieve the research goal. The research methods used in the process of writing the academic paper involved the application of general scientific and empirical techniques of economics, based on a systematic approach. Methods of critical analysis of published research results in the field of construction of modern communications in state administration in modern systems of public authorities have been also used; logical comparison of the results obtained has been carried out, as well as systematization and generalization, which allowed to achieve the goal of the study. In addition, general research methods such as generalization and comparison have been used in the working process.

Results. Analysis of numerous conceptual definitions of the term "communication" in the vast majority of cases centers around considering them according to various features. Basically, there are three conceptual-typical groups existing in scientific concepts, namely [2]: communication as a connection between objects; communication as an analogue of communication; communication as an analogue of influence. The main features, characterizing an effective communication process are as follows: the presence of a goal aimed at obtaining the desired result; continuity, that is, the permanence of the communication process; communication always objectively possesses the properties of relativity - talking about ideal communication relations is possible only from the standpoint of theory; communication is based on certain normative and cultural codes; in communication, the so-called feedback is important - the presence (or absence) of a reaction to the message [3].

The real conditions in which the world exists, provided with innovative channels of public communication, lead to changes in the general basic principles and principles of organizing life, activity and coexistence in the society, to

transformational changes in the behavior of the individual. This is due to the introduction, development and use of new modern technologies and communication practices through the acquisition of a new, uninvestigated environment of public communication, which has the features and means of carrying out specific activities there. Currently, powerful communication processes occur mainly in the electronic network Internet. This, in turn, requires the individual user to study "the latest" systems of knowledge, norms, values and patterns of behavior, as well as the ability to naturally and effortlessly implement them in today's communicative environment.

This environment, surrounding the individual user, needs to replenish the basic information arrays of general public importance and social databases, all components of the structure of the environment with updated resources. Such communications act as tools for meeting the information needs of the entire system of public use of local information resources and resources of global information support of this space, providing conditions for proper access to information to all categories of users among the community. At the same time, providing opportunities for independent creation of information arrays, self-expression in the information environment of the field of activity for all citizens during the entire process of establishing democratic foundations in the society [4, с. 57].

The functioning of the mechanism of interaction of communications in the field of public administration should be analyzed as a consistent implementation of a systemic complex of legal actions for organizing activities, based on generally accepted foundations and principles, with the application of target orientation and the use of specific management methods and techniques focused on meeting the information requirements and needs of the population in communications and, as a result, the organization of government authorities (Figure 1). The purpose of this interaction is to meet the information requirements and communication needs of the subjects of communication interaction in the sphere of public administration and management.

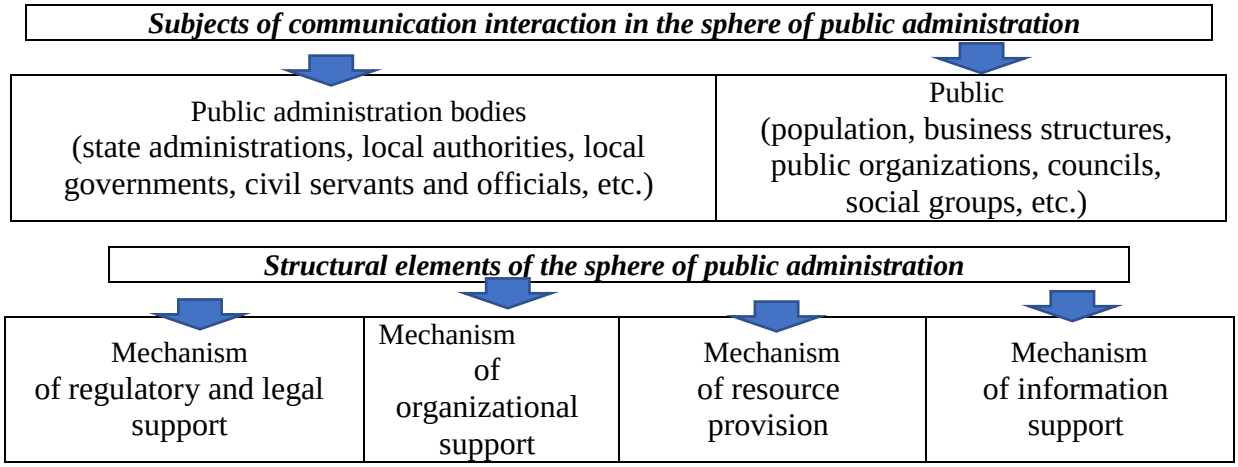

Figure 1. Generalized structural model of communication interaction in the sphere of public administration

The principles of introduction of communication interaction in the sphere of public administration are as follows: guarantee of the right to receive information; truthfulness, ensuring access to sources of information and its free dissemination; objectivity, information reliability; accuracy and completeness; legislative confirmation of the legality of receipt, use, transmission and storage. The result should be an improvement in the efficiency of state authorities in the sphere of public administration by optimizing communication between the state and the public.

Intrinsically, regardless of the peculiarities of power in a particular chosen state, the opinion of the vast majority of citizens - members of the society, and equally regardless of the identified expression of the collective's opinion, there is a conscious obligation of the authorities to take this opinion into account, as the authorities will not be able to govern the public. Forasmuch as the power is a process mechanism of rationally organized management of processes in the society, aimed at meeting the needs, requirements and interests of the majority in civil society, it is obvious that government institutions are designed to fully adequately and timely respond to innovation, taking into account in its own management strategy the latest trends in the system of expectations and values reflected in the minds of the community and, of course, in the behavior of community members. Within the conditions when the real influence of community opinion on the policy of government institutions is recognized, a natural, legitimate issue arises about its possible using to achieve the political and ideological goals set by the government.

Competent and concerned use of communication interaction gives the chance not only to keep accurately directed influence on management of the leading main subjects over the public. This is often an additional opportunity to consciously choose the most acceptable mechanisms and ways within a long political process and its transformation. It, in turn, is connected to a greater extent with the formation of stable and active institutions of civil democratic society and the law-governed state. However, the positive completion of this process is impossible without a constant constructive dialogue between the society and the government.

Subjects (carriers) of public (social) opinion, in general, are steady in terms of stability of the community of citizens, which is characterized by a certain opinion, whose interests it reflects, from the position of which it evaluates a phenomenon of social reality, determines the attitude to it. At the same time, the manifestations of public opinion can be inherent in any association of people, organizations, the media and even individuals.

Therefore, in our opinion, it is of interest to study the process of formation of public (social) opinion through the introduction of mechanisms of communication in the sphere of public administration.

"The Code of Best Practices for Public Participation in the Decision-Making Process" declared by the Council of Europe states that public authorities should be characterized by absolute transparency at absolutely every stage of development and implementation of policy decisions together with public organizational structures [5, 6]. It is this approach today can guarantee the establishment of constructive relations

between state authorities and the public in such basic forms of communicative interaction as [7, p. 24]:

- information (open access to objective and timely information);
- real-time consultations in order to identify public opinion and develop appropriate proposals;
- dialogue through hearings, community forums and other public forms with interested participants of state-public interaction;
- partnership, which is implemented through specially created groups of experts who provide consultations on relevant issues of public interest.

Public opinion has its own structural and operational features. It can be considered:

a) as features of the process of its expression (language, communication and joint management);

b) as a fully formed result of the communication process - a set of words, framed in accessible and understandable language constructions (expression of judgment), as well as quantitative and qualitative characteristics, confirming the degree of support for such opinions and judgments by the community.

The formation of public opinion occurs alternately in the following stages: analysis of a set of source material for the formation of beliefs, mood, assessment of importance, interests, education and knowledge, imaginary and real image of a person who can be a carrier of public opinion (I); assessment of the activities of the subjects of public opinion formation, leaders of public opinion among various segments and strata of the population (II); use of qualified structures (organizations) and other tools of formation, responsible for the formation of public opinion through the use of information and communication techniques, technologies and media sources (III); introduction of technologies in order to identify public opinion, in particular, the use of questionnaires, polls, interviews; focusing public attention on the research object (IV); integration of formulas of public opinion (judgment, which is specifically expressed) in consciousness as an element of technology of consciousness formation (V); final reinforcement of a certain form of public opinion in the form of a statement of opinion, presentation of facts, coverage of expert opinion, demonstration of entities that support this opinion (VI).

At the same time, among the requirements for communication interaction, it is mandatory to take into account the specific features of the communication area, namely: the structure of production branches, territorial directions of priority development, provision of resources, infrastructural specifics of the economy and the possibility of providing conditions for its development, regional demographic, migratory features, etc. Thus, communicative interaction is considered as a complex system of methodologically consistent, provided with methodological and organizational and technical procedures in the framework of the individual components of social mechanisms, interconnected by one goal: obtaining reliable data on the phenomenon (process), which is investigated for the possibility of their use in the future to improve the effectiveness of communication between the government and civil society institutions. Therefore, we believe that the interaction

of public communications is closely related to the concept of "communication practice", because mutual communication takes place only during the last.

Changes in the daily communicative practice of today's person, our contemporary, are characterized by numerous contradictions. Free access to a huge array of information data expands the potential for creative search and individual development. Global communication networks catalyze the formation of contacts between persons and individuals. However, habitual connections are gradually lost or broken, the number of direct human interactions with other members of the community decreases, the volume of nameless (anonymous) communication often increases, official communication is typically performed via telecommunications and electronic technologies, in the process of which a person seems to lose gender, age, voice, national and other important features of the social individual. As a result, the skills of traditional communication are lost, which require the individual to work on themselves, attention, mental effort, tolerance, understanding, etc. As a result of the rapid spread of new technologies at the present stage of civilization, the Internet and the Internet community have become a common and integral part of everyday life. Cyberspace is a continuation of real everyday life, complemented by new and updated features, various additional or ancillary services, characterized by accessibility, speed, simplicity and ease of use, and the possibilities of virtual communication in these conditions are almost limitless [8].

The concept of communicative rationality is used as a basis in the methodological approach to solving the vast majority of current and at the same time global international issues. The concept of communicative rationality is considered to be a theoretical construction, the basic purpose of which is to develop theoretical knowledge and practical skills based on the characteristics of rationality, mutual coherence (consensus) and understanding. Within the concept, communication is interpreted in a new way - not only as a means of spreading and disseminating information, but also as a way of communication and interaction of people in the social sphere through productive, constructive dialogue [9].

Currently, the efficiency and quality of management centers around ensuring the openness and transparency of the system of public authority, in the proper regulatory and legal consolidation of communication interaction of all subjects involved. Communication interaction as a universal management and control system aims to achieve management goals through social, communication, governance management of the audience, and along with receiving specific answers from such an audience through verbal, ideological and (or) executive reactions.

Communicative relations between the society and the government contribute to the formation of a constructive dialogue on a permanent basis, which aims to legitimately ensure the existing order and ensure its stability. The communicative policy of the state has been developing for a long time according to outdated norms since gaining the status of independence. Direct contact between the state authority and the citizen took place under the conditions of informing about the decision taken. The authorities were not very interested in the feedback from the society. The gradual development of democratic values and social transformations with the

transition of public authorities to the principles of openness, transparency and accountability have catalyzed the transformation in the system of relations between the government and the public. The direction of implementation of European norms, declared by the state authorities, envisages the transformation of the sphere of relations between the state and the society, connected with the establishment of public relations, public dialogue, partnerships between state authorities and public citizenship.

Modern technologies of information communication in modern conditions become a significant attribute in the activities of government agencies; they perform a number of important functions. The use of these technologies in the process of building relationships with civil society institutions and the public is of particular importance for the current stage of development of the society. However, provided they are applied on the basis of approaches, the so-called "new public service", and the provisions of the theory of political networks, which are the most consistent with the requirements of modernity. These technologies contribute to an increase in the authority and trust towards the authorities, the growth of civil society activity, the reasonability of the managerial decisions taken, an increase in the effectiveness of the adopted social-economic decisions, and as a consequence, a qualitative increase in the standard of living of the society members. Simultaneously, the increase of efficiency and achieved effectiveness in the activity of power structures can be achieved due to more active involvement of community structures in the implementation of the set goals, chosen strategies, and, as a consequence, the solution of state administration issues.

Along with the issues of partnership, there are many parallel and similar methods for assessing and modeling the relations of public administration authorities with a significant number of other subjects of the current government. Thus, there is an obvious feature that implies participation of all members of society in the work of state governing bodies, the involvement of possible performers in the development of decisions that are significant for the society. However, the partnership does not rule out the need for the existence of its own authority in a particular area and professional activities in its management. Moreover, the coordination of self-government with possible external influence is invariably important, because the conscious and reasonable position of the subjects of government, according to sociological grounds, is in the process of permanent internalization and, optimally, should be consistent with the laws of sustainable development of the society as a whole [10].

Such a partnership helps structured social networks with subjects of the communication process of different ownership and belonging work in a designated direction; it equalizes for each of the participants the degree and possibility of using common, that is, significant resources to protect the informal system of possible "allies" and like-minded people. Such a scheme is mutually beneficial and suitable in a competitive market, and should have its own adaptive means and resources for the sphere of administrative and political relations and communications. It should be noted that, under certain circumstances, they are formed, undergo differentiation;

thus, they acquire their own specificity in one or another sector of contacts of new communications. In particular, such long-known form, which is identified by the term "social partnership", has received additional features. This term is used in the vast majority of such cases, if the need is to denote the constructive interaction of several sectors of the modern civil society (in our example - three): the government, the business community and the sector of non-governmental society. Participants of each of these parties have, according to the law of equal opportunities, resource opportunities for decision-making and corporate participation in creation of a construction of the society. The long lasting stratification of the civil society, inertia in the processes of reforming the social and communication sphere are the main consequences of the lack of mutual understanding and mutually beneficial cooperation for the parties in the existing sectors [11].

The functioning of constructive belonging in the interaction of the above-mentioned three structures of the public community is hindered by the predominant influence of the factor of personal interest over the factors of community interests, which leads to the destruction of communication links, frustration and distrust in the prospects of change for the better and the situation itself, and the existing communication relationship. Insufficient or inadequate awareness of the structural components of one sector about potential opportunities and problems of others, in the vast majority of cases causes a decrease in the resources of national development. An increase in the effectiveness of partnership is hampered by the closed nature of decision-making mechanisms and the distribution of available resources in the sectors of state institutions, the selfish nature of entrepreneurial activity, infantilism and often lack of professionalism in the activities of public institutions and the civil society in general.

The strategic goal in the formation of mechanisms for the implementation of communication projects in building mutual relations with communities of citizens centers around achieving equality of the parties in partnership with the public, doing business in order to maximize the aspirations and interests of all partners and participants.

Communications in the process of functioning of public authorities play a very important and significant role in making management decisions, which, in turn, have an impact on the level and quality of life of citizens. The degree of effectiveness of such decisions will depend on many factors, including the understanding of the reasons and the level of approval and support of the public community of the chosen methods that will be used in solving specific problems or tasks. The implementation of any development projects and programs is problematic if there is no clear understanding of the end results of the decision, as well as whether the balance of interests of all interested parties is met. That is why currently the opinion of citizens is an important tool for influencing the activities of government and determining the vector of development of a country that positions itself as a legal and democratic one.

The analysis of communication interaction as a functional means of building communication space in the sphere of public administration gives grounds to

emphasize that the communication space of relations between individuals of the community becomes a complex structure, which is characterized by various connections. It is characterized by the following properties and features that generally characterize the system, namely: the integrity of space (a measure of communication equilibrium), structure, volume, degree of intensity and complexity of the relationship of the components), autonomy, that is, homogeneity in terms of functions of the constituent components of the structure (placement of each constituent component in the overall system of the communication process, the number of possible options for application, suitable for use by the subjects of communication in the choice of the necessary methods and means of transmission of information appeals, and ultimately to achieve the goal of mutual communication). In the communication space, the volume, forms and types of information are always necessarily subjectively perceived and have varying degrees of subjective relevance, forasmuch as each participant in the communication process explanates the interpretation of the message of a particular communicator, joins in a dialogue with him on the basis of his own communication knowledge and skills, as well as understanding and perception of the situation of a particular communication.

The development of modern society requires the creation of new forms of cooperation and mutual understanding; respectively, it requires new forms of communication, which will be characterized by even greater efficiency, openness, transparency, effectiveness and quality. The presence of these features can provide a type of communication, the participants of which are equal and active, able not just to establish communication channels, which allow transfering information quickly in both directions, and to create an effective communication platform for resultative and mutually beneficial communication of the subjects involved in communication process.

Experts assess the information openness of public authorities as insufficient, and the practice of partnership and dialogue between the government and civil sectors is significantly limited nowadays [12, p. 46]. Therefore, within the modern conditions, the formation of civil society requires the introduction of new forms and methods of interaction between the state and its citizens, improving existing technologies, increasing the transparency of all activities of state institutions.

According to most modern researchers' viewpoints, the degree of efficiency of the public administration system depends on the optimization of communicative interaction between state authorities, the public and self-governing structures (institutions of local self-government). This becomes possible due to the construction of not only an effective communication policy, but also a single communicative space, which is implemented on the basis of the principle of partnership, the implementation of which assumes full public confidence in state authorities. When reporting to the public, the state authorities should be held accountable for their actions and decisions. This form of interaction is one of the effective tools of collective governance, which, in turn, ensures the strengthening of democracy, because new forms of communication between the state and the society create the

preconditions for the development of civil society institutions and organizations, promote democratization [13, p. 94].

Formation of a new paradigm of state governance is possible through the prism of communicative management, because this concept is aimed at the most effective solution of issues at the state level. The new paradigm of state administration involves the implementation of research at three levels, namely: a description of the features and properties of state governance, systematization of cognitive approaches, the basic applied areas and their concentration. Communication management is based on the essence, content and forms of feedback [14].

The object of communicative management is a set of information flows, and the subject - the search for the best ways to manage these flows, which creates a favorable environment for governance. The condition for establishing the communicative partnership, bilateral dialogue between the government and the public is the organizational and legal capacity of civil society institutions to articulate social interests, their promotion and protection, and the success of such a dialogue depends on the joint actions of state authorities and associations of citizens and their willingness to cooperate, as state associations have a real impact on public policy, embodying the full range of opinions generated in civil society. The influence of civil society on the decision-making process is carried not only at the national level, but also at the global and international level, as international institutions are also involved in the dialogue [5].

Discussion. According to the results of the study of structural features, functions and models of communication interaction in the field of state administration, it has been revealed that communicative interaction in the context of government declares a number of internal and external functional features, which in aggregate often reflect the specific properties of such a subsystem, its response to changes in the internal state and the external environment and are mutually correlated with the systemic functions of state governance. The generally accepted model of formation of communication interaction contains target (requirements for competitiveness in activity), meaningful (informational, activity emotional and perceptual) components. In terms of content, the basic basis of the described model includes three levels (stages) of public joint activities that arise during the communication process, namely: subject as a product for another participant (it has nothing in common in the nature of activity and existence); joint communication (in the form of interaction, cooperation, which is based on the basics of personal, mutual and joint responsibility between its participants); joint activity (collective activity, conscious public).

Based on the analysis of communicative interaction as a functional means of building a communicative space in the field of public administration, it has been found that the communicative area of relations between individuals is a complex formation, which is characterized by various connections. It is characterized by the following system characteristics: complete integrity (the measure that characterizes the communicative balance), structure (the volume and the intensity, the complexity of the relationships between system components), autonomy or functional

homogeneity of the structure components (the location of each of the components in the system of the communication process, the variable number that can be used and applied by the subjects of communication in choosing ways and means of transmitting and disseminating information to achieve the goal of communication).

The study of the role and importance of communication dialogue in public administration and its structural elements gives grounds to argue that the mechanism of dialogue between state authorities and civil society is an important factor in creating a democratic state; it ensures significant effectiveness of management decisions, their appropriate perception by community members and the formation of a system of law in the society based on the value definition of human and civil rights and freedoms, protection of their legitimate interests.

In particular, it should be emphasized that the mechanism for optimizing interaction in communications in the field of public administration determines that activities, based on partnership, are an important factor that can significantly stimulate the development of social and economic spheres of the state, as well as cultural values and the attractiveness of the territory in the eyes of investors and residents. The result of establishing a communication policy is the formation of an integrated community in the society, the development of civil society, the introduction of a positive image of local authorities, based on trust and responsibility to the community.

Conclusion. In the course of studying the mechanisms of communicative influence of public opinion on the optimization of communicative interaction in the sphere of state administration, it has been found that the formation and development of communication relations in the field of public administration as a process is complex and multifaceted, which aims to ensure: constant informative service of the system and activity of public power in the state; arrangement and establishing communication with "clients within the management system" - civil servants (that is, officials) of state administration; communication interaction with "clients outside the system" - citizens (community, population and structures of civil society institutions). Communication interaction is an important prerequisite for the effective development of a democratic society based on constant dialogue. Only ordered, properly established communication interaction will make it possible to fulfill the whole range of tasks of the state's communication policy. The state should make every effort as soon as possible to provide every possible assistance and create the necessary, technical, organizational, legal and other conditions, taking into account the economy, for the implementation of a two-way full symmetrical exchange of appropriate information between the authorities and citizens in the implementation of the constitutional right of the latter to truthfulness and publicity. In this context, we consider it advisable to use innovative communication forms and technologies, the installation and adjustment of mutual relations in the society with the public, the proper development of public relations in compliance with the general communication policy on the part of the state, aiming to establish or restore public confidence in state authorities, to promote effective and productive interaction with all segments of the population.

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PROBLEMS OF CUSTOMS CONTROL IN THE CONTEXT OF EUROPEAN INTEGRATION OF UKRAINE

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Abstract*. In the article is considered customs control, as minimizing instrument of negative tendencies and phenomena that occur during crossing the border. That's why the relevance of the study is stressed by the important factor in ensuring the rule of law on the customs border of Ukraine with the neighbouring countries. The official beginning of cooperation between Ukraine and the European Union was international legal relations, founded in 1991 by the Minister of Foreign Affairs of the Netherlands, which officially recognized the independence of the Ukrainian State. ustoms control, in our opinion, represents set of funds, actions, events and operations of specialized power bodies which are allocated for preventing offenses in the sphere of crossing of goods and vehicles through Customs Border of the State, and to prevent emergence of undesirable consequences, caused by non-compliance with the Customs Legislation. Customs control is part of the general system of implementation of control actions, the important is understand the essence of control which is considered in article as comparison of planned indicators of functioning of object with real indicators of its activity and the acceptance on this bases relevant management decisions in order to provide realization of the purpose and tasks of control actions set in the direction of achievement of the corresponding results. In the direction of realization of European integration aspirations of Ukraine our state needs to strengthen customs control in order to ensure the protectionist policy of the Ukrainian State and the conformity of customs operations with common European values and common practice of customs legal relations in the European Union. It is necessary to ensure compliance with Legislation in all spheres of implementation of customs policy and to strengthen the responsibility of officials of customs authorities of Ukraine for non-compliance with or malicious violation of Customs Legislation.*

Keywords: *control, customs control, customs system, customs control bodies, control procedures.*

JEL Classification: E30, F17, F18, F19, H20, K34

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Introduction. Historiography of the development of customs control in the context of the development of relations between Ukraine and the European Union is substantiated. It is argued that customs control occupies an important place in the system of types of control, taking into account implementation of a number of inspections related to crossing the customs border of the state by goods. The signs of customs control are defined based on international practice and modern realities of development of the Ukrainian state.

In current conditions of development of the Ukrainian society, customs is of particular importance in the context of the need to expand foreign economic relations, to align them with world standards and to realize the European integration aspirations of the Ukrainian state. Customs control plays an important role in shaping the country's customs system. System of relations in the field of customs control is

intended to ensure and guarantee economic security and national interests of the Ukrainian state.

However, instability of socio-economic development of the state is the cause of considerable abuse in the field of crossing by goods and vehicles of the customs border of the state. This implies the need to take harsh measures to fight against abuses and offenses at the customs border. Customs control is a tool designed to minimize negative trends and phenomena, as well as their consequences in this field. Therefore, a clear understanding of essence and features of customs control is an important factor in ensuring the rule of law and order at the customs border of Ukraine.

Literature review. At present, a considerable number of scientists study the specific features of customs control, considering this multidimensional issue from different perspectives. In particular, it is worth to mention such scientists as I. Berezhnyuk, M. Bilukha, Y. Hupanova, A. Yershov, T. Kalinescu, A. Krysovatyi, V. Martyniuk, T. Mykytenko, V. Naumenko, P. Pashko and others.

Their works are dedicated to the general problems of organization of customs control, administration of customs activity in Ukraine and to the role of customs in the system of state administration bodies. However, dynamic changes in Ukrainian society determine the need for a deep and unified understanding of the essence of customs control in line with current realities, which necessitates further scientific research in this direction.

Aims. The purpose of the article is to analyze approaches to understanding of the essence of the concept of control and its important component – customs control, as well as to reveal signs and specific features of customs control in modern conditions.

Methods. The main research methods used in the article are the method of abstraction, analysis and synthesis, comparison. Based on these methods, the goal set in the article was achieved.

Results. In order to understand the essence of customs control and its specific features better and more deeply, first of all we shall consider what is control in its original sense. This concept has long-standing roots, because it was formed and developed along with development of social relations. It is based on the French word "controle", which means "juxtaposition".

In modern scientific literature, "control" is interpreted as a multifaceted concept. It is considered from the standpoint of systematic observation and verification of vital activity of particular object in order to determine its deviations from the parameters defined in advance. Specific feature of control in this case is determined by the fact that administrative bodies check the compliance of the object with the tasks and instructions set before it.

Scientists consider the concept of control in the context of comparing (juxtaposition or contraposition) several statements [1] or as a counteraction to something undesirable [2].

International legal framework for cooperation between Ukraine and the European Union dates back to 1991, when the Dutch Foreign Minister, who presided

at the time in the European Union, formally recognized the independence of the Ukrainian state. Since then, the Ukrainian party has been able to claim objective and mutually beneficial cooperation with European Union countries, being a full member of such relations.

Strategic plans for development of customs in the European Union and aspirants for membership (in particular Ukraine) defined by the integration processes are outlined in the EU Customs Prototypes by defining certain standards. These are a comprehensive and stable system of customs legislation; a mechanism for customs cooperation with national and international law enforcement agencies; introduction of the latest information technologies at customs; simplification of customs procedures; customs risk identification mechanism; effectiveness of customs audit and post-audit as of forms of customs control.

Obviously, the common border between Ukraine and the EU mean that the parties should establish relations in the field of cross-border cooperation, settlement of border relations, development of customs policy, which would be able to ensure effective contacts between the parties. Customs policy is based on a legal framework that is aimed to resolve issues related to the imposition of duties, crossing the customs border by the goods, development of customs tariffs and cooperation in customs regulation.

Control itself, as stated in Lima Declaration on the Principles of Financial Control, "is not an end in itself, but rather an integral part of the regulatory system, which seeks to identify deviations from accepted standards and violations of the principles of legality, efficiency and economy of material resources at the most early stage in order to be able to take corrective actions and, in some cases, to prosecute, obtain compensation for damage caused to the State, or to take measures for prevention or reduction of future violations"[3].

The Customs Service of Ukraine is an important element in the system of the state administration the important element. It is designed to implement the customs policy of the State and to carry out the customs activity in the context of globalization processes. The Customs Service affects public, economic, political and other spheres of human life in the country, so its role cannot be overestimated.

Legal, economical and organizational basics of Customs activity are defined in the Constitution and laws of Ukraine, the Normative Acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, the Acts of the State Customs Service and other central executive bodies. The Customs Service is primarily called upon to carry out its integrity function in the sphere of ensuring the integrity and inviolability of the borders of the Ukrainian State. This is stated in the legislation of Ukraine, in particular in the Basic Law. Thus, the Constitution of Ukraine states in the Article 2 that "the sovereignty of Ukraine extends to its entire territory, which is within the existing border, is holistic and inviolable". In the Article 17 Part 1 is said, that "protection of the sovereignty and territorial integrity of Ukraine, ensuring its economic and information security are the most important functions of the State, the entire Ukrainian people" [4]. Exactly these functions are giving to the Customs Service.

Among the legislative acts in the field of customs activity, the special place belongs to the Customs Code of Ukraine, which is making the basic of Customs Legislation of Ukraine. According to its character it is the complex Legislation Act, which is regulating different relations, which are subject of regulating of administrative, civil, criminal and international law. The Customs Code of Ukraine defines: "Customs Policy is the system of principles and directions of activity of the State in the field of ensuring its economic interests and security through customs-tariff and non-tariff measures of regulation of foreign trade" [5]. Customs Policy is implemented by customs authorities and implemented in the context of realization by the Customs Service.

The important aspect of the Customs Policy implementation is regulation of foreign economic activity. Foreign economic activity is the activity of domestic and foreign economic entities based on the relations between them, which take place both on the territory of Ukraine and abroad [6]. The establishment of foreign economic activity is one of the tasks of economic policy and national security of each country.

In the current conditions of economic development of Ukraine and expansion of foreign economic relations, Customs Legislation is of particular importance. It defines the principles of organization of customs affairs in Ukraine with the view to, on the one hand, creating favorable conditions for the development of the economy and foreign economic relations, and, on the other hand, protecting and ensuring the constitutional rights and freedoms of citizens, the State, business entities of all forms of ownership and respecting the rules established in this important area of the legal regulation.

Thus, the Customs Policy is based on realization of norms of Customs Legislation, which is designed to solve the most important tasks:

- providing the organization and functioning of unified, coherent, stable Customs System, strengthening the legal mechanisms for the interaction of all its elements;
- defining of the general principles of regulating of the Customs Relations;
- protection of economic interests of Ukraine;
- providing compliance with obligations arising from international treaties of Ukraine concerning customs actions;
- establishment of legal norms ensuring protection of consumer interests and compliance of participants of foreign economic relations with state interests on the foreign market;
- creation conditions for effective fight with smuggling and violations of Customs Regulations, control of foreign exchange transactions;
- improvement of the level of organizational and legal guarantees of subjects of customs relations, improvement of the system of their responsibility.

On the basis of this enumeration and today's realities, it can be concluded that not all legislative provisions are implemented in the Ukrainian society in practice. In particular, this is related to the creation of conditions for fight with smuggling and abuse in the sphere of foreign currency exchange transactions. In order to overcome the negative phenomena that occur in the area of illegal crossing of Ukraine's borders,

the political will of the State authorities and the enforcement of Ukrainian and international legislation are needed.

It is worth paying attention to such a moment. In the context of Ukraine 's desire to become a member of the European Union, efforts should be directed to overcome negative trends that exist in the field of Customs Policy, the functioning of customs authorities and the strengthening of customs control at the borders between Ukraine and European States. After all, the situation that currently reigns on the border with Poland, Romania, Hungary gives no reason to talk about transparency and openness of Customs Policy from the Ukrainian side of relations of subjects of European integration interaction.

In the direction of realization of European integration aspirations, our State needs to strengthen customs control in order to ensure the protectionist policy of the Ukrainian State and the conformity of customs operations with common European values and common practice of Customs Legal Relations in the European Union. It is necessary to ensure compliance with the Legislation in all spheres of implementation of Customs Policy and to strengthen the responsibility of officials of customs authorities of Ukraine for non-compliance with or malicious violation of Customs Legislation. In general, the effective implementation of Customs Policy is prerequisite for the harmonious development of Ukraine in modern society and is the basis for the sustainable political, economic and social development of the State.

Researchers I.K. Thrush and V.O. Shevchuk interpret control as a type of relations, as an entity's attitude to its own activity or to that of other entities in terms of compliance with certain norms. In their view, control as a type of activity is an action, the content of which in comparing several values that characterize the norms and the degree of their attainment. Introduction of controls is an integral part of administration of public financial resources, ensuring the responsible and accountable nature of this administration [7].

In scientific literature, the term “control” can be considered in two ways: as an element of management of economic entities and processes, which is to monitor them in order to check their compliance with the condition, envisaged by law, legal regulations and programs, plans, contracts, projects, agreements; and as control over the entity, real power, concentration of administrative rights in the single pair of hands [8].

Control is often an element of control and audit activity, according to which the researchers substantiate the concept of control, which reduces its essence to checking the compliance with legislation and detection of violations, defects [9-10].

Therefore, it we can argue, that control itself is not passive, but rather plays an active role in efficient use of resources and reduction of adverse effects from irrational actions of the entity under administration. Accordingly, E. Kocherin believes that control, being one of the main functions of administration, enables, through well-established control activities, timely implementation of the management system, adjustent of production tasks, improvement of reporting and so on. Effective management of the system requires feedback, which is implemented through control, is its core and extends to all production management processes [11].

Summarizing the presented approaches to understanding the essence of the concept of "control", we can conclude that it does not have an unambiguous interpretation – different researchers evaluate it from different positions, and often they have significant contradictions. This situation is largely explained by the fact that the state lacks a single regulatory interpretation of this definition, and because of this, it is not possible to represent the unambiguous definition of control.

Considering the focus of control as an audit activity, it can, in our view, be considered as a comparison of planned indicators of the entity's activity with the real ones, and taking, on this basis, appropriate administrative decisions in order to ensure the achievement of goals and objectives of the control actions, set for achieving appropriate results. On this basis, the control will allow to influence the entities under control and to detect quantitative and qualitative deviations from the standards and rules that correspond to the most optimal operation of the entity.

Customs control is an important part of the system of controls, since its implementation involves a number of verification actions related to the crossing of customs border of the state by goods. It acts as the content of customs procedures; it is carried out exclusively by the customs authorities; and, together with customs clearance, payment of customs duties and procedure for performing customs operations, constitutes the totality of components of the customs system of Ukraine.

Customs control has normative regulation: Customs Code states that it is "a set of measures taken to ensure compliance with the rules of the Customs Code of Ukraine, laws and other legal acts on matters of state customs and international treaties of Ukraine, concluded in accordance with the procedure established by law. All goods, commercial vehicles that move across the customs border of Ukraine are subject to customs control" [12].

Kyoto Convention defines the concept of customs control as "a set of measures taken by the customs service to ensure compliance with customs legislation" [13].

The modernized European Union Customs Code of 2008, under the "control of the customs authorities" understands "special actions taken to enforce customs and other rules applicable to goods, namely: inspection of goods, checking the availability and correctness of documents, checking accounts and other records, inspecting vehicles, luggage and personal belongings, filing official inquiries, etc.". The term "supervision of the customs authorities" is also used; it is defined as "the totality of actions of the customs authorities, which are carried out to ensure the implementation of customs and other rules applicable to goods" [14].

Along with the normative definition, in the scientific literature there are many approaches to understanding of this concept. Thus, V.P. Martyniuk considers customs control as a component of the customs system, which in turn is "a set of tariff and non-tariff instruments, principles, forms and methods of their establishment, change or cancellation; a mechanism that ensures timely and full payment of customs duties, liability for violation of customs legislation; as well as state bodies, which are entrusted with the responsibility to implement the policy in the field of state customs" [15].

Y.M. Diomin is convinced that customs control is "a system of statutory measures taken by customs authorities to ensure compliance with the requirements of customs and tax legislation, protection of state and public security, economic interests, as well as detection and prevention of unlawful actions by individuals and legal entities" [16].

It is a highly effective and comprehensive instrument for ensuring national interests of the state, which, in the opinion of the scientist, is a mean of implementation of state customs and represents a set of measures to ensure the requirements of customs legislation by all the participants of customs relations [17].

This authorial position contains an administration context, based on which it is quite fair to speak about ensuring the fulfillment by the state of its basic functions, in particular, administrative functions. In continuation of this, definition of customs control as "a function of management of customs transactions of entities engaged in foreign economic activity in order to ensure compliance with the requirements of legal acts on matters of state customs and international treaties of Ukraine" is worth mentioning [18].

Thus, customs control, in our view, is a set of means, measures, actions and operations of specialized authorities that are aimed at preventing offenses in the area of crossing the customs border of the state by goods and vehicles and preventing undesirable consequences, caused by non-compliance with customs legislation. Customs control shall be carried out in accordance with the features inherent thereto: customs authorities implement control and verification measures in the form of customs control; customs control contributes to the effective regulation of foreign economic activity by detecting and preventing offenses in the area of crossing the customs border by goods and vehicles crossing.

Based on international standards, customs control has the following features: implementation of control procedures should be limited to the minimum number of operations required to ensure compliance with customs legislation; use of an effective risk management system in the process of customs control; most appropriate use of information technologies and electronic communications.

Customs control is implemented by the customs control authorities, thus providing the function of verification of legality of movement of goods and vehicles cross the customs border. In course of the customs control procedures, not only goods involved in foreign trade transactions are checked, but also the level of customs commercial fraud aimed at smuggling is reduced.

Customs control forms a coherent system of measures, an integral part of which is the risk management system. Introduction of risk-oriented customs control into the customs practice enables formation of a control system based on the positive experience of customs administration implemented by foreign countries. In turn, the system includes the subsystem of control over the movement of goods across the customs border by citizens.

Discussion. In general, elements of customs control are the following: organization of customs control, risk management system, subsystem of control over movement of goods across the customs border by citizens; and the main components

of customs control are the customs control process itself, its forms, customs expertise, customs control zones and special procedures [19].

In general, based on theoretical approaches to understanding the essence of customs control, we can see that the concept under study is diverse and ambiguous. Given that customs control is an integral part of the customs system, the study of the nature and features thereof is a priori an important task of modern scientific research.

Conclusions. Therefore, given that customs control is part of the overall control system, it is important to understand the nature of control. In the article, it is considered as a comparison of planned indicators of the entity's activity with the real ones, and taking, on this basis, appropriate administrative decisions in order to ensure the achievement of goals and objectives of the control actions, set for achieving appropriate results.

Customs control plays an important role in the system of controls and is a set of means, measures, actions and operations of specialized authorities that are aimed at preventing offenses in the area of crossing the customs border of the state by goods and vehicles and preventing undesirable consequences, caused by non-compliance with customs legislation. Carrying out customs operations for customs control is an important task of the state.

Perspective of further scientific research in this area is to study the features of customs control in the context of Ukraine's aspirations for European integration and to bring control procedures in line with European standards.

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ISLAM IN THE STATE SECURITY POLICY OF MUSLIM COUNTRIES: PROBLEMS AND TRENDS

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Abstract. *The relevance of the article is that today more and more countries are suffering from terrorist attacks and other manifestations of religious and ethnic intolerance. The purpose of the article is to analyze the security sector of the state policy of the leading Muslim countries on Islam with the identification of the most successful approaches that can be used by the state authorities to prevent the manifestations of radical Islamism in Ukraine. Based on the objectives of the study, methods of system analysis, structural-functional and analogy method in public administration were used. As a result, the structural features of the securitization of Islam, as well as the conditions and principles of its application in the public policy of leading Muslim countries. Causal links have been established that have influenced the need to counter radical Islamism. The main ways to solve the problem are identified, taking into account the relationships and structural-functional features of the environment identified during the study. Biggest part of such actions is carried out by supporters of Islam, a significant number of whom also live in modern Ukraine. In this context, it is important to have an objective view of the situation in Muslim communities, where radical Islamists make up a small percentage and, moreover, have a big number of opponents. Most often they are public authorities. The security policy of Muslim states is twofold. First, measures are taken to spread their influence abroad by disseminating their own interpretation of the holy Islamic books, while leveling similar activities by other Muslim countries in their information space. Second, countering local radical Islamism in the system of state security policy is ensured through the securitization of Islam. Measures to securitize Islam in leading Muslim countries are systemic, well-coordinated, and use all available resources. In order to improve Ukraine's state policy on Islam, the most effective practices of securitization of Islam, tested in the leading Muslim countries, have been proposed.*

Keywords: *public policy, securitization of Islam, government agencies, government, radical Islamists, Salafists, ideology*

JEL Classification: D73, D78

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Introduction. The last decades of the twentieth century in the Muslim world were held under the auspices of the Islamic revival. Representatives of the reform movement in Islam, the Islamists, played an important role in this process. Emerging in response to Western expansion, the Islamist movement has gathered many dissatisfied people in a short time through its own interpretation of sacred texts and the declarative commitment of the "righteous predecessors" way of life. Some of the latter followed radical Islamists. After the victories over the Soviet Union in Afghanistan, the seizure of power in Iran, participation in the Israel resistance in Palestine, the latter realized themselves with great force. Starting with the New York terrorist attacks in September 2001 and ending with the creation of the so-called "Islamic State", radical Islamists have tried to become a global player in the world. It was from this time that the situation began to develop, which led to the fact that as of June 2020, 97% of terrorist organizations on the UN Security Council's sanctions list were Muslim. Today, Islamist radicalism affects not only European countries. According to their own dogma, radical Islamists must exterminate (apart from

adherents of other religions) those Muslims whom they themselves declare to be infidels. Muslim governments, which Islamists see as pursuing unjust and generally "wrong" policies, are also subject to removal. Of course, the government of many Muslim countries is trying to counter radical Islamists. To this end, Islamic securitization measures are often used. Given the presence of a large number of Muslims among the population of Ukraine, the study of the above experience of Muslim countries becomes quite relevant for modern Ukrainian government.

Literature Review. The works of A. Kondral and G. Kosach are devoted to the study of problems related to the ideology of radical Islamist movements. Other forms of Islamic activism, in particular in the Salafi and Wahhabion environment, their theoretical and ideological foundations are analyzed by D. Brylov and O. Yarosh. Socio-cultural and religious-legal features of Sub-Saharan Africa are considered by N. Prorochenko. A. Aydintashbash studies the trends of modern Turkish foreign policy, using a comparative methodology. A. Dedok devoted his research to the "Organization of the People's Mujahideen of Iran." Representatives of the Copenhagen school B. Buzan, O. Wever, J. de Wilde developed conceptual principles of securitization, as well as desecuritization. However, today there are no works that would consider the Islamic factor as an object of state security policy of Muslim countries, in relation to modern Ukrainian realities.

Aims. The purpose of the article is to analyze the security sector of the state policy of the leading Muslim countries on Islam with the identification of the most successful approaches that can be used by the state authorities to prevent the manifestations of radical Islamism in Ukraine.

Methods. Based on the objectives of the study, methods of system analysis, structural-functional and analogy method in public administration were used. As a result, the structural features of the securitization of Islam, as well as the conditions and principles of its application in the public policy of leading Muslim countries. Causal links have been established that have influenced the need to counter radical Islamism. The main ways to solve the problem are identified, taking into account the relationships and structural-functional features of the environment identified during the study.

Results. It has been found that in Muslim countries, security issues related to Islam are viewed in terms of internal and external functionality. The latter has the form of a binary opposition. On the one hand, a positive image of the state power, which governs the country in the spirit of Islam, is formed to influence other Muslim countries. On the other hand, such influences are counteracted from the outside. The main internal problem is local radical Islamism. Islamism is a reform movement based on the so-called Salafism (own interpretation of the political and religious heritage of "righteous predecessors"), the ideology of the "Muslim Brotherhood", according to which Muslim society can use similar Western democratic norms, but while maintaining Islamic principles and values, in particular the rule of Sharia (Kondral), in radical manifestations - takfirism (accusation of unbelief) and jihadism - a misinterpretation of jihad (Aulin, Brilov, Prorochenko, &Yarosh, 2019, p. 73).

Islamism is a reform movement based on the so-called Salafism (own interpretation of the political and religious heritage of "righteous predecessors"), the ideology of the "Muslim Brotherhood", according to which Muslim society can use similar Western democratic norms, but while maintaining Islamic principles. and values, in particular the rule of Sharia (Kondral), in radical manifestations - takfirism (accusation of unbelief) and jihadism - a misinterpretation of jihad (Buzan, Weaver, &Wilde, 1998). However, it should be taken into consideration that in the case of Islam, force is envisaged only in the context of the securitization of the activities of extremely radical jihadist Islamists. In the fight against them are usually used force resources of special services, special police and army units. Securitization is also influenced by other Muslim states from abroad. In this case, not only discursive but also forceful practices are used against their supporters in the middle of the country. In structural terms, the main substantial element of measures of influence or counter-influence is the narrative, which is mostly disseminated through local and foreign media. If we consider the situation in the most developed Muslim countries, in addition to the above general points are striking features.

Thus, the domestic policy of the Kingdom of Saudi Arabia (KSA) is aimed at the selective securitization of Islam. In the "outer" segment, the main narrative revolves around the role of the King of Saudi Arabia as the "Servant of the Two Shrines" (Mecca and Medina), which is an indicator of Arab supremacy in Islamic doctrine and a latent call to other Muslim states to submit to Riyadh. In the "internal" segment, the narrative is aimed at identifying the danger to the state and society from opposition Islam. In addition to the traditional use of the media, specific propaganda tools such as religious treatises are used in state information policy. The most famous of them was "The One Who Watches" by M.M. Al-Mirsal. The treatise was published and distributed with the assistance of The Ministry of Islamic Affairs, Dawah and Guidance of Saudi Arabia and summarized the activities of local official theologians in refuting the arguments of anti-systemic opposition ideologists. The religious and ideological constructions of the opposition were usually leveled with arguments based on the appropriate interpretation of the texts of the Qur'an or Sunnah (Kosach). Another powerful tool of state information policy is the institution of fatwas, the solution of important problems on the base of Sharia by authorized theologians. Control in this area is exercised by the state body, the Senior Council of Ulema.

Turkey's leadership of the KSA in Sunni Islam is disputed by Turkey. After the rise to power of moderate Islamists led by current President Recep Tayyip Erdogan, Ankara began to use the doctrine of neo-Ottomanism in its foreign policy. According to her, Turkey is trying to expand its political and economic influence in the territories that were formerly part of the Ottoman Empire. At the same time, until the mid-2000s, radical Islamists were most active in the TR. Their main goal was to forcibly change the secular regime to a Sharia one. Unlike Riyadh, Ankara does not distribute religious treatises, but also actively uses the institution of fatwas. The distribution of the latter is controlled by a specially authorized state body - the Directorate of Religious Affairs (Diyanet). The state security policy towards Islam is based on intensive use of media opportunities. An example is the publication of the

need for the Turkish armed forces to create a buffer zone in northern Syria to prevent the entry of Kurdish and other terrorists into Turkey (Aydintasbas).

The features of the state power of another contender for the role of Islamic leader - Iran are largely due to the developed concept of Ayatollah Khomeini "concept of the province of al-Faqih" (the reign of the scientist - theologian). After the overthrow of the Shah's regime in Iran, Ayatollah Khomeini was opposed by the Marxist-Islamist movement " The People's Mujahedin Organization of Iran" (PMOI). After the PMOI fighting units were driven out of IRI territory, they were used by Iraq against the Iranian military. In response, thousands of PMOI supporters were executed in Iran. Gradually, PMOI moved away from Marxism in its ideology towards liberalism and began to focus on the West (Dedok). In the form of a threat to the state and society in modern Iran, the image of PMOI as enemy mercenaries is being formed. This corresponds to the main narrative, which is based on the position of Ayatollah Khomenay that today there is neither Shiite nor Sunni Islam, but there is real Islam and terrorist Islam – American (Khomenai). A similar position is broadcast by the Iranian media both in the country and abroad. At the same time, relevant statements by government officials and diplomats are being disseminated, in particular through "friendly" Russian and other media. Fatwas play an important role in IRI's state information policy, especially when they are authored by Iran's religious leader.

Without claiming leadership among Sunnis, due to its very small human and all but financial and information resources, Qatar plays a very prominent role in the Arab world. Doha is one of the main sponsors of the Muslim Brotherhood, and has a powerful and very authoritative information resource, Al Jazeera, in Islamic countries. Like other political and religious centers, Qatar's state information policy is aimed at the selective securitization of Islam. This easily demonstrates the acquaintance with the materials of Al Jazeera. In them, the attitude towards Islamists varies from neutral to positive (Younes). Al Jazeera, on the other hand, is actively criticizing the Salafi regime in Saudi Arabia (Beydoun). Using significant influence on Al Jazeera's Arab audience, Doha is trying to discredit "Salafi-Wahhabi" Islam in the KSA. Demonstrate links with terrorist jihadists and thus remove them from the field of political discourse into the possible use of force.

Since Egypt's first independent leader, President Gamal Nasser, power struggles in the country have been between the (former) military and the older international Islamist Muslim Brotherhood. After that, the representative of the "Muslim Brotherhood" Mohammed Morsi won the election of the President of the Arab Republic of Egypt (ARE), the Egyptian military carried out another military coup and the country was led by a protege of the army Abdul-Fattah al-Sisi. The new leader has continued to pursue the securitization of Islam. Within the framework of the latter, in contrast to other countries, the state authorities of Egypt effectively use the information capabilities of the authoritative theological institution in the Islamic world - Al-Azhar University (Faradzhallah). In general, The Ministry of Awqaf of Egypt controls the activities in this area by the state.

In the largest Muslim country with the largest population and with the highest GDP - Indonesia, just several years ago multimillion rallies of congresses of Islamists - supporters of the international Islamist party "Hizb ut-Tahrir al-Islami" have taken place. In 2017, according to a presidential decree circulated in local and foreign media, with the statement "for the protection of national unity", the party's activities were banned (Topsfield, Rompies).

In modern Ukraine there is no coordinated state information policy in the field of securitization of Islam. The Department for Religions and Nationalities of the Ministry of Culture of Ukraine does not have a separate unit and experts to work on this topic. Experts are scattered among various scientific and research institutions. This complicates the work of law enforcement agencies in this direction and allows Islamists to spread the views of their ideologists, not only moderate, but also close to the radical sense, almost without hindrance. In the future, such an approach could lead to serious problems, including the emergence of some negativity in relations with European partners.

Discussion. The absence of a unified state security policy towards Islam in modern Ukraine will continue to create problems in the activities of law enforcement agencies aimed at counteracting the spread of radical Islamism. Today, local Islamists are almost free to disseminate information materials of foreign, including radical, ideological centers. While maintaining such approaches in security policy, it is possible to create a radical Islamist infrastructure in Ukraine in the future. Against the background of periodic terrorist acts committed by Islamist jihadists in the European Union, Ukraine may in the future experience not only image but also more serious political problems on the path to European integration. In addition, there is no single authorized state body to address the problem. It is necessary to create an institution of Islamic securitization, organize and conduct work in this area at the system level.

Conclusion. The main reasons for the securitization of Islam are the activities of Islamist movements (primarily radical), as well as foreign information and ideological influences. At the same time, Islam plays an important role in the socio-political sphere of Muslim countries. As a result, there is a selective securitization of Islam in these countries, which can be divided into two parts - internal and external. In the domestic segment, there is a rather strict securitization of local radical Islam, removing the situation from the political field of decision-making. In the external segment, the main efforts are aimed at leveling foreign political and religious influences.

The state information policy of the leading Muslim countries in the field of securitization of Islam is characterized by the integrated use of state, religious and public resources. Due to this, the relevant narratives are widely disseminated within and outside the countries through the coordinated use of local and foreign media, religious and political resources, under the leadership of state coordinating bodies.

In modern Ukraine, there is no coordinated state information policy in the field of securitization of Islam, which allows Islamists to spread their own ideology almost without hindrance. Such an approach could lead to more serious problems in the future than even the emergence of some negativity in relations with European

partners. To prevent this, it is proposed to implement the following measures. First, to create a specialized institution to coordinate activities in the field of securitization of radical Islam. Secondly, to develop a program of actions aimed at preventing the manifestations of Islamist radicalism in Ukraine with the involvement of relevant experts. Third, to provide state support to Muslim organizations that oppose Islamists in order to make more effective use of their religious, informational, educational and other opportunities in the information and ideological confrontation with Islamists.

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PUBLIC ADMINISTRATION IN THE FIELD OF JUSTICE IN THE CONTEXT OF EUROPEAN INTEGRATION OF UKRAINE

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Abstract. *It is determined that administration in the field of justice should be understood as activities aimed at fulfillment of tasks of organizational nature for exercise of rights and interests of legal entities, individuals and the state, as well as the task of strengthening the law and order in the country. Emphasis is placed on the fact that one of the peculiarities of justice is the plurality of objects in this area of administration. Such objects of justice as judicial institutions, notary offices, civil registration bodies, forensic institutions and the bar are presented for consideration. It was also notes, that they all have different legal status, differ in their purpose and nature of competence. It was noted that the main purpose of administration in the field of justice is to ensure the legality, organization of protection of rights and legitimate interests of individuals and legal entities, as well as the state. Administrative and legal regulation in the field of justice is carried out on the basis of the following statutory instruments: the Laws of Ukraine "On Notaries", dated September 02, 1993, "On the Bar and Advocacy", dated December 19, 1992, "On State Registration of Civil Status Acts", dated July 01, 2010, "On Bodies and Persons Who Perform the Enforcement of Court Decisions and Decisions of Other Authorities", dated June 02, 2016, Regulation on the State Migration Service of Ukraine, dated September 20, 2014, etc. It is noted that, along with the Ministry of Justice, State Archive Service of Ukraine, State Executive Service of Ukraine, State Penitentiary Service of Ukraine, State Registration Service of Ukraine, State Service of Ukraine for the Protection of Personal Data also belong to the system of entities in the field of justice of Ukraine. It is noted that the Constitution stipulates that the judicial bodies of Ukraine have a prominent place among the law enforcement agencies of the state.*

Keywords: *justice, judicial bodies, public administration, organizational and legal principles*

JEL Classification: H70, K33, M10

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 8

Introduction. Legal supports of the processes that can be observed in the political and socio-economic spheres of Ukraine over the last decade have become increasingly relevant and urgent. Since strict and mandatory observance of the norms adopted in a civilized society is the key to the confident development of the state, consolidation of efforts to strengthen the law and order is a priority for all government institutions. Implementation of the state's administrative and regulatory functions in the field of justice is the vector that determines the direction of action aimed at development of the Ukrainian statehood.

Formation and implementation of legal state policy depends directly on the efficiency of functioning of the judicial bodies, which are called to carry out state-power activities. During the establishment of the Ukrainian state, judicial authorities changed their status, as well as the ways and forms of exercising their powers. As experience shows, there is a lack of a comprehensive understanding of the nature and place of judicial bodies in the system of executive authorities, which is a consequence

of their inconsistent institutionalization and fragmented regulation of their status. This feature is a significant obstacle for the implementation by the Ukrainian state of European integration aspirations both in short and long terms.

Legal support for the processes that have been observed in the political and socio-economic fields of Ukraine over the last decade have become increasingly relevant and urgent. The scrupulous and compulsory observance and implementation of the norms adopted in a civilized society is the key to the stable development of the state, therefore the consolidation of efforts to strengthen the rule of law and order is a paramount task of all the state and governmental institutions. Implementation by the state of administrative functions in the field of justice is the vector that determines the course and direction of actions for the development of Ukrainian statehood.

Literature review. Such researchers as I.A. Artemenko, N.A. Zhelezniak, Y.V. Melnyk, I.I. Mykulets, L.R. Nalyvaiko, I.Y.Onopchuk, S.E. Thurin et al. in their scientific works raised the questions dedicated to the main principles of public administration in the field of justice. However, their publications mainly reflect only certain aspects of the concept of justice, legal status of justice bodies and peculiarities of public administration in the mentioned area, while complex approach to understanding of the problems of organizational and legal principles of public administration in the field of justice of Ukraine is not disclosed.

Aims. The purpose of this article is to evaluate theoretical approaches to understanding the essence of organizational and legal foundations of public administration in the field of justice of Ukraine, to analyze the activities and powers of the main authorities in the field of justice and to present proposals for development of Ukrainian justice in general.

Methods. The author used the historical method, method of scientific abstraction, method of analysis and synthesis, which made the achievement of the goal possible.

Results. Significant social, economic and political changes that have taken place in Ukraine over the past 10-15 years have clearly demonstrated the importance of legal counseling and support for the processes implemented. The law itself is capable of consolidating efforts and ensuring the obligatory observance of certain rules. It should be said that the law is an objective category, while on behalf of both the state and from non-state institutions the bodies, organizations or individuals act, who implement (enforce) the lawfulness, human rights advocacy, confirmation of rights and legally significant facts. All these things are combined in the concept of justice.

An important role in this area is played by the administration in the field of justice, which envisages activities aimed at fulfilling the tasks of strengthening the legitimacy, organization of protection of rights and legitimate interests of citizens and their associations, enterprises, institutions, organizations and the state [1].

One of the peculiarities of justice is the plurality of objects in this area of administration. The objects of justice include judicial institutions, notary offices, civil registration bodies, forensic institutions and the Bar. They all have different legal status, differ in their purpose and nature of competence.

Another feature of justice is derives from the previous one, and it lies in the variety of forms and methods of administration used by the judicial authorities. Thus, the method of administration is applied to state notary offices and civil registration bodies; and the method of regulation is applied to the bar. In general, administrative influence of the bodies, which administer the justice, is advisory in nature and comes down to organizational issues, since most objects in this field are independent in their practical activity.

The main purpose of administration in the field of justice is to ensure the legality, organization of protection of rights and legitimate interests of individuals and legal entities, as well as the state. The objects of state influence in the field of justice include the system of judicial institutions, state and private notaries, bar, civil registration bodies, forensic institutions, executive service bodies, system of legal education of the population, etc. Administrative and legal regulation in the field of justice is carried out on the basis of the following statutory instruments: the Laws of Ukraine dated September 02, 1993 “On Notaries”, dated December 19, 1992 “On the Bar", dated July 01, 2010 “On State Registration of Civil Status Acts”, dated March 24, 1998 “On State Enforcement Service”, etc.

The system of administrating entities in the field of justice of Ukraine includes:
- Ministry of Justice of Ukraine;
- State Archival Service of Ukraine;
- State Enforcement Service of Ukraine;
- State Penitentiary Service of Ukraine;
- State Registration Service of Ukraine;
- State Service of Ukraine for Protection of Personal Data.

In the independent Ukrainian state, the Constitution [2] stipulates that the judicial bodies have a prominent place among the law enforcement agencies of the state. However, in spite of their weight and importance for the society, judicial bodies are still in the process of reformation, which is in line with the overall administrative reform. They are a wide-ranging system of governing bodies that are designed to implement the legal policy of the state. Each of these bodies has specific features and tasks; each of them occupies a clearly defined place in a complex hierarchy and has a corresponding legal status.

Thus, in practice, there is a distinction between two categories: judicial bodies and bodies of the Ministry of Justice of Ukraine [3]. The second category is part of the first one, as it is much wider in structure and in the range of authorities of its bodies. In particular, the second category is headed by the Ministry of Justice of Ukraine, which is positioned as the central authority of the state executive power, administration of which is directed and coordinated by the Cabinet of Ministers of Ukraine.

The State Archival Service of Ukraine is a part of the system of executive bodies and ensures implementation of the state policy in the field of archival affairs, record keeping, creation and functioning of the state system of the insurance fund of documentation, as well as cross-sectoral coordination on matters within its competence.

The State Enforcement Service of Ukraine is a part of the system of executive bodies and ensures implementation of the state policy in the field of organization of enforcement of decisions of courts and other bodies (officials) in accordance with the laws.

The State Penitentiary Service of Ukraine is a part of the system of executive bodies and ensures implementation of the state policy in the field of execution of criminal penalties.

The State Registration Service of Ukraine is the central executive body, whose the main task is implementation of the state policy in the fields of state registration of civil status acts, state registration of material rights to real estate, state registration of entrepreneurs, associations of citizens, other public formations, charters of the funds for obligatory state social insurance.

The State Service of Ukraine for the Protection of Personal Data is the central executive body, which ensures implementation of the state policy in the field of protection of personal data.

An important area of work of the Ministry of Justice of Ukraine is the organization of activities of notarial bodies and registration of bar associations. Notarial systems of Ukraine is a system of bodies and officials entrusted with the duty to certify rights, as well as facts of legal importance, and to perform other notarial deeds provided for by the Law "On Notaries" in order to give them legal credibility. The legal basis for organization and activities of the notarial service is enshrined in the said Law, according to which notarial deeds in Ukraine are entrusted to notaries, who work in state notarial offices, state notarial archives (state notaries) or are engaged in private notarial activities. Documents issued by state notaries and by private notaries have the same legal force.

In settlements where there are no state notaries, certain notarial deeds are performed by the officials of the executive committees of village, town and city councils. Also, certain notarial deeds are carried out by the authorized officials of consular institutions of Ukraine, located abroad.

According to the Constitution of Ukraine (Article 59), everyone has the right to receive legal assistance. A special place among the institutions providing the realization of this right occupies the bar, which is destined to perform important tasks in providing professional legal assistance to citizens, businesses, institutions, organizations and public associations.

The bar is a voluntary professional public association, which, in accordance with the Constitution, is designed to promote the protection of rights and freedoms and to represent the legitimate interests of citizens of Ukraine, foreign citizens, stateless persons, legal entities, and to provide them with other legal assistance.

Pursuant to the Law "On the Bar" [4], legal assistance by the lawyers is provided through: providing consultations, clarifications, references, recommendations, legal advice; drafting of legal documents (lawsuits, complaints, etc.); representation in courts of general jurisdiction in civil, administrative and criminal cases; legal service for enterprises, institutions, organizations, individual citizens under the separate contracts.

Formation and functioning of the judicial system is also influenced by the High Council of Justice, whose administrative powers have recently expanded, in particular after the entry into force of the Law "On Judiciary and Status of Judges". In the High Council of Justice resolving of a number of issues concerning the functioning both of judicial and prosecutorial systems are vested. Its competence include: filing submissions to the President of Ukraine on the appointment and dismissal of judges, appointing judges on the submission of the respective Council of Judges to the position of the presiding judge, deputy presiding judge and dismissing them from these positions, considering cases of violation by the judges of the requirements concerning consistency with the job, etc. Its main task is the formation of a highly professional judicial corps of highly qualified jurists, who are able to abide by the law and to administer justice honestly and impartially.

The High Council of Justice is formed by the three branches of power – legislative, executive and judiciary, as well as by the prosecutorial system and the institutes of civil society: the bar, educational and scientific legal circles.

Development of the law-governed state and of civil society obliges the administering bodies in the field of justice not only to ensure the implementation of the state legal policy, but also to strengthen the influence on its formation. Priorities for the development of the Ukrainian justice today are the following:

- formation of a new, higher level of legal awareness and legal culture of citizens;
- reforming of the judicial system to ensure the accessibility of justice and the effectiveness of judicial protection;
- reforming of the criminal justice and the criminal executive system;
- creating legal frameworks for prevention and counteraction to corruption;
- ensuring the efficiency of the enforcement of court decisions;
- improvement of the system of protection of state interests in the courts of Ukraine;
- formation of a free legal aid system.

As Ukraine's strategic goal is to become a full member of the European Union, then, to fulfill its aspirations for European integration, Ukrainian state needs to fulfill a number of conditions set by the European Union, as well as to adhere to the regulations, norms and standards existing in various fields, including in the field of justice.

If we talk about public administration in the field of justice in the context of the European integration of Ukraine, then the activity of the judicial bodies must be in harmony with the European standards. As the cooperation between Ukraine and the European Union in the field of justice has a regulatory framework governing the general directions of bilateral cooperation, it can be argued that the justice bodies are generally prepared to function in the context of implementation of the European integration vector of the Ukrainian state. However, in order for these relationships to keep developing in a harmonious manner, it is necessary that legal support was sufficient in all areas of such interaction. Ukraine needs to work on deepening and

expanding mutually beneficial relations and fulfilling its long-term aspirations for European integration.

It should be noted that the cooperation between Ukrainian and European Union is taking place within the framework of the EU-Ukraine Action Plan on Justice, Freedom and Security (Justice, Freedom and Security Action Plan, approved in June, 2007), Implementation Plan (approved in April, 2008) and other documents.

These statutory instruments define the terms of cooperation between Ukraine and the European Union in accordance with fifteen key directions. In particular, we talk about such directions as: legal cooperation in civil and criminal cases, anti-corruption enforcement, drug trafficking, human trafficking, anti-money laundering, counter-terrorist financing, fight against terrorism and organized crime, document security, border management, visa matters, migration, asylum and other problems that exist in the field of justice on the international level.

The EU-Ukraine Justice, Freedom and Security Action Plan states that the main challenges and strategic goals of cooperation between the Ukrainian state and the European community are the following [5]:

- strengthening of partnership and practical cooperation between the European Union, its Member States and Ukraine in the fields of justice, freedom and security;
- supporting Ukraine's efforts in strengthening the democracy, protecting human rights and fundamental freedoms. Promoting the stability and effectiveness of the relevant public institutions for overall strengthening of the supremacy of law;
- continuing to work with Ukraine to ensure the application of principles of the supremacy of law, independence and efficiency of the judiciary power, including access to justice and proper governance;
- insuring the ratification and full implementation of the most important international instruments in the field of justice and internal affairs;
- continuing to create an appropriate legal framework for effective cooperation in the area of justice, freedom and security in accordance with international and EU standards, as well as to work to ensure the effective implementation and application of such standards;
- intensifying efforts to strengthen institutional capacities with involvement when needed of the public, including the use of the capacity of non-governmental organizations and business representatives.

Among the adopted regulatory instruments, the Association Agreement between Ukraine and the EU is of key importance [6]. The said Agreement embodies one of the important steps that the Ukrainian state is undergoing towards European integration. However, this is not enough to become a full member of the EU – in order to do so, Ukraine must, in addition to many other conditions, bring its legislation in line with the existing in Europe standards in the field of justice, freedom, security and movement of persons.

The Association Agreement was preceded by the Partnership and Cooperation Agreement between the European Communities and their Member States on the one side and Ukraine on the other side. This document provided for the possibility of signing of further agreements between the parties interested in further cooperation.

These negotiations began in 2007 and during the subsequent five years 21 rounds of negotiations were held within the framework of signing of the EU-Ukraine Association Agreement and 18 rounds of negotiations that provided for a participation in the Agreement on Creation of a Deep and Comprehensive Free Trade Area.

Discussion. In general, signing of the Association Agreement is not an end in itself, since Ukraine does not become a full member of the EU. Any association provides for the formation of a legal framework and a favorable climate in order to create favorable conditions for a potential member of the European Union. In this case, there are no clear rules for the relationship between the parties. The agreement is aimed at leading the signatories to participation in the European community in the future.

Of course, with the adoption of the Association Agreement Ukraine's European aspirations will not cease. The Parties continue to work on deepening the mutually beneficial relations. Thus, Ukraine conducts negotiations with the EU Member States on conclusion of the implementation protocols to the said document. The relevant negotiations with the competent authorities of the EU Member States are conducted by the State Migration Service of Ukraine [7].

Adoption of a visa-free regime between Ukraine and the European Union has intensified the movement of Ukrainian citizens across European borders. Accordingly, the State Migration Service of Ukraine has also intensified its work by increasing the issue of biometric passports.

Thus, the public administration in the field of justice of Ukraine has a number of features that define its social orientation and management of various branches of the national economy of the state, determine the executive and administrative nature of its functioning and accountability, subordination and control by the higher authorities.

Therefore, taking into account the above-mentioned features of the bodies performing public administration in the field of justice of Ukraine and implementing the European integration aspirations by the Ukrainian state, we can formulate the author's approach to the interpretation of the judicial bodies in accordance with the current conditions of development of Ukrainian society on the way to integration into the European community. In our view, judicial bodies shall be understood as the bodies of executive power, which are vested with administrative state-power authorities in the field of justice and the related areas in accordance with the current legislation, have at their disposal the necessary material, organizational, financial and labor resources, carry out systematic socially-oriented activities, as well as control political, economic, administrative and social processes in the country in the direction of implementation by Ukraine of the European vector of development.

Conclusions. Strategic priorities of Ukraine for pursuing European integration aspirations have a solid basis. In the area of justice, there is an appropriate legal framework through which Ukraine is constantly moving in the European direction and ensures that the key conditions set by the European Union were fulfilled.

Considering the European integration aspect of the policy of the Ukrainian government, it should be emphasized that the activities of the judicial bodies must be in line with European standards. Taking into account that the cooperation between Ukraine and the European Union in the field of justice has a regulatory framework governing the general directions of bilateral cooperation, it can be argued that the judicial bodies are generally prepared to function in the context of implementation of the European integration vector of the Ukrainian state. However, in order for these relationships to continue to develop in a harmonious manner, it is necessary that legal support was sufficient in all areas of such interaction. Ukraine needs to work on deepening and expanding mutually beneficial relations and fulfilling its long-term aspirations for European integration.

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CHAPTER 2
LEGAL RELATIONS: FROM THEORY TO PRACTICE

MENTAL ANOMALIES AS FACTORS THAT CAUSE CRIMINAL OFFENSES, INCLUDING IN THE FORM OF MENTAL ABUSE

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Abstract. *The statisticians have an emphasis on the systematic nature of the incitement of violence, as well as on the internal recovery of the human singing situation, as in case of the manifestation of mental anomalies, it can be created. The aim of the article is to study mental anomalies as factors causing criminal rules, inclusions in the form of mental abuse. The author used the methods of logical comparison, systematization and generalization, which made it possible to achieve the goal of the study. The nature of the pacing of mental anomalies is determined as follows: genetic decline, psychophysiological peculiarities of malignancy. Discernment of anomalies from the point of view of medicine, and itself: alcoholism, drug addiction, psychopathies, organ damage to the central nervous system, epilepsy, traces of traumatic brain injury, schizophrenia. It has been established that all the diseases of the central nervous system are less likely to develop so that the development of infectious diseases occurs. Several criminal law–enforcers are responsible for mental abnormalities. Delivered that factors that infuse into the psyche є a weakening or a waste of self–control, heat, rudeness and aggressiveness, as well as sharpening all the negative qualities of an individual.*

Keywords: *psychic anomalies, violence, mental abuse, mischief, criminal law–enforcers; factories, which are infused with mischief.*

JEL Classification: I30, K14, K24, K33

Formulas: 0; fig.: 1; tabl.: 0; bibl.: 22

Introduction. Before the hour of detecting the determinants of mental violence, it is necessary to be judicious, but a single incident is not mental violence, since such a manifestation must be systematic. An important point: those guilty of mental abuse can be submissive if a person understands the nature of their actions and the nature of singing inheritances, just as incorruptible, if the subordinate does not tolerate the nature of mental abuse, for psychopathy.

One of the main factors in classifying employees of criminal law enforcement agencies as a method of mental violence, since the result of a sub crime by a criminal law enforcement officer of a singing situation (so the name, situational factor), and the result of an internal situation in singing.

This is not a miracle, this is a protest against factors that are not taken into account by criminal law enforcement officers, you can also bring in – a genetic decline, or the psychophysiological characteristics of malignant neoplasms, it is very easy to find out that you can hear a medicine. The very fact is that you will be able to take a closer look at yourself in all food, which the last part of mental illness can be found in mental abnormalities, such as the underlying genetic basis of the disease.

In front of especially significant criminogenic factors of rapists, the employees of criminal law enforcement agencies change mental activity. Mental abnormalities are a reason for the culpability of mental abuse. Nevertheless, behind little fagots, about the skin of a quarter, a cruel villain suffers from such a psychotic anomaly (alcoholism, drug addiction, psychopathy, damage to the organs of the central nervous system, the most serious rotation of new knowledge and a hierarchy of values that are combined with people and vibrate towards solving problems.

It is necessary to remember that the malignant form is not just the practice, but the social connection that is so–called psychopathological tightness, which manifests itself in the view of the recessive factor, so that if the dad doesn't hate the genetics of violence to the evil child [3, p.14].

Literature Review. To the presenter of the problem, I will show that the determinations of mental abuse have been dealt with by such sciences as Yu.M. Antonyan [1, p. 140], S.V. Borodin [7, p. 56], B.M. Golovkin [12, p. 256], O.P. Dzioban [8, p. 7], O.Y. Koristin [10, p. 162], O. M. Kostenko [11, p. 198], V.N. Kudryavtsev [13, p 204], VB Malinin [14, p. 89], A.A. Muzyka [15, p. 162], V.P. Panov [16, p. 221], V. Pilipchuk [17, p. 43], O.S. Sheremet [18, p. 154] and in.

In the same time, mental anomalies are also made by the determinants of criminal law–enforcers, from the stasis of mental violence, the witness, you see. As the criminologist Yu.M. Antonyan said mental anomalies – there are such problems of mental activity, as they do not become susceptible to the state of condemnation, the stench did not reach the psychopathic disease (the status of mental illness), to protest to pull the change due to such a particular condition norm [3, p. 2].

Before mental anomalies, it was taken to see the organ damage of the central nervous system, residual symptoms of craniocerebral trauma, oligophrenia at the stage of easy debilitation, alcoholism, drug addiction, psychopathy.

Aims. The aim of the article is to study mental anomalies as factors causing criminal rules, inclusions in the form of mental abuse.

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

Results. 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 offence (for example, young children who open their wallets) [19, p. 61].

Let's start with the most significant anomalies among violent crimes, namely the defeat of the central nervous system, arising from the development of infectious diseases (encephalitis or its membrane (meningitis)), which affect the brain. Usually, people who develop this lesion have a psychopathological syndrome, the main signs of which are increased emotional excitability, which leads to uncontrolled attacks of aggression, conflict, stubbornness, instantaneous emergence and satisfaction of

antisocial needs, in other words, "instant" intent to commit an offence internal excitability [4, p. 99].

People with such lesions are quite intolerant of alcohol, and the form of intoxication is severe. As a result, the control and inhibitory mechanisms of consciousness cease to work in such persons, as a result of which the sense of reality changes and there is a "fearlessness" to commit criminal offences, including the actions of such persons, are determined by special cynicism and audacity. According to the author, this type of mental anomalies is characteristic not only for the subjects of violent criminal offences under paragraph 7 of Part 2 of Art. 115, 296 of the Criminal Code of Ukraine, but also for subjects who commit domestic abuse (Article 126 of the Criminal Code of Ukraine), robbery (Article 187 of the Criminal Code of Ukraine), threats to destroy or damage property (Article 195 of the Criminal Code of Ukraine), banditry (Article 257 of the Criminal Code) Ukraine), terrorist acts (Article 258 of the Criminal Code of Ukraine), etc. This belief arose from the analysis of the number and methods of committing the above criminal offences (by intimidation, threats, demonstrations of weapons, elimination of fear in victims, etc.), besides, the media influences the occurrence of anomalies in adolescence. Studies show that teenagers aged 12–17 are one of the most popular audiences among those who consume erotic video products. Many teenagers watch similar scenes on television, in cinemas or videotapes at least once a month [20, p. 40].

The second type of mental anomalies, according to the prevalence of criminal offences – anomalies caused by alcohol and drugs. Based on different states of alcohol intoxication (simple; chronic alcoholism, alcoholic delirium, hallucinations, paranoia, dipsomania (binge drinking) or drug intoxication (each drug has its type of behavioural disorder)), a person's sanity is determined individually in each case.

Among the most important factors in the commission of criminal offences with the use of mental abuse include drunkenness and the resulting changes in the psyche, weakening or loss of self–control, irritability, rudeness and aggression, as well as exacerbation of all negative qualities of the individual. It is no coincidence that a large number of serious violent criminal offences and hooliganism in Ukraine occur in a state of alcohol (much less often – drug) intoxication.

People who are intoxicated experience profound changes in consciousness that were not previously inherent in them, and which last for an exhaustive period, namely during exposure to ethanol or drugs. Experts say that in the presence of this type of anomaly, criminals do not commit mental abuse, because such substances gradually move the brain cells, which leads to memory problems, outbreaks of aggression and uncontrolled behaviour, which are inherent in offences involving the use of mental abuse. However, in the study of domestic abuse, according to a survey of law enforcement officers found that 78, 2% of cases of perpetrators of domestic abuse are in a state of intoxication, and 8% – in a state of drug intoxication, sober – 8% and those with mental anomalies – 6% (Figure 1).

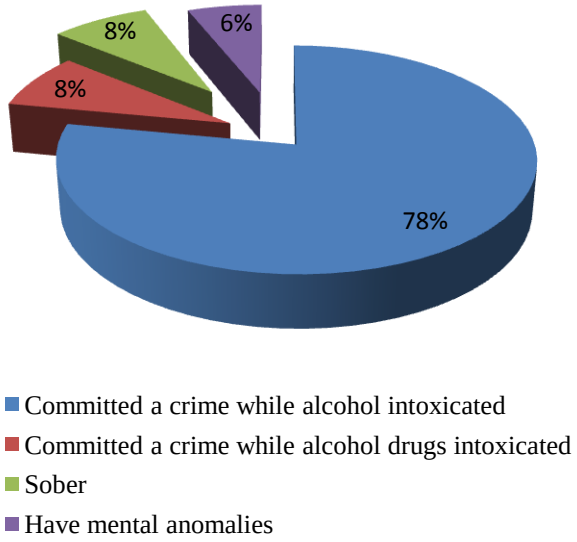

Figure 1. Persons convicted of domestic abuse

In particular, in the study of mental abuse in the context of a criminal offence under Art. 195 of the Criminal Code of Ukraine "Threat of damage or destruction of property", based on the analysis of judicial statistics, it was established that for the period from 2013 to 2019 in Ukraine passed one conviction against a person who committed a criminal offence under Art. 195 of the Criminal Code of Ukraine in a state of intoxication. As a result, given the results of the study, it is possible to question the assertion that people who have mental anomalies caused by alcohol and drug use are not characterized by mental abuse.

Regardless of the presence or absence of mental anomalies, alcohol or drug intoxication hurts any person, and people under the influence of such substances behave more aggressively sober, only when they are threatened. The presence of a threat is a signal that a person in a state of intoxication is unable to control and use cognitive processes to suppress aggressive reactions, which he understands and to which the latter responds with aggression [6, p. 258–259]. Experts in the field of psychiatry point out that alcohol intoxication does not so much relieve personal control over aggression, as it reveals an already existing deficit of psychological mechanisms that prevent the manifestation of aggression in behaviour [9, p. 27–30].

It is also impossible not to note the destructive effects of alcoholism and narcotics on the younger generation. Due to their age, young people are characterized by increased emotional excitability, insufficient skills of social inhibition, the desire to show themselves, to show courage, which under the influence of alcohol and drugs often contribute to the commission of criminal offences using abuse (mental). At the same time, studies by foreign experts show that alcohol or drugs are not the direct cause of aggressive behaviour. Rather, they reinforce the situational determinants of aggression.

The next type of mental anomalies is residual manifestations of traumatic brain injury, which are characterized by affective and volitional disorders. As a result of traumatic brain injuries in the human brain, two opposite processes begin to work, namely – degenerative and regenerative, which are constantly changing each other.

Quite rarely, however, there is developed dementia against this background, behaviour changes, resulting in moral and ethical rudeness and cynicism. In fact, with residual craniocerebral manifestations, the feeling of the real nature of socially dangerous consequences changes, which disturbs the balance of awareness of the act and the desired result in the mind of the subject of the criminal offence. [22, p. 2]. Taking into account the results of the research in the previous sections of the work, it is possible to conclude that for persons with such mental anomalies, due to residual manifestations of craniocerebral injuries it is possible to be involved in a terrorist act (Article 258 of the Criminal Code). Article 258 of the Criminal Code of Ukraine), fraud (Article 190 of the Criminal Code of Ukraine).

Another type of mental anomaly is oligophrenia, with a mild degree of dementia that involves an underdeveloped psyche (an impaired mental activity with a predominant lack of intellectual function) and/or the body of the subject of the criminal offence. The peculiarity of this anomaly is that mental disorders do not arise as a result of reduced intelligence, but due to underdevelopment.

For example, it is known that people with mental retardation often decide to commit violent sexual offences because they are unable to ensure normal contact with women and satisfy their sexual needs [2, p. 231].

At the same time, patients with oligophrenia perceive only the external signs of objects and phenomena, without realizing the internal logical connections. Patients with oligophrenia can be divided into two large groups, where on the one hand they easily come into conflict with others, they are obsessive, unfettered, irritable, prone to aggression, hypersexual; on the other hand, they are always apathetic, retarded individuals who have little interest [4, p. 100]. That is, people with oligophrenia are characterized by the commission of a criminal offence without awareness of the causal link between the criminal act and the consequences. That is, according to the author, such persons, due to the presence of mental disorders in them are not able to commit psychological abuse (which requires regularity) against their victims. However, such persons may become easy victims, for example, minors involved in prostitution (Part 3 of Article 303 of the Criminal Code of Ukraine), the involvement of minors in criminal activities (Article 304 of the Criminal Code of Ukraine), or be involved in a terrorist act (Article 258¹ of the Criminal Code of Ukraine), public appeals to commit a terrorist act (Article 258² of the Criminal Code of Ukraine), fraud (Article 190 of the Criminal Code of Ukraine).

The last of the types of mental anomalies is proposed to consider psychopathy, which is a severe mental disorder and is determined by the pathological nature and social maladaptation. Scientists have the following basic views on the origin of psychopathy, namely: 1) some believe that it is congenital suffering; 2) others believe that the formation of psychopathy is carried out throughout a person's life, depending on the microenvironment and upbringing in which the person grew up; 3) the third, believe that this is the result of the interaction of the first and second factors, ie the result of congenital suffering and elements of education and personal development in the early years. Despite the anamnesis, psychopathy is not in the list of diagnoses

established by the International Classification of Diseases of the Tenth Revision (ICD–10), so in fact, it cannot be defined as a disease.

Discussion. The most interesting thing is that psychopaths use manipulation to achieve their goals, and they tend to deceive, disregard the laws and moral norms. One thing that distinguishes psychopathy from other mental anomalies is the lack of conscience and guilt. According to the author, psychopathy is one of the most common mental anomalies among criminals, which is characterized by the use of mental abuse, because psychopathy is permanent and allows the patient to manipulate and influence the human psyche, including through manipulation, deception, blackmail. and threats.

Conclusions. It can be concluded that mental anomalies are determinants of criminal offences, which are characterized by the commission of mental abuse because people with mental disorders are more impulsive than others, they are easier to deal with illegal actions. Educational and preventive influence on them is difficult. People with such disorders are weak among those who may decide to use violence. Meanwhile, the current level of knowledge allows us to reasonably assume the possible actions of individuals suffering from mental anomalies. In particular, there is credible data on the correlation of certain mental disorders with certain types of criminal behaviour.

We should also agree with the opinion of B.S. Volkov that the legal aspect of mental characteristics of the individual involves the consideration of mental anomalies not in isolation, but in connection with other properties, especially taking into account the nature of the act and all signs of a criminal offence. Only under this condition can the mental defects of the personality of the accused have criminal significance [21, p. 136.]. In combination with other factors, the mental disorders of the perpetrator can only play the role of conditions for committing criminal acts. Thus, mental disorders do not determine the fatal pathological motivation of violent criminal offenses [5, p. 48].

In conclusion, it is possible to note that in the life of Ukrainian society the number of factors that determine the commission of criminal offences has increased significantly, including in the form of mental abuse in general and mental abuse in particular. It has become customary for many citizens to resolve interpersonal conflicts by the shortest possible way through the use of mental abuse (through threats, extortion, intimidation, etc.), without recourse to the relevant authorities (including law enforcement) and statutory procedures.

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CRIMINAL LEGAL DEFINITION OF THE CONCEPT OF TORTURE AND DIFFERENTIAL DISTINCTION OF TORTURE FROM RELATED CRIMES

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Abstract. *The article highlights the clarification and definition of criminal legal concept of torture, the study of peculiarities of this crime corpus delicti and its basic features, distinction from related categories; proposals regarding the improvement of provisions of the Criminal Code of Ukraine have been formulated. The purpose of writing this article is represented by the study and criminal legal analysis of torture (Article 127 of the Criminal Code of Ukraine), analysis of the main and qualified corpus delicti of torture under the Criminal Code of Ukraine; the identification of types, methods and ways of torture; the definition of the scientific concept of "torture" and related concepts; the determination of criteria for distinguishing the corpus delicti of torture from related crimes under the Criminal Code of Ukraine; the analysis of international legal acts aimed at protecting human rights and preventing torture and other cruel, inhuman or degrading treatment or punishment; the analysis of Ukrainian national legislation in terms of its compliance with international law in the field of protection of a person from encroachment on his/her life, health, honour and dignity, which represents torture. The methodological basis of the study is represented by a set of methods and techniques of scientific knowledge, both general and special: historical, functional analysis, system-structural, formal-logical, comparative-legal, formal-legal, generalization. The author concludes that the concept of "torture" is not clearly defined in national law, underlines the feasibility of developing a mechanism for criminal legal counteraction to torture in the context of international standards. Besides, the article highlights the norms and provisions of international-legal norms on the prevention of torture and analyzes the importance of European organizational legal mechanisms to prohibit torture.*

Keywords: *torture, inhuman treatment, abuse, crime, criminal liability, international experience, counteraction, court, corpus delicti, criminal law qualification, criminal code.*

JEL Classification: I30, K14, K24, K40

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Introduction. The prohibition of torture is an imperative rule of international law and, as the European Court of Human Rights has consistently emphasized in its case-law, reflects one of the fundamental values of a democratic society. The guarantees of the human right to life and protection from ill-treatment or other inhuman treatment are enshrined in all major international documents, from the general principles of international law, international documents of customary law to international treaties at the universal and regional levels. To define the concept of "torture" it is necessary to outline the specific characteristics of this crime, to determine the main features of the corpus delicti of this crime and to make a clear distinction from related crimes.

Literature Review. The study is based on the results of law enforcement practice examination, comprehensive and systematic analysis of national research on combating torture, criminal law of Ukraine, as well as international normative-legal acts (including the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, the European Convention for the

Prevention of Torture and Inhuman or Degrading Treatment or Punishment of November 26, 1987), etc.

Aims. The purpose of writing this article is represented by the study and criminal legal analysis of torture (Article 127 of the Criminal Code of Ukraine), analysis of the main and qualified corpus delicti of torture under the Criminal Code of Ukraine; the identification of types, methods and ways of torture; the definition of the scientific concept of "torture" and related concepts; the determination of criteria for distinguishing the corpus delicti of torture from related crimes under the Criminal Code of Ukraine; the analysis of international legal acts aimed at protecting human rights and preventing torture and other cruel, inhuman or degrading treatment or punishment; the analysis of Ukrainian national legislation in terms of its compliance with international law in the field of protection of a person from encroachment on his/her life, health, honour and dignity, which represents torture.

Methods. The methodological basis of the study is represented by a set of methods and techniques of scientific knowledge, both general and special: historical, functional analysis, system-structural, formal-logical, comparative-legal, formal-legal, generalization.

Results. Pursuant to the Constitution, an individual, his life and health, honour and dignity, inviolability and security shall be recognised in Ukraine as the highest social value; no one shall be subjected to torture, cruel, inhumane, or degrading treatment or punishment [1]. In this regard, it is important to determine the extent to which the bodies of inquiry, pre-trial investigation, prosecution and court comply with this constitutional provision in practice; what are the procedural guarantees, theoretical, legal and practical problems of exercising this right.

Indeed, our state has given its consent regarding the obligation to implement a number of international agreements, which in accordance with Art. 9 of the Constitution of Ukraine became a part of the national legislation of Ukraine, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 [2], the International Covenant on Civil and Political Rights of 16 December 1966 [3], the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 10 December 1984 [4], the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment of 26 November 1987 [5].

However, in Ukraine, within the legal system, the traditional attitude to human rights as a kind of "optional" element in the formation and functioning of the criminal justice system remains a problem. A similar attitude prevails in society as a whole, when any, even very severe measures are considered justified in the fight against crime. The high level of human rights violation is evidenced by the fact that Ukraine ranked third according to the number of appeals to the European Court of Human Rights. Unfortunately, this points not only to problematic issues in the activities of law enforcement agencies, but also to the fact that the injured parties cannot find adequate protection in court. Under these circumstances, it is especially important to form reliable theoretical and methodological foundations for the study of European experience, analysis of conditions that will promote the reformation of the system of

combating against torture in Ukraine in accordance with European standards, to ensure the independence and efficiency of the judiciary, to improve the quality of judgments in accordance with European standards.

Given that the corpus delicti of the crime under investigation is relatively new in Ukrainian criminal law, in practice there are problems with the legal assessment of torture, with its distinction from related crimes. This makes it essential to study the applied law enforcement aspect of the fight against torture, which is important for law-enforcement bodies.

Scientific researches in the field of criminal law on liability for torture and related crimes have been carried out by a number of both domestic and foreign scholars (I. Bohatyriov, Ye. Bulavin, O. Dzhuzha, D. Dil, M. Donelli, M. Evans, V. Ilnytskyi, K. Katerynchuk, O. Kostenko, S. Liakhova, V. Stashys, V. Tatsii, M. Khavroniuk, A. Cherviatsova, etc.), however, after the implementation of reforms, criminal law needs to be improved, as well as the analysis of problems of legal regulation and the development of ways to solve them.

The criminal legal understanding of torture should not be confused with everyday, vital one, according to which strong and mental emotional stress can be included in the concept of torture, because the basis of criminal liability is represented by the commission of an act that contains all the elements of a crime under the Criminal Code. Incorrect or inaccurate qualification violates the principle of fairness in criminal law, and errors in qualification are usually made due to misunderstanding of the terminology applied by the legislator. One of the most common problems of torture qualification is represented by the imperfection of the disposition of the article.

Presently, scholars consider torture as a complex antisocial-legal phenomenon, which makes it almost impossible to accurately formulate a definition that would reveal its essence in the best way. Thus, in the scientific literature we find different interpretations of the concept of "torture". They can be conditionally reduced to: 1) those which draw attention to the right to protection from torture (bearing in mind the personal safety of an individual); 2) those which reflect "torture" as one of the stages of "inhumane" treatment of an individual (their contents follow from the case law of the European Court of Human Rights); 3) those which do not contain all the features of torture (e.g., intimidation, suffering, coercion, etc.) in their definitions; 4) those which, while emphasizing the peculiarities of torture, at the same time, contain erroneous features that contradict the existing practice [6]. This is fully correlated with the legal definition of torture and fits into the doctrine of criminal law science.

International legal acts contain the following definitions of "torture":

– torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons (UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 9 December 1975) [7];

– torture means the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason (WMA Declaration of Tokyo, 1 October 1975, "Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment") [8];

– the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1980) [9];

– torture shall be understood to be any act intentionally performed whereby physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation, as a means of intimidation, as personal punishment, as a preventive measure, as a penalty, or for any other purpose. (Inter-American Convention to Prevent and Punish Torture, Organization of American States, 9 December 1985) [10].

Despite certain peculiarities, all the above definitions, both national and international-legal, have common points in which the essence of the phenomenon of torture is revealed, namely:

– torture means physical and non-physical violence against a person;

– torture always means intentionally committed act, i.e. the person who applies it, intentionally violates criminal law;

– torture means actions that are committed for a specific illegal purpose;

– victim of torture is a person who found himself in a very specific situation associated with restraint of liberty and certain dependence on officials of certain public authorities;

– torture can be a one-time (situational) or a systemic offense [11].

The legislative definition of torture is noted in Article 127 of the Criminal Code of Ukraine, which is noted in Chapter II of the Special Part of the Criminal Code of Ukraine "Criminal Offences against Life and Health of a Person" and provides liability for wilful causing of severe physical pain or physical or mental suffering by way of battery, martyrizing or other violent actions for the purpose of inducing the victim or any other person to commit involuntary actions including receiving from him/her or any other person information or confession, or for the purpose of punishing him/her or any other person for the actions committed by him/her or any other person or for committing of which he/she or any other person is suspected of, as well as for the purpose of intimidation and discrimination of him/her or other persons [12].

The main direct object of torture is human health, the obligatory additional object is represented by the honour, dignity and will of the person. The objective aspect of the crime is characterized by the presence of three mandatory features: the act, the consequence and the causal link between them. A socially dangerous act consists of dynamic actions expressed in inflicting battery, torture, and other violent acts. However, it should be noted that this crime can be committed in the form of inaction. A socially dangerous consequence is presented in the form of causing the victim severe physical pain or physical or mental suffering. As for the causal link between these actions and the consequences, it can be represented by: severe physical pain, physical or mental suffering resulting from the battery, martyrizing or other acts of violence. The subject of the crime provided for in Article 127 of the Criminal Code of Ukraine is a general one (a sane individual who has reached the age of 16 years). From the subjective aspect, torture is characterized as an intentional form of guilt, herewith the intent can be both direct and indirect. It should be noted that the obligatory feature of torture is the presence of a special purpose of the perpetrator – to encourage the victim or another person to commit acts contrary to their will, including obtaining from him or another person information, testimony or confession, to punish for his actions, which he has committed or is suspected of committing, or intimidating him or others. It should be noted that the disposition of Article 127 of the Criminal Code of Ukraine does not provide for motivating a person to refrain from performing actions as a special purpose.

Thus, in particular, Part 2 of Article 126 of the Criminal Code of Ukraine provides for additional common elements of the corpus delicti: tortures covered by the concept of “martyrizing”; special purpose – intimidation of the victim or his relatives (Article 127 provides for intimidation of the victim or other persons).

Thus, the elements of torture and battery and torment will be identical, if the perpetrator inflicts severe physical pain by inflicting battery, torment or other acts of violence to the victim for the purpose of intimidation of him (or his relatives). This circumstance is inadmissible, especially if we take into account the fact that the sanctions of Part 1 of Article 127 and Part 2 of Article 126 of the Criminal Code of Ukraine differ in the types and amount of punishment. The solution to this problem is possible only at the legislative level by excluding the special purpose of "intimidation" from the disposition of Part 2 of Article 126 of the Criminal Code of Ukraine (the exclusion of this special purpose from the disposition of Article 127 would result in non-compliance with the requirements of the UN Convention against Torture) [13].

While delimitating similar crimes it is necessary to pay attention to Art. 189 of the Criminal Code of Ukraine. Thus, Part 3 of this article provides for criminal liability for extortion accompanied with violence dangerous to life and health of an individual. In the context of this article, violence covers the battery, including torment, torture, infliction of trivial injury resulting in a short-term health disorder or minor disability, moderate bodily injury or other acts of violence (i.e. an act provided for by an objective aspect of the torture). The consequence of such actions is severe physical pain or physical or mental suffering. The purpose of this article consists of

the following: the illegal obtainment of another's property, the right to property or obtaining the commission of a property nature act by the victim; in essence it is an incentive to commit acts contrary to the will of the person. The purpose provided for by this article helps to separate the extortion from torture. In the case of extortion, there is an exclusively selfish motive, which cannot be said about torture, where there is no such a motive [14].

Conclusion. Given the general criminal law analysis of the crime under Art. 127 of the Criminal Code (torture), the following conclusions can be drawn:

1. The use of torture is a direct violation of constitutional norms, since such actions cause a person physical and mental suffering, which is contrary to the constitutional principles that operate within the rule of law state. In most cases, torture is associated with the restriction of liberty, and it should be noted that even in captivity, a person cannot be tortured, which is contrary to the principle of inviolability. Non-physical torture, which is very often associated with the threat of violence against family members of a person whose information is collected and used without the latter's consent, is also a violation of the constitutional norm, which entails liability. Very often torture is a means of influencing those who express their views regarding the violation of rights in detention centres, i.e. they point out the shortcomings of the system and therefore become victims of torture. In this case, the purpose of the violence is to oblige the person to remain silent about systemic offenses. Information obtained from a person through the use of torture belongs to evidence obtained illegally.

2. Torture has a high level of latency, so the problems associated with combating the type of crime under investigation are relevant. First of all, cases of torture do not always become known to the court, as victims do not apply to law enforcement bodies for the protection of their violated rights, do not believe that the perpetrators, often from the law enforcement agencies themselves, will be identified and punished, and the caused damage will be compensated. In some cases, the victim does not even realize that a crime has been committed against him or her because the perpetrators were law enforcement or other public officials and acted as if to achieve legitimate goals and to protect legitimate interests. This also includes the fear of revenge, harm to themselves and their relatives by those, whose actions are challenged.

3. The problem of timely and complete detection of the facts of such a crime commitment and ensuring the inevitability of punishment for it, which will promote the establishment of legality.

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FIXED-TERM EMPLOYMENT CONTRACT IN THE SPHERE OF EDUCATION: THE ISSUES OF LEGAL REGULATION

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Abstract. *The provision of appropriate function of education sphere is treated as one of priority state tasks, s an important structural element of quality educational services provision. The development of Ukraine state education policy should suppose the fact that all issues related to legal regulation (forming of education legislation, defining the conditions of fixed term and labour contracts conclusion, development of legal means and organization evens for quality educational services provision) are solved in complex. The aim of this article is to research the issues of legal regulation of fixed term employment contract in the sphere of education. Research methodology: methods of logical comparison, systematization and generalization, general scientific and special research methods, in particular analysis and synthesis, system-structural analysis, which allowed to achieve the research goal. The importance of development is an appropriate, consistent state educational policy, focused on obtaining a qualitatively new result in the field of education, which would correspond to the state and trends of the world educational society and generally accepted international and European standards in this field. State educational policy should be implemented in stages based on the use of organizational, legal and economic principles. At the first stage of implementation of the state educational policy it is necessary to consistently identify urgent problems in the system of functioning of educational institutions and management in general, as well as problems of legal regulation of fixed-term employment contracts in the field of education. services.*

Keywords: *fixed-term employment contract, education field, educational institutions, legal regulation, education field employe.*

JEL Classification: I28, I21, J83, J81, K31

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

Introduction. Assessing the effectiveness of educational institutions and the quality of educational services is considered the main target function of the education system worldwide, where programs to assess the quality of educational services are set in the provisions of national education policy are implemented and functioning, and have a positive impact on education. The main trend of improving the education system is to shift the priority from maximum savings of public expenditures in the provision of educational services to the maximum efficiency of the resources involved. And this approach is relevant for educational institutions of Ukraine.

In modern conditions, the progressive development of the state is impossible without the constant improvement of the system of education and science, which is provided by employees in the field of education. Clear legal regulation of labor relations with employees in the field of education will facilitate the admission to the education and science system of highly qualified personnel only. Since the right to

conduct activities is one of the main social constitutional rights of the individual: therefore the optimal state of legal regulation of the activities of this category of workers will ensure the effective implementation of this right. The growth of the number of competitive specialists, which guarantees the receipt of quality, thorough education, is realized through the activities of employees in the field of education.

Literature review. A significant number of scientists study the subject of the educational field and the effective work of educational institutions. In particular, the scientific works of VA Kononenko [5], V. Ya. Kiyan [3], DO Kiva [2], K. Popova-Koryak [7], N.G. Moskalyk [6], S O. Silchenko [14], Yu. P. Dmytrenko [2] are devoted to the analysis of some aspects of formation of normative legal acts in the modern educational branch of Ukraine in frames of globalization processes and challenges which have influenced development and formation of activity of educational institutions. Currently, the implementation of regulations in the field of education remains insufficiently studied, so the analysis of scientific achievements of researchers gives grounds to assert the existence of different approaches in the study of this issue.

Aims. The purpose of the article is to outline the problems of legal regulations in terms of reforming the education sector and identify the main problems in concluding fixed-term employment contracts. Identify the main aspects of concluding and regulating the current legislation of the country fixed-term employment contracts in the field of educational activities. To compare the national normative-legal regulation of fixed-term employment contracts in the field of educational activity with the normative-legal regulation in other countries of the world.

Methods. The author used methods of logical comparison, systematization and generalization, general and special research methods, including analysis and synthesis, system-structural analysis, which allowed to achieve the goal of the study.

Results. Reform of education and labor legislation in accordance with the declared vector of accession to the European Union, where this process is quite intensively implemented by the country in recent years. As noted by Popova-Koryak K. legal regulation of employees in the field of education, on the implementation of the main socio-economic human rights - law, which is the primary element of the formation of all relations in the field of employment - the right to work, requires a detailed study of the implementation of the right to work by scientific and pedagogical workers in the form of a fixed-term contract. In accordance with the transformed changes in the legislation on higher education, which in turn has led to a change in the legal regulation of the implementation of the right to work of workers in the field of education [7, p. 80].

Specific traits of the legal regulation of labor relations with research and teaching staff and employees of higher education institutions is a combination of their centralized regulation with the local, which is modified by each educational institution separately. The main legal act that guarantees the legal regulation of labor relations in the field of education with research and teaching staff is the Labor Code of Ukraine (hereinafter - the Labor Code of Ukraine) [4]. According to the country's legislation, labor relations with research and teaching employees require extravagant

legal regulation, which is poorly defined and not provided by the Labor Code of Ukraine, which defines only universal provisions that do not take into account the current nature of labor relations with workers in education and science. This uncertainty has led to the formation and implementation of a number of special regulations, where the first special regulations, defining the general provisions regarding the regulation of labor relations of educators, is the Law of Ukraine № 2145-VIII from 05.09.2017 "On Education" [9] , where this law regulates the universal rights and responsibilities of workers in education, determines state guarantees for this category of workers, sets requirements for education and professional qualifications of workers in education sphere, their professional development and the procedure for improving the professional specialization of research and teaching staff, regulates working hours and wages of this category of employees.

According to Part 11 of Art. 55 of the Law of Ukraine "On Higher Education" [8] defines that the Academic Council of educational institutions should develop a procedure for competitive selection when filling vacancies in education and concluding fixed-term employment contracts with them, also recognized Recommendations for competitive selection when filling vacant positions of employees in the field of education and concluding fixed-term employment contracts with them, which are approved by the enactment of the Ministry of Education and Science of Ukraine 05.10.2015 № 1005 [13]. Given that a number of amendments to the laws of Ukraine have been made at the present stage, has resulted that these recommendations require revision and amendments. According to the analysis, Kononenko VA notes that these Recommendations define the norm regarding the conclusion of a fixed-term employment contract for a period of 5 years when hiring in higher education institutions as a result of a successful competition to replace an employee in education sphere. This norm is absent in the Law "On Higher Education" and is considered to be contrary to international labor law standards [5, p. 89-90].

Dmytrenko Yu. P. and Kiva D.O. indicate that the characteristic features of a fixed-term employment contract is that it is concluded for the relevant term, which is defined and stipulated in this contract. The essence of this fixed-term contract is that it is not a form of employment contract, as stated in Part 3 of Art. 21 of the Labor Code of Ukraine, and is a specific type [2, p. 133].

In order to determine the characteristics of fixed-term employment, it is likely in the case of establishing the division of employment contracts into perpetual and fixed-term ones. For the former, the characteristic condition is the conclusion of an ordinary employment contract, where the contract must be understood as a contract that is concluded without a fixed term, and which is not limited to the time of the relevant activity or in the event of a certain situation.

With regard to fixed-term employment relationships that appear on the basis of signing and concluding a fixed-term employment contract which is limited in time and this term is defined in the contract. Thus, the most important characteristic feature of fixed-term employment is their emergence on the basis of a fixed-term employment contract.

Moskalyk N.G. provides an interpretation of a fixed-term employment contract, as a legal fact that gives rise to the appropriate type of relationship, which for some types of fixed-term employment contracts is signing and concluding a fixed-term employment contract is not sufficient where in this case there is a factual composition.Meaning that it consists of several intermediate legal facts, which in general are the basis for the emergence of fixed-term employment [6, p. 125].

Therefore, the basis for the emergence of fixed-term employment in these cases is a fixed-term employment contract, which was preceded by other legal consequences: the act of election, order of appointment or competitive selection, where the latter is a prerequisite for its conclusion. The emergence of fixed-term employment relationships with the actual composition occurs when elected to office; appointment; competitive replacement of a vacant position and in other cases.

A fixed-term employment contract is inextricably linked to the category of term, where it is necessary to investigate the characteristics of the term in fixed-term employment. In accordance with the objective and subjective moment determined by S.O. Silchenko [14, p. 13], namely the dual nature of the term requires the expediency of its study from two sides: as a legal fact-event and as a legal fact-action. A specific trait of the term as a legal fact-action is that the parties to a fixed-term employment relationship have the opportunity to choose its duration, except when the legislator centrally prohibits reducing or increasing the term, this procedure occurs when concluding a contract with the head of a state enterprise. should be five years old.

The term of a fixed-term contract as a legal fact-event is interrelated with its objective nature, which is manifested in the inability to influence its current course, except when the parties terminate the fixed-term employment relationship on their own initiative. Moskalyk N.G. notes that the term is a prerequisite for the emergence of fixed-term employment, because they can not exist without its establishment [6, p. 127].

Labor relations for a scientific and pedagogical employee of an educational institution appear on the basis of an employment contract. The Law of Ukraine № 2145-VIII contains a provision on the application of a contract which provides for the signing and conclusion only with the heads of educational institutions, where the contract, in accordance, is a fixed-term employment contract. In Art. 21 Labor Code of Ukraine, the contract is a specific form of employment contract, in which its term, rights, duties and responsibilities of the parties, as well as taking into account liability, conditions of material insurance and organization of the employee, as well as conditions for termination of fixed-term contract, including early, are established by agreement of the parties.

The purpose of the contract in accordance with the resolution of the Cabinet of Ministers of Ukraine "On streamlining the application of the contractual form of employment contract" of March 19, 1994 № 170 is the insurance of conditions for the positive characteristics of the employee, which takes into account his professional abilities and personal skills. legal and social protection of the employee. However, these conditions in practice usually lead to a violation of the rights of employees,

rather than to stimulate their professional activities. In accordance with this resolution Kononenko V.A. identified the characteristics of the contract and the specifics of its content, which is broader, compared with the content of the employment contract [5, p. 92].

According to the established norm of the law, the parties to a fixed-term contract have the opportunity to establish by agreement their rights, obligations and increased liability. According to Art. 36 of the Labor Code of Ukraine establishes the grounds for termination of a fixed-term employment contract, which the employer does not have the opportunity to supplement or amend. A specific feature of a fixed-term employment contract is the probability of establishing by the parties on the basis of the agreement of the adventitious grounds for its termination, which are not defined in the said article of this law. Thus, in fact, the parties are entitled to nullify a fixed-term employment relationship on the basis of a fixed-term employment contract both on general grounds and on the grounds specified directly by their agreement and specified in the fixed-term employment contract. Kiyan V. Ya. points out that these conditions often violate the rights of employees, which causes the likelihood of labor disputes in connection with the illegality of the grounds for termination of a fixed-term employment contract [3, p. 45].

Due to the rather low level of legal regulation of concluding a fixed-term employment contract at the legislative level and in practical implementation, there are problems with the use of this legal institution. Therefore, it is necessary to define in the Law of Ukraine "On Higher Education" cases concerning the conclusion of a fixed-term employment contract and a contract [8]. An analysis of the current Draft Labor Code was conducted by V.Ya. Kiyan, who determined that this Draft does not provide for the form of a fixed-term employment contract as a contract, which raised doubts about the expediency of its existence [3, p. 46]. Also, Kononenko V.A. determined that the main problem is the lack of a defined detailed list of essential conditions of the contract, where some of them are specified in Chapter. 3, Art. 21 of the Labor Code of Ukraine, namely: the conditions of material insurance and organization of the employee; conditions of contract rejection; term of the contract; rights, duties and responsibilities of the parties [5, p. 92].

Analyzing the scientific and pedagogical activity, the characteristics and conditions of its implementation does not provide a clear basis for determining fixed-term employment in terms of the content of work. Because, this type of activity is concentrated on thorough, fundamental results of activity, which are possible on the basis of stable, uninterrupted activity only. Only in these conditions the employee will provide high performance, and the term of his activity can be set in the event that the employee insists on the appointment of a term.

At this stage of existence, the legal consequences of signing and concluding a fixed-term employment contract with research and teaching staff are obvious and defined in Chapter. 3 point 9 of the Resolution of the Plenum of the Supreme Court of Ukraine of November 6, 1992: “After all, in accordance with Part 2 of Art. 23 of the Labor Code fixed-term employment contract may be concluded only if the fixed-term employment relationship for an indefinite period can not be determined, due to

the specific features of the activity or conditions of its implementation, or the relevant interests of the employee, or in other cases provided by law , therefore, the signing of a fixed-term employment contract for a specified period in case of insufficiency of these conditions is the basis for its invalidation in terms of determining the term "[10].

Therefore, the specified provision of the Recommendations on concluding fixed-term employment contracts should be such that it does not contradict the current legislation, because at the present stage higher education institutions reproduce these instructions in their Competition Regulations as a result of further deepening violations of international acts. and the Labor Code of Ukraine. Some higher education institutions in the country define the following Regulations: to establish other conditions of the contract by agreement of the parties in accordance with the established legislation of the country ". According to the current Law of Ukraine "On Higher Education", the contract is concluded exclusively with management positions, namely with the head of higher education, head of the faculty (educational and scientific institute), head of the department [8].

In these cases, the implementation of the autonomy of higher education institutions in connection with the likelihood of individual development and adoption of its Regulations on the selection of employees in the field of education, which contains the opposite results of the main goal of educational reform. education.

Therefore, in the context of the study of this issue there is a need to periodically check the compliance of the professional specialization of the employee in the field of education. The competition procedure should be used exclusively as a procedure to verify the applicant's compliance with the requirements set for an employee in the field of education exclusively for vacant positions. In the event that the position is not vacant, the law prohibits the artificial formation of the position while concluding fixed-term employment contracts. It is necessary to apply the certification procedure to employees in this field every 5 years.

Thus, the competition will achieve a specific goal, namely the selection of the best candidates for the position, and the certification will confirm the compliance of the employee in the field of education to the position. We propose to supplement Part 12 of Art. 55 of the Law of Ukraine "On Higher Education" [8] with the following paragraph: "employees in the field of education are required to undergo certification, which determines the compliance of employees with the position every five years."

We propose to correct and supplement in a similar way the references in the Recommendations and the Law of Ukraine "On Education". In the case of certification, an employee in the field of education will be recognized as not meeting the requirements of the position, as a result of insufficient professional specialization, which prevents the continuation of this activity, where in this case to dismiss the employee under paragraph 2 of Art. 40 of the Labor Code of Ukraine [4], where these references must be spelled out in detail in the Recommendations. The current state of recruitment in the field of education is inextricably linked with the reform and modernization of this area. After all, thanks to the reform of the education sector, the

competition procedures and in general the selection of staff for positions have been regulated.

Also, the Draft Labor Code of Ukraine changes the legislator's view on the basic provisions of fixed-term employment contracts. Thus, in paragraph 8 of Part 1 of Art. 58 of the Draft Labor Code of Ukraine states that employment relations for a specified period are determined with employees in the field of education, where the enrollment procedure is carried out in accordance with the law and the relevant results of the competition for a specified period [11].

On the basis of the Communiqué of the World Conference on Higher Education - 2009 "New dynamics of higher education and science for social change and development" signed by Ukraine, we strongly disagree with the enrollment procedure, carried out in accordance with the law and the relevant results of the competition for a specified period. recognized that "ensuring quality education requires recognition of the importance of attracting and maintaining a highly qualified and professional scientific and pedagogical staff" [1]. Thus, the conclusion of fixed-term employment contracts will not help to maintain a proper scientific and pedagogical staff.

Prudnikov V.A. studied the normative legal acts in force in the countries of the international educational space, which establish the rules of mandatory requirements for the conclusion of fixed-term employment contracts. In Italy, fixed-term employment contracts stipulate that the head of an educational institution is obliged to provide his employee with a written document when hiring, which must specify the conditions of this type of activity by agreement of the parties. In the labor law of Germany there is a principle of freedom of contract, which establishes that the parties are free to include in the employment contract all issues related to the activities of the employee in this area of activity. In particular, in France and Italy in the legislation in the content of the fixed-term contract such essential conditions, as, duration of working hours, working week, holidays can be included.

US federal and state laws govern the following terms of a fixed-term contract: the minimum wage, the maximum term of the fixed-term contract, the procedure for payment of wages, working hours during the week, types of rest, the minimum duration of annual leave, mandatory overtime. urgent

Croatian law obliges to include in the fixed-term contract information about the specialty, profession, level of professional specialization of the employee and other requirements regarding his professional abilities. The contract determines the day of employment, the duration of working hours, the probationary period, the amount of salary, the duration of the annual main and additional leave, other rights and obligations of the parties.

According to the legislation on the activities of employees in the field of education in the Czech Republic, the employer is obliged to agree with the employee in a fixed-term contract the following essential conditions: type of work; place of performance of work (settlement, structural subdivision or other specific place); start date [12, p. 382-383].

It is worth noting among the countries of Western Europe the French Republic (hereinafter - France), because it is the largest territory among other European countries, so undoubtedly, the analysis of the legal regulation of the conclusion, amendment and termination of employment contracts in France is very relevant and appropriate for formation of a general idea of the development of the category of employment contracts in the world. The comparison of the regulations of Ukraine and France (Table 1) [4; 15].

Table 1. Legal regulation of fixed-term employment contracts in the sphere of education in Ukraine and France

Specific trait	Ukraine	France
Fixed- term employment contacts regulation	Labour code	Labour code
Presence of chapter in Labour code related to fixed-term employment contracts regulation	Chapter III available	No Chapter
Division of labour contracts	Three types of labour contracts such as perpetual, for fixed term, which is concluded for specific work performance.	Two types of labor contracts such as perpetual labour contracts and labour contract for fixed term: .
Division of fixed-term labour contracts	No division	Sub-types of fixed term labour contract: labour contract for part time job; labour contract prompting work renewal; agent labour contract, labour contract fo persons aged 57 and looking for a job for more than three months; labour contract for workers aged 16-25 related to their further employment.
Terms of fixed-term labour contracts	*The fixed-term labour contract can be cocluded for one day only; while the law does not interfere with labour contract conclusion for 3, 5, 10 or 20 years.*	The general term of fixed term labour contract should not exceed one year and half.
Legal ground for contract conclusion with instructors	*Article 54 of the Law "About education".*	Labour law
Education norms	Uppers norms of educational load for one position make 600 hours a year.	From 128 to 384hours a year depending of instructor category
Type of contracts in the sphere of education	Perpetual contracts prevail	Perpetual contracts prevail
State employee status	The status is not provided, while state employees have the right to work as instructors part-time	The status is provided to senior instructors and professors as these are two highest academy categories. Junior instructors are not covered

Sourses: made on the basis of the following references: [4; 15]

Thus, French labor law is one of the most focused on the protection of workers` interests, compared to Ukraine, as the Labor Code contains significant types of fixed-term contracts, each containing relevant rules and protection of workers' rights, optimal teaching standards for workers in education, and civil servant status is also granted to senior teachers and professors. Therefore, borrowing the positive aspects of the French labor law model in the further reform of labor legislation of Ukraine is appropriate.

Thus, international regulations do not pursue the goal of regulating fixed-term employment in their entirety, in determining all the conditions of activity in the field of education.

Discussion. Analyzing the current state of modern legal regulation of fixed-term employment relations with employees in the field of education, its main issues were identified. As the Law on Higher Education gave higher education institutions independence in resolving a large number of issues, general education institutions were not given such an opportunity, so labor relations in this area require the application of the principle of combining local regulation with centralized. Therefore, the following rules should be implemented: the main requirements for candidates for the position of employee in the field of education should be supplemented by the requirement to have high moral qualities and the condition of proper physical and mental health; to form significant conditions regarding the fixed-term and employment contract at the legislative level; to establish the legal definition and purpose of competitive selection for the position of an employee in the field of education, and to approve the main cases when concluding an employment contract without announcing a competition.

Conclusion. Thus, fixed-term employment relationships have speicifc traits that are inherent in ordinary employment relationships, as they are a generic concept in relation to the former. As types of concepts, fixed-term employment has its own characteristics, which is a fixed-term employment contract as a basis for their formation; where their subjects are the employee with whom the fixed-term employment contract was concluded and the employer who uses his work; this type of work is temporary, and in some cases focused on achieving a certain result of work, as well as the specific content that is provided at the legislative or local level.

The main provisions concerning the regulation of fixed-term employment of employees in the field of education should be separated in a separate section of the Law of Ukraine "On Higher Education" and "On Education" entitled "Labor relations with employees in the field of education", which should define standards for candidates education; the main conditions of the fixed-term and employment contract; delimitation of the basis of their conclusion; characteristic features of competitive selection; main rights and responsibilities of employees; basic provisions regarding their certification, their working hours and remuneration in the field of education; as well as legislation on material incentives for employees. The implementation of these proposals will help to form an appropriate legal basis for the optimal functioning of the system of fixed-term and employment relations with employees in the field of education.

Thus, as a result of the study it was determined that in modern conditions there is no appropriate regulatory and legal support for the formation of fixed-term employment contracts in the field of education. As 2020 is a turning point for this stage of reform, where in early 2021, it will be possible to see whether the government has been able to remove existing obstacles in the system of formation of fixed-term employment contracts in education, because these obstacles can have negative consequences for quality assurance. and availability of educational services.

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FOREIGN EXPERIENCE OF LEGAL PROTECTION OF POLICE OFFICERS AND PROSPECTS OF ITS USE IN UKRAINE

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Abstract. *Today, the protection of police officers is one of the important conditions for the effective operation of the National Police as a whole. The object of this study is public relations in the specific field of ensuring the safety of life and health of police officers from unlawful encroachments related to the performance of their professional duties. The purpose of the article is to clarify the features of legal protection of police officers in the performance of their official duties in other countries and outline possible ways to improve this activity in Ukraine. To achieve this goal, general scientific and special methods of scientific research were used. The state and level of legal regulation of police protection in other countries of the world emphasizes the importance of this issue to ensure their rights, as well as the effectiveness of the police in general. It has been established that the protection of police officers in the performance of their official duties is carried out by a number of organizational, logistical and legal measures, which are enshrined in the norms of administrative and criminal law. As a result, the expediency of expanding in the legislation of Ukraine some powers of police officers, which will affect their own safety and guarantee the safety of others, is substantiated. In addition, it is proposed to establish administrative liability for insulting or disrespecting a police officer in the performance of his duties, as well as for slandering a police officer in order to discredit him, imposing severe sanctions for these offenses.*

Keywords: *foreign experience, police, policeman, protection of police officers, performance of official duties, personal safety.*

JEL Classification: K14, K23, K42

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Introduction. The Constitution of Ukraine (Art. 3) states that a person, his life and health, honor and dignity, inviolability and security are recognized as the highest social value [1]. The issues of creating effective guarantees of safe living of those persons on whom the law entrusts the implementation of law enforcement functions due to their state professional activities are of particular importance in the development of any democratic state. The effective operation of government bodies and civil society institutions is a guarantee of respect for the rights and interests of citizens, the successful solution of the challenges facing the state and society. By empowering the authorities, the state, on the one hand, places high demands on them and, on the other hand, provides them with enhanced protection so that they can perform their functions without hindrance, without any outside influence, and, in making decisions,they can be convinced of the safety of their own lives, health, property, as well as the safety of life, health, other rights and interests of their loved ones. In this study, we intend to focus on the specifics of police legal protection.

Literature review. Issues related to the legal regulation of security of law enforcement agencies were considered in the works of M. Vitruk, B. Gabrichidze, V. Yevintov, R. Kalyuzhnyi, V. Kolisnyk, O. Koristin, X. Lauterpakht, S. Lysenkov, R. Muellerson, O. Negodchenko, A. Oliynyk, L. Rozin, D. Sebain, S. Slyvka,

S. Starzhynskyi, Ye. Starostsiak, K. Tolkachov, T. Thorson, Y. Troshkin, A. Khabibulin, O. Shmotkin and others. At the same time, the analysis of statistical data and some specific cases of illegal influence on law enforcement officers, in particular police officers in connection with their professional duties, shows that recently this trend has become a large-scale socio-legal problem affecting vital interests of the individual, society and the state, and it poses a threat to national security.

Aims. The aim of this article is to clarify the features of the legal protection of police officers in the performance of their duties in other countries and outline possible ways to improve this activity in Ukraine.

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. Today, the study and effective use of the experience of developed foreign countries to ensure the safety of law enforcement officers, including police, is of great theoretical and practical importance. Interest in the prospects of legal protection of personnel in the domestic law enforcement system is especially growing. In addition, expanding the process of integration of the Ukrainian police into the international community of law enforcement agencies requires more detailed acquaintance with the theory and practice of organizing various aspects of foreign police activities, including in protecting their police personnel from unlawful encroachments. The analysis of the scientific literature on this issue allows us to identify several aspects related to the professional activities of police officers, their relationships with the public and offenders, as well as legal measures, which are relevant and effective at this time to protect law enforcement officers.

Legal protection of police officers in most foreign countries actually begins from the moment they are hired. A police officer or gendarme, regardless of where he is hired, is considered to be endowed with certain powers guaranteed by the state [2, p. 20]. National laws and legislations of different countries regulate the situation of police officers. At the same time, police officers occupy a specific place among other civil servants, that is due to the nature of the functions assigned to the police. In different countries, the system of norms regulating the organization of service in police structures and the legal status of their staff, are contained mainly in national laws "On Police", decrees and edicts of heads of states and executive, legal acts of local governments, which include provisions on the legal regime certain categories of law enforcement officers. All such documents include directives that police personnel form a special category in the public service and have the appropriate status [3, p. 28].

Legal protection of police and gendarmerie in France is reliably provided by the legislation of this country. According to the French Criminal Code (adopted on July 22, 1992), police and gendarmes (as well as all civil servants) are specially protected from unlawful encroachments, threats, insults or slander to which they may be subjected. Article 221-4 (part 4) of the French Criminal Code provides for the life imprisonment (the death penalty in France is abolished) of a person who has

committed the premeditated murder of a police officer or gendarme. Violent acts against them, if they caused death, without intent to kill, are punishable by 20 years in prison (Art. 222-8 part 4), and the same actions, if they caused disability "for more than 8 days", are punishable five years' imprisonment and a fine of up to € 100,000 (art. 222-12) [4, p. 150-151]. For verbal abuse of French law enforcement officials in the performance of their duties, the perpetrators are punishable by arrest for a term of fifteen days to three months or a fine. The perpetrator may be sentenced to up to five years in prison for using physical force or committing another act of aggression against a police officer. Relevant, in the context of police protection, is Article 431-3 of the French Criminal Code, which defines the conditions and grounds for the use of physical force, special means and weapons by police without warning: if violent acts are directed against law enforcement officials; as well as when law enforcement agencies are unable to otherwise protect the territory they occupy [5].

In addition to *criminal law protection*, special attention should also be paid to the mechanisms of public support and protection of police rights, to security in connection with their professional activities. There are about thirty trade unions in France to protect the police. A typical example is the activity of the French police union "Alliance", which constantly demands from the leadership of the Ministry of Internal Affairs security guarantees, staffing and additional measures that would allow police officers serving in troubled suburban areas of Paris to stop armed attacks by youth street groups. The above allows us to conclude about the unconditional importance of detailed legal regulations for the protection of police and gendarmes in France in the performance of their law enforcement functions.

Another foreign example of the organization of legal protection of police officers can be the *experience of Estonia* (one of the former Soviet republics). The armed *police* of this country have various special measures: rubber truncheons, handcuffs, other special means, service dogs, means of forced stopping of vehicles, etc. The use of weapons and special means is allowed in order to stop a socially dangerous act that threatens the life and health of citizens, detain those who committed such acts and bring them to the police. When deciding on the possibility and necessity of using a weapon or special means, a police officer must take into account the existence of the offense and its legal nature, the identity of the offender, the general situation of the offense. In Estonia, restrictions on the use of physical force and weapons by police are clearly defined [6, p. 132].

In general, we can say that the experience of reforming the law enforcement system in Estonia is quite positive. One of the important principles of police reform in this country was the principles of public confidence in policing (or so-called "*community policing*") and openness, which changed the attitude towards the police in general and the police in particular, minimized police interference in public life and the population's respect for the police increased [6, p. 176], which certainly affects the minimization of negative encroachments on the safety of police officers in the performance of their duties by others.

In the vast majority of *US states*, assaulting or physically resisting police officers is punishable by a fine of five to ten thousand dollars and (or) imprisonment

for a term of three to ten years [3, p. 28-29]. In the United States, you can't argue with the police, let alone insult a police officer in the line of duty – you can go to jail for disrespecting a law enforcement official. In addition, the American police officer has every opportunity *to ensure his own safety*. According to the current rules, he can use a firearm in any situation that he considers dangerous to his life and health.

Austrian law provides for a special and, it should be noted, rather strict *legal protection of police officers* in the performance of their duties from slander and insult. According to the provisions of § 111, 115 of the Austrian Criminal Code, they, as part of civil servants, have a special procedure for protection against threats, insults and slander. Defamation under § 111 of the Austrian Criminal Code is punishable by up to six months' imprisonment or a fine of up to 360 daily rates (approximately 31.8 thousand euros). The same act committed with the use of the media or other public means is punishable by imprisonment for up to one year or a fine of up to 360 daily rates. Insult under § 115 of the Austrian Criminal Code is punishable by imprisonment for up to three months or a fine of up to 180 daily rates.

In *Austria* in particular, the law also protects police officers from violence or threats of violence against them, which hinders their policing. According to § 269 of the Austrian Criminal Code, such acts are punishable by imprisonment for up to three years, and in case of illegal coercion of a police officer to act (inaction) against the public interest is punishable for six months to five years [7, p. 111].

In almost all developed countries, the law provides for strict liability for *insulting, counteracting or causing physical harm to or slandering police officers*. In *England*, if an offender argues with a police officer, he may be charged with disobedience to the police, which carries a prison sentence of up to two months for such a person. In *Italy*, insulting police officers in a public place or through the media is punishable by up to three years in prison. In *Germany*, for spreading slander against the executive (including the police), aggression against their representatives is punishable by up to five years in prison or a large fine.

In foreign countries, *national professional police associations* have a certain identity. Thus, in the United Kingdom there is the Police Federation of England and Wales (*PFEW* – an association of police constables, sergeants and inspectors, including chief inspectors, is one of the largest staff associations in the UK representing more than 130,000 rank and file officers) [8], The Police Federation of Scotland (SPF represents all police officers and numbers more than 18,500 people, representing 98% of all Scottish police) [9], the Police Federation of Northern Ireland [10]. All police officers who have a police rank from constable to superintendent become members of the British Police Federation after enlistment.

There is an axiom all over the Western world: a policeman is inviolable, even if you personally think he is wrong. We have all seen how the police work in the United States, where even for refusing to comply with the requirements of a police officer you can get a bullet, not to mention an attack on a police officer. Thus, the protection of police personnel is the basis of law and order in any civilized country. An attack on a police officer is not only an illegal act against a person, but an attack on a person to whom the state has entrusted the protection of other citizens and public interests in

general. The danger of such offenses is that they undermine the constitutional foundations of the state and the functioning of its institutions.

It should be noted that in the West, society as a whole shares the need to expand the rights of law enforcement. According to a poll conducted in Western Europe, as well as in the United States, Canada and Japan (Law and Order), citizens are convinced that the expansion of police competence is necessary, even if it is contrary to the principles of democracy. More than 60% of respondents believe that the police have the right to act harshly if law enforcement officers consider it necessary and if it ensures the safety of citizens and police officers [5]. In Ukraine, this issue is not so clear-cut. Thus, in 2016, after the tragic shooting of police officers in Dnipro (during the detention of a criminal), the desire of the Ministry of Internal Affairs of Ukraine to introduce in our country (by amending the Law of Ukraine "On National Police") "*presumption of police*" had public outcry. However, this desire of law enforcement officers caused a lot of objections from human rights activists and the community in general. The basis for criticizing the proposals of the Ministry of Internal Affairs of Ukraine was unfounded doubts about the readiness of Ukrainian police to expand their competence. However, in our opinion, the powers of law enforcement officers in some situations that arise during the provision of police services, in order to ensure the own safety of police officers, really need to be expanded. In particular, this applies, for example, to the permissibility (legality) of forcible removal of the driver and (or) other persons from the interior of the vehicle by breaking the glass of the car, if the actions of such persons pose a threat to the safety of police officers or others. Until now, in our country, this issue does not have proper legal regulation.

Discussion. In Ukraine, the problem of democratization and transformation of law enforcement agencies into law enforcement services and their proximity to the population, in the process of reforming the system came into the sphere of scientific interests of many scientists. In particular, it is considered by O. Okopnyk [11], O. Bandurka [12], but only in the perspective of establishing interaction between law enforcement agencies and the public, finding all possible forms and methods of public involvement to assist in law enforcement tasks, including security as citizens and the personal safety of police officers. However, the narrow vision of the problem limits the possibilities of its solution, as nothing will help bring the police closer to the population than cooperation to increase security in the form of service and public function, which will provide opportunities for both citizens and legal entities, realization of their rights, responsibilities and legitimate interests [13, p. 7].

As it turned out, one of the forms of legal guarantees for the activities of police officers is the consolidation of legal liability for offenses against such persons in the performance of their duties. In particular, the legislation of Ukraine contains provisions on such liability in the norms of civil, administrative tort and criminal law.

Thus, Art. 185 of the Code of Ukraine on Administrative Offenses provides responsibility for malicious disobedience to the lawful order or requirement of the police officer. Art. 185-7 of the Code of Administrative Offenses provides responsibility for public appeals to non-compliance with the requirements of a police officer or dissemination of knowingly false information in order to provoke

disobedience to a lawful request of a police officer, provided that these actions have led to a violation of public order. In turn, criminal liability may occur in case of resistance (*part 2 of Art. 342 of the Criminal Code of Ukraine*), threat or violence (*Art. 345 of the Criminal Code of Ukraine*), intentional destruction or damage to property (*Art. 347 of the Criminal Code of Ukraine*), encroachment on life (which includes murder or attempted murder) (*Art. 348 of the Criminal Code of Ukraine*) of law enforcement officers in the performance of their duties. However, it should be noted that the mere establishment of one or another type of legal liability in the law for counteracting a police officer does not make the latter's activities guaranteed and safe. Analysis of law enforcement practice, on the example of prosecution under Art. 185-7of the Code of Ukraine on Administrative Offenses, indicates rather rare cases of use of this norm. I. Senchuk believes that the main reason for this is extremely insignificant sanctions or rather broad alternative types of penalties or punishments. Thus, malicious disobedience to a police officer entails the imposition of a fine of 8 to 15 non-taxable minimum incomes or community service for a period of 40 to 60 hours, or correctional labor for a period of one to two months with deduction of 20% of earnings, or administrative arrest for a period up to 15 days. Courts, as a rule, impose fines, which today is only from 136 to 255 UAH. Arrest is practically not used [14, p. 90]. In addition, acts of individuals, such as insult, contempt for the police or desecration of the police uniform (in the performance of official duties), which certainly have a negative impact on law enforcement, the authority and image of the police as public authority, but have no grounds for appropriate legal response (do not provide for the necessary legal liability in such cases). Defamation or spreading unfounded rumors about a police officer can only result in civil liability, provided that a civil lawsuit is filed by the latter, that in fact transfers such legal relations from the category of public to private.

Thus, it should be noted that the legal guarantees of police activity today are mostly declarative in nature. They do not achieve the main goal – general prevention. It is sad to admit, but now Ukrainian law does not provide for any effective measures against the "offender" in response to insults to the police. But in 2017, this bill was withdrawn. At the same time, as we have pointed out in previous publications, administrative tort of illegal acts allows authorized state bodies not only to respond to such facts, but also to identify the causes and conditions of their occurrence, in order to prevent in a timely manner [16, p. 55].

Conclusions. Given the above, we can draw the following conclusions.

First, the analyzed experience of legal regulation of police protection in other countries of the world once again emphasizes the importance of this issue for ensuring their rights, as well as the effectiveness of the functioning of police bodies in general.

Secondly, the protection of police officers in the performance of their duties is carried out by a number of measures of organizational, logistical and legal nature, which is enshrined in the rules of administrative and criminal law.

Thirdly, today in Ukraine it is expedient to expand the powers of police officers in the legislation, which will affect their own safety and ensure the safety of others.

This applies to the admissibility (legality) of forcible removal of the driver and (or) other persons from the interior of the vehicle by breaking the glass of the car, if the actions of such persons pose a threat to the safety of police or others, and they refuse to comply with legal requirements. Currently, this issue does not have proper legal regulation.

Fourth, in order to create an effective and consistent system of protection of police rights, maintaining the authority and security of the police in our country as a whole from possible negative manifestations that interfere with police activities, it is necessary to establish administrative liability for such acts as insult or disrespect to the police in the performance of official duties, as well as defamation of a police officer in order to discredit him, imposing severe sanctions for these offenses.

Today, this sphere of public relations is not without a number of problems that need scientific and legal solutions. At the same time, blind copying of foreign experience may not always be expedient, because the legal basis and social conditions of police service abroad differ from the activities of domestic "law enforcement officers". Based on this, the outlined areas (taking into account the positive developments of international experience) create prospects for further in-depth study of police protection in Ukraine and the possible introduction of the necessary changes to Ukrainian legislation.

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CHAPTER 3
PUBLIC ADMINISTRATION AND GOVERNANCE

RETROSPECTIVE OF THE FORMATION OF THE EDUCATION SYSTEM IN UKRAINE

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Abstract. *The article is devoted to the peculiarities of formation of the education system of Ukraine. The history of the origin and development of systemic education in the Ukrainian lands since the period of ancient Russian statehood is considered in it. Emphasis was placed on a high level of development of education in Kievan Rus, where both basic and higher educational institutions took place. It is noted that in the period of the Old Russian state the education obtained in Byzantium as the centre of the then European civilization was quite prestige. A brief overview of the peculiarities of functioning of the education system Ukraine belonged to the Grand Ducal of Lithuania, the Commonwealth of Poland, the Cossack state, the Russian Empire, the USSR, during the period of independent Ukraine was included. The analysis of trends in development of education throughout the history of Ukraine has proved the existence of pendulum movements, from elitism to egalitarian access to educational services.*

Emphasis is placed on the fact that the baptism of Russia and the widespread introduction of the Cyrillic alphabet led to the transition from the elite education of priests and rulers to the egalitarian education of monastic schools. After the Mongol-Tatar invasion, only elite education remained for the children of princes and boyars. The entry of Ukrainian lands into the Grand Ducal of Lithuania led to development of brotherhood schools and collegiums, which provided access to education to broad segments of the population.

It was found that the growing dominance of the Polish-Lithuanian Commonwealth led to further elitization of education, but in the days of the Cossacks, education again became egalitarian, universally accessible. With the entry of Ukrainian lands into the Russian state, and later into the Russian Empire, education becomes elitist even more. In the second half of the 19th century there was an expansion of educational opportunities for the common people, but the situation worsened before 1900. At the beginning of the First World War, most men of conscription age were illiterate, but already in Soviet times, education became completely egalitarian, and basic literacy reached almost 100 %. It has been suggested that another wave of increasing the elitism of education is underway, which will soon turn into the opposite trend.

Keywords: *education; education system; history of education; history of Ukraine; elitism of education; egalitarianism of education.*

JEL Classification: A20, H52

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Introduction. Education, as a systematized mechanism for the transfer of experience to future generations, is an integral component of statehood, culture, national identity. Ukraine is not unreasonably famous for its educational traditions. Since the times of Vladimir the Great and Yaroslav the Wise, a tendency to educate the younger generation and make young people intelligent, integral and matured personalities was observed among the domestic nobility. And in the 19th-20th centuries domestic education gave the world a galaxy of artists, scientists, engineers,

researchers, who gave humanity immortal works, offered a holistic vision of the information space, created first computers, put a human in space for the first time. Modern educators, standing on the shoulders of giants, must not only be worthy of a high level, but also surpass it, giving way to new Vernadskys and Korolevs, Shevchenkos and Frankos, Sikorskys and Glushkovs, Mechnikovs and Drahomanovs. However, domestic government officials, lawyers, and economists should make no less of efforts in this regard. Building an effective education system requires both combined efforts of the society as a whole and consideration of achievements and mistakes of the past.

All the above determines a high topicality of the study of peculiarities of formation and development of the education system in the Ukrainian lands.

Literature review. The issue of formation of the education system in Ukraine has repeatedly come to the attention of a number of domestic scientists. Among other things, such scientists as E.A. Akymovych, V.P. Andrushchenko, S.K. Andreychuk, V.D. Bakumenko, M.M. Bilynska, I.S. Bulakh, O.V. Velemets, S.M. Dombrovska, V.S. Zhuravsky, S.F. Klepko, V.G. Kremen, A.I. Kuzminsky, I.E. Kurlyak, I.P. Lopushynsky, V.I. Mylko, S.M. Nikolayenko, V.V. Oliynyk, I.A. Prokopenko, O.E. Skirda, N.I. Cherevychna, S.O. Shevchenko, R.G. Shchokin and others paid attention to the history of origin and development of the domestic educational sphere and features of its functioning in their works. At the same time, current trends in reforms of the domestic educational sphere determine the topicality of the research of its genesis from a new angle.

Aims. The objective of the article is an analysis of the retrospective of formation of the education system in Ukraine.

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

Results. However, most researchers of the ancient Rus statehood agree that the spread of the Cyrillic alphabet and the baptism of Russia was a significant breakthrough in education. Already in the 10th century a network of educational institutions designed to form a layer of literate people in the society is formed in large cities of the ancient state.

There were two types of schools in the Old Russian state. The first schools were formed at cathedrals, monasteries, and they were called "monastic schools". Educated clergy became their teachers and educators. They taught students to read, write and count in such institutions. The main books were liturgical ones, most often it was the Psalms. The second type represented schools of the highest type for "children of the best people", which in addition provided knowledge of philosophy, rhetoric, grammar. Such schools were called "schools of book teachings". Of course, secular education was lower than the religious one, because the latter required a perfect mastery of Scripture [1]. In other words, already in the X-XI centuries, a system of not only elite but also more widely available educational institutions was formed. At the same time, a network of schools of the princely era was not limited to Kyiv as the centre of the state. Similar schools were opened in Novgorod, Chernihiv, Halych and other cities of Kievan Rus.

As noted in this regard by F.I. Naumenko, during the 11th-12th centuries. Pechersky, Vydubetsky, Mykhailivsky, Klovsky, Kyrylivsky monasteries were built on the territory of Kyiv and a significant number of such schools were opened (17 in Kyiv, 4 in Chernihiv, 4 in Pereyaslav, 5 in Smolensk, 3 in Polotsk, 3 in Halych, 5 in Volodymyr, 2 in Rostov, 4 in Suzdal, 20 in Novgorod and another 10 in the Novgorod lands [2]). Thus, large monasteries became the centres of crystallization of scholarship similar to other states of Western Europe. Probably, a key role among monasteries was played by the Kiev-Pechersk monastery, where theological education reached the level of the Byzantine spiritual patriarchal academy. Quite active cultural and educational activities were carried out by the Vydubychy monastery, built in the second half of the 11th century by the Prince Vsevolod Yaroslavych. People from all over the world came to these centres to get knowledge. Naturally, with the development of education and its spreading all over the state, Kievan Rus became one of the richest and most educated countries in Europe [3, p. 118]. Last but not least, the ancient Russian state owes to development of education and handicrafts a very high urbanization as compared to Europe of that time.

The basis of higher science at that time was considered to be the Greek language. In addition to it, Latin and German were studied in the western Ukraine. It is characteristic that already in the 12th century a tendency to study abroad becomes widespread. However, of course, this is not about studying in Western Europe, where some universities just start their activities. Immigrants from Rus went to study in the then centre of civilization which was Constantinople. Numerous clergy were also educated at the monastery school on Mount Athos. Thus, Byzantine education, which was based on the heritage of many generations, was the brightest shining beacon for the quality of education for the Grand Ducal of Rus [4, p. 159]. And, probably, due to cultural ties with Byzantium, such branches of knowledge as philosophy, dialectics, and grammar became popular in Rus. The works of Plato, Aristotle, Socrates, and Epicurus become the main sources of formation of ancient philosophical thought [5]. The introduction of Christianity was no less important for development of contemporary philosophical thought of that time. A type of thinking which turned out to be a specific one for further Ukrainian spiritual tradition, which was not inclined to abstract philosophical theorizing was formed on the basis of the ancient Russian culture. Probably, it was in the Old Russian period of our culture when the understanding of philosophy and philosopher was formed, the elements of Byzantine and Eastern philosophical cultures were assimilated and creatively processed. It is on this basis that the elements of the spiritual culture of Rus were formed. Kyiv scribes promoted peace between nations, defending the idea of solidarity of humanity, equality of peoples, and spiritual improvement of mankind [2, p. 119; 5].

The facts supporting that Kievan Rus had a peculiar system of education for orphans and children with developmental disabilities deserve special attention. Even back then two forms of care for orphans were developing in parallel: individual and public. According to *Pravda Ruska*, close relatives or stepfathers could be guardians of orphans. At the same time, the norms of *Pravda Ruska* did not allow arbitrariness and encroachments on the orphan property by guardians and relatives and guaranteed

adequate conditions for upbringing orphans [6]. Shelters for disadvantaged children were also opened during that period. Secular and church authorities not only paid attention to children with disabilities, but also sought to help them. In particular, as far back as 996 Volodymyr Sviatoslavych, the Prince of Kyiv, ordered to allocate funds for arranging shelters and almshouses from the tenth of income received from various social and trade organizations [7]. This and other educational activities suffered devastating losses during the Tatar-Mongol invasion. Most probably, as a result of it, only the wealthiest people, including princes, boyars, merchants, were able to provide education to their children.

The next stage in the development of education in modern Ukrainian lands is identified with their entry into the Grand Ducal of Lithuania in the early 14th century, when the "brotherhoods" became more and more developed. In general, the history of brotherhoods dates back to earlier times. Even in the Ipatiev chronicle of 1134-1159 there is a mention of "brotherhood", but up to the 15th century they were not widespread. The activity of brotherhood got intensified in the 15th century. The brotherhood laid emphasis to education and upbringing, formation of moral values. From their first steps, brotherhoods realized that education was the best weapon to defend their faith, continue their activities and establish themselves in society. Therefore, schools were opened and actively worked at all brotherhoods, the students of which carried the ideas of their brotherhood to the masses. The brotherhoods had printing houses, in particular Lviv, Viennese, Kyiv, Mohylivsky and others. They left a noticeable mark in the culture of their people as a various literature was published, and most importantly they published textbooks [8].

However, after the Kreva Union (1385), which consolidated the unification of Lithuania with Poland, the right to own Ukrainian lands gradually passed to the Polish nobility, which led to expansion of Latin culture for several centuries. A positive moment of this process today is considered to be the entry of Ukrainian lands into the sphere of influence of Western civilization. However, Poland led a total attack on Ukrainian culture, faith, customs, traditions, affecting the field of education as well. Penetrating into Lithuania, Catholics also established their own schools. One of the first was a collegium founded by Queen Jadwiga for 12 Lithuanians at the Prague Academy; then the Cracow Academy was founded, where many Lithuanian boyars graduated. However, initially a language of teaching in Catholic schools was the Russian literary language. In 1454 a School for training of the clergy was founded at the Vilna St. Stanislaus Cathedral. Representatives of secular professions also studied at this school, but a significant part of its graduates were trained for working in the church. Subjects were taught in Latin and Old Ukrainian from the time of foundation of this school until the beginning of the 17th century. They taught in church schools not only in Lithuania but also in Samogitia up until the end of the 17th century. Excessive pressure from the Polish authorities became one of the reasons for formation of the Cossacks and led to the national liberation struggle of the Ukrainian people in the 17Ith century.

During the Cossack period the education system of Ukraine operated more effectively, providing almost complete basic literacy of the population and domestic

higher education for hetmans and Cossack officers. In fact, it provided conditions for formation and growth of the Ukrainian clergy, military, secular and scientific elite. Its structure was multifaceted and multileveled and included primary and secondary schools, i.e. colleges, special schools, higher schools, i.e. academies, universities. At first, these were mainly Greco-Slavic schools, such as the gymnasium of the Assumption Brotherhood in Lviv (1585). Such schools were dominated by Slovenian, Greek and Latin. Traditionally, the Greek language was given special attention. Higher levels of literary education: poetics and rhetoric, the basics of mathematics, the basics of astronomy, music, singing, drawing were studied [1, p. 486]. In addition, Cossack (regimental) and Cossack Sich schools were quite common in Hlukhiv, Ostroh, Okhtyrka, Kharkiv, Izyum, Sumy, Chernihiv, Nizhyn, Romny, Yahotyn, Lubny, Myrhorod, Pereyaslav, Poltava, Cherkasy, Kremenchuk, Kyiv, Fastiv, Bila Tserkva, Kaniv, Korsun, Chyhyryn, Uman, Bratslav and other cities [10, p. 20-23]. Thus, a tendency in education in the Cossack era was again observed towards the mass format. The basic level of education was provided to the majority of the population.

In addition, there were lyre (kobzar) schools, Armenian, Greek, Catholic, Calvinist schools, Lutherans, Basilians, and Jesuit collegiums in the Hetmanate, Zaporozhian Sich and Slobozhanshchyna. Schools at monasteries eventually gave rise to many academies or collegiums [11, p. 10-18]. The Slavic-Greek-Latin Academy (the Ostroh Academy) in Ostroh in Volyn is considered to be the first university in Ukraine. No exact information about the day and year of the foundation of the university-type educational institution in Ostroh is available. According to documents, the existence of the Ostroh Academy has been recorded since 1576, and this date is considered to be the year of its foundation. The poet H. Smotrytsky became the first rector of the Ostroh Academy. The teaching staff came not only from Ukraine, but from Greece, Rome, Poland [12, p. 100-106]. The Kyiv-Mohyla Academy, which found its beginning with a school at the monastery on October 15, 1615 in Podil, is considered to be the second one in terms of its establishment in Ukraine. An honourable role in its organization belongs to Elizaveta Gulevychivna, the wife of Kyiv voivode Halshko, a proponent of Ukrainian education who came from the western lands of Ukraine, where they were well aware of the existence of academies. She donated her estate with a land plot to create this cultural and educational complex [13, p. 170-172]. Later, in 1632, by uniting the Kyiv-Epiphany brotherhood and Lavra schools, the Kyiv-Mohyla Collegium was established, named after its protector, Metropolitan Petro Mohyla. And already in 1701 the Kyiv-Mohyla Collegium received the title and the rights of the academy by the tsar's decree. Hetman Petro Sagaidachny and Metropolitan Petro Mohyla contributed to the strengthening of the Academy with their mind, hands and money [14, p. 127-131].

A significant role in development of education in Western Ukraine was played by the University of Lviv, which was a Catholic-style collegium founded by the Jesuits on January 20, 1660, in order to strengthen the Polonization of the Ukrainian population. The opening of the Ukrainian Institute at the University in 1787 was of particular importance. It was designed to train, first of all, teachers for real and

classical gymnasiums, where Ukrainian children studied. Despite the fact that the program of the institute was limited, the teaching in the Ukrainian language was of progressive importance. In a short period of its existence (until 1808), the Ukrainian Institute became the leader of humanitarian pedagogical education. [1, p. 487]. The opening of Kharkiv, Kyiv and Novorosiysk (Odesa) universities is associated with formation of the Concept of State Educational Policy in the first half of the 19th century. Starting from 1803, the university system gradually consolidated academic orientation as a leading function, which greatly contributed to the process of devaluation of the classical university idea. In contrast to foreign models, research was gradually increasingly concentrated in research institutes of the Academy of Sciences. This trend influenced a gradual transformation of universities into leading educational centres, in which research faded into insignificance [15, p. 13-14].

During the 19th century, the Ukrainian lands of the Russian Empire saw a gradual liberalization of education, accelerated by the reforms of 1860s, which did not only abolish serfdom but also provided more opportunities for ordinary citizens. However, already at the end of the 19th century there is a counter-revolutionary tendency to introduce educational restrictions for certain segments of the population [16]. As a result, the literacy rate of the population of Ukrainian lands in the Russian Empire at the beginning of the First World War was very low.

Without dwelling in detail on the education system of the Ukrainian Soviet Socialist Republic, due to the fact that this topic was studied in a very detailed way in works of modern scholars, we have only to note that as of 1991, independent Ukraine received almost 100% basic adult literacy and a high proportion of specialists with secondary special and higher education.

During almost 30 years of Ukraine's independence, there has been a tendency to increase a share of higher educational institutions, with a reduction in number of secondary schools and a huge decrease in number of students (both due to the birth crisis and due to the emigration of Ukrainians). As stated in the draft Concept of Education Development of Ukraine for the period of 2015-2025, the number of preschool educational institutions in Ukraine in 1991-2013 decreased from 24.5 thousand to 16.7 thousand (i.e. by 32%). The percentage of children covered by this form of education was decreasing during all the years of independence and only in 2012 reached the level of 1991 (57%), and according to preliminary data, in 2013, it reached 62%. The number of secondary schools during the same period decreased from 21.8 thousand to 19.3 thousand, the number of students in them decreased from 7.132 million to 4.204 million (i.e. by 41%). At the same time, the number of teachers during this period decreased from 537 thousand to 508 thousand [17].

Discussion. The reduction of the volume of the state order for higher education institutions deserves special attention. In addition, there has recently been a tendency to reduce the education system at the basic, i.e. school level. Among other things, there are more and more calls for optimization (and in fact, to reduction) of a network of schools in rural areas, also at the expense of decreasing a number of schools of the third degree [18]. Fee-based primary and secondary education is becoming

widespread, which indicates another fluctuation in the direction of elitism in education in Ukraine.

The history of education in Ukraine dates back to antiquity. Already in the period of Old Rus statehood, when the first universities appeared in Western Europe, numerous schools and universities operated in Kyiv, Chernihiv, Halych and Pereyaslav. Over the next millennium, the education system repeatedly changed, almost completely collapsed and reappeared again, reaching modernity in its form which looks usual for us.

Conclusion. When analysing the periods of formation of the domestic education system in Ukraine, we see peculiar pendulum movements, from elitism to egalitarian access to educational services. The baptism of Rus and the widespread introduction of the Cyrillic alphabet led to transition from the elite education of priests and rulers to the egalitarian education of monastic schools. After the Mongol-Tatar invasion, only elite education remained for children of princes and boyars. The entry of Ukrainian lands into the Grand Ducal of Lithuania led to development of brotherhood schools and collegiums, which provided access to education to broad segments of the population. The growing dominance of the Polish-Lithuanian Commonwealth led to further elitization of education, but in the days of the Cossacks, education again became egalitarian. With the entry of Ukrainian lands into the Russian state, and later into the Russian Empire, education becomes elitist even more. And although in the second half of the 19th century there was an expansion of educational opportunities for the common people, the situation worsened before 1900. At the beginning of the First World War, most men of conscription age were illiterate, but already in Soviet times, education became completely egalitarian, and basic literacy reached almost 100%.

Another wave of increasing the elitism of education is currently underway. But the historical trends in formation of the education system in Ukraine convincingly indicate the temporality of this phenomenon. In a few decades, and maybe even in a few years, there will be another change in priorities, and education will again become more mass, egalitarian. However, only time will tell whether our state will have these decades at its disposal in a modern, highly competitive environment of the international labour market.

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BASIC THEORIES OF ORGANIZATION AND MANAGEMENT OF DISTANCE EDUCATION

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Abstract. *In the context of the global Sovid-19 pandemic, educational institutions of all levels had to switch to distance education. This led to significant difficulties for those heads of educational institutions whose work teams were unfamiliar with the basics of distance education and were unable to train teachers. That is why the purpose of the article is to study the basic theories of distance education. The main methods used in the article are methods of analysis of scientific papers on distance education and synthesis of theories of distance education. The main results of the study were to identify the main theories and stop their characteristics. The main theories are: Theories of autonomy and independence; Theory of industrialization; Theories of interaction and communication. Studies of the history of distance education and the evolution of theories of its organization have shown that future opportunities for distance education are limitless. Each of the considered theories proved their necessity and effectiveness in appropriate conditions. The main area that needs to be addressed in further research is related to the relationship between the quality of educational services in distance education and the cost of its organization.*

Keywords: *distance education; theories of distance education; quality of educational services; educational institutions.*

JEL Classification: A20, H52

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 51

Introduction. In the context of the global Sovid-19 pandemic, educational institutions of all levels had to switch to distance education. This led to significant difficulties for those heads of educational institutions whose work teams were unfamiliar with the basics of distance education and were unable to train teachers.

Literature review. A controversial topic in higher education today revolves around the enormous growth of distance education [1, 2]. According to Mehrotra, Hollister, and McGahey [3], "distance learning, or distance education, is not a future possibility for which higher education must prepare, it is a current reality creating opportunities and challenges for educational institutions; a reality offering students expanded choices in where, when, how, and from whom they learn; a reality making education accessible to ever larger numbers of persons".

Interest in the concept of distance education has grabbed the attention of university and college administrators, faculty, and other professionals all over the world [4]. A myriad of questions, concerns, and opinions from professionals in these university and college settings regarding the topic of distance education has bombarded the literature base. However, with all the excitement and buzz around the potential applications of interactive computer technology, the one big question that professionals have been asking for years is, How do you ensure that distance education coursework and degrees are of high quality? [2, 6].

According to Sherry [7], "translating ideals of academic excellence into applicable terms for providers and users of distance education is not an easy task.

However in this new century, with distance education expanding worldwide, the urgency of quality assurance is apparent" . The issues surrounding quality of distance education have been discussed and debated by many different parties, including: federal government, state governments, accrediting associations, faculty, and even students [2]. Regardless of who is interested in quality of this unique educational environment that distance education establishes, "all stress the need to have a better understanding of what contributes to quality" in distance education courses and programs [2].

Although there has been a recent explosion of distance education, particularly due to the new technologies available, the origin of distance education can be traced back to over 100 years ago [8, 2, 9, 10]. According to Moore (1990), distance education, referred to in Moore's writing as correspondence study, began in the late 1800's. Correspondence study was developed in Germany by two researchers named Charles Toussaint and Gustav Langenscheidt, who were both language teachers in Berlin [11]. Another pioneer of distance education is Englishman, Isaac Pitman. He taught shorthand via correspondence study in England in the 1840's [12]. The concept of correspondence study made its way to the United States in 1873, when Anna Eliot Ticknor founded a Boston- based society named The Society to Encourage Studies at Home. Within 24 years, this society had attracted approximately 10,000 students [11].

The state of New York authorized academic degrees through the Chautauqua College of Liberal Arts from 1883-1891 to students completing the required correspondence courses. Support for the new educational method is apparent in Yale Professor William Rainey's comments about correspondence study [distance education].

The student who has prepared a certain number of lessons in the correspondence school knows more of the subject treated in those lessons, and knows it better, than the student who has covered the same ground in the classroom. The day is coming when the work done by correspondence will be greater in amount than that done in the classrooms of our academies and colleges; when the student who shall recite by correspondence will far outnumber those who make oral recitations [11].

Since the early 1900's, distance education has been incorporated into the practices of many institutions, as has the traveling of faculty to meet students off campus to conduct educational instruction [13]. According to Meyer [2] in order to help alleviate the demands of travel for faculty and students, institutions began utilizing available technologies, such as audio connections (i.e. telephones), videotapes, and television, to conduct distance education efforts. These types of delivery methods and media continued to be used, as distance education began to grow as a form of education.

Beginning in the 1980's, satellite telecommunications used to transmit broadcasting of lectures and instruction to off-campus locations became a popular way to conduct distance education. From the late 1980's to the 1990's, microwave-based interactive video was utilized, and this method of educational delivery was used until land-based interactive video was developed and used in the late 1990's.

When the Internet and the World Wide Web became available, "a growing comprehension that education need not be site- or time-bound" began to develop throughout university and college settings.

As noted by Meyer [2], research conducted by the National Center for Education Statistics [14] indicated that higher education institutions offering distance education courses from Fall 1995 to academic year 1997-98 increased from 33 percent to 44 percent. Seventy-two percent of two-year public institutions and 79% of four-year institutions offered distance education courses. Within the same time period, the study reported that the number of degree or certificate programs and courses doubled from 860 to 1,520 programs and from 25,730 to 52,270 courses. Student enrollment experienced a two-fold increase, from 753,640 to 1.6 million. Additionally, Internet use increased to 60% of institutions during 1997-1998. Meyer's [2] analysis of the study indicates that "this doubling of effort (courses and programs) and student response from 1995 to 1997-1998 is a tribute to institutional entrepreneurialism, even though at times the demand for and potential seen for Web-based distance education outpaced what higher education could currently provide".

Another study that reveals the increase in distance education course offerings in higher education was conducted by Green, and the results of this project, entitled The Campus Computing Project: 2001 Results in Claremont, CA, indicated that during the time of the study, 55% of college campuses provided web-based course registration and 56% offered courses that are taught completely online. The increasing percentages of distance education offerings indicate that the support of distance education from institutions of higher education has only increased from year to year.

Support for distance education goes well beyond the university/college setting.

According to Mingle's [16] report entitled, *New Technology Funds: Problem or Solution*, in 1996-1997, legislatures appropriated over $370 million to technology applications in higher education. In a report by the National Education Association entitled, *Going the Distance: State Legislative Leaders Talk about Higher Education and Technology*, state legislatures indicate their support for distance education to help improve access, student learning, cost of higher education, and productivity of administration and faculty efficiency. In 1999, the National Governor's Association published *Transforming Learning through Technology*, and in 2001, the association developed two additional reports on the use of technology in postsecondary education and in the workforce, which provided information on how governors can benefit from investing in technology applications in the educational and worksite settings (National Governor's Association, 1999, 2001a, 2001b.). Lastly, in a U.S. Department of Education Agenda Project [18], ideas on how to improve the Higher Education Act was contemplated, and within this report, distance education was given high priority and the importance of department support in adopting the ideas surrounding distance education was emphasized. As noted by Meyer [2], "the support of the federal government has been essential in the effort to revise current regulations to remove barriers to new forms of distance education and to extend federal benefits

(i.e. student aid) to distance education students," although this role is more constrained than the state government role.

Aims. The purpose of this article is to provide an extensive look into the history and theories of distance education.

Methods. The main methods used in the article are methods of analysis of scientific papers on distance education and synthesis of theories of distance education.

Results. The opening sentence in the 2003 *Handbook of Distance Education* states, "America's approach to distance education has been pragmatic and atheoretical" [19]. In addition, Charles Wedemeyer, a theorist who has made notable contributions in the area of distance education theory, claims that distance education has yet "to develop a theory related to the mainstream of educational thought and practice" [20]. As noted by Saba [19], distance education's roots in the United States date back to the 1800's; however, the first scholarly journal, *The American Journal of Distance Education*, was not started until 1987, by Michael G. Moore. This journal and the symposia of the American Center for the Study of Distance Education, organized by Moore, emphasize the importance of distance education theory and recognize the contributions of research and practice in the discipline of distance education [19] (Saba, 2003).

Distance education theories, developed from leading scholars in the discipline, such as Holmberg, Wedemeyer, Moore and Peters, can be categorized into three broad groups [19, 20].

1. *Theories of autonomy and independence*. Borje Holmberg, Charles Wedemeyer, Rudolf Delling, and Michael G. Moore developed theories of distance education that placed the learner in the middle of the educational process [19, 20]. According to Saba [19], "the centrality of the learner is one of the distinguishing features of distance education, and understanding this fact is essential for discerning why it is essentially different from other forms of education".
2. *Theory of industrialization*. Otto Peters, Desmond Keegan, Randy Garrison, and John Anderson are theorists in distance education that have developed theories that are mainly interested in how the field functions and how it is organized. Structural concerns and issues (e.g. industrialization) are the main foci of this group of theories, along with how those issues influence the teaching and learning process [19, 20].
3. *Theories of interaction and communication.* Contemporary ideas and views of Holmberg, John A. Baath, Kevin C. Smith, David Stewart, and John S. Daniel highlight the constructs of interaction and communication as important factors in distance education [20].

In order to better understand the ideas behind the development of each type of distance education theory, descriptions of several well-known theories are given in the following sections.

Theory of Independent Study by Charles Wedemeyer. For Wedemeyer [21] the fundamental nature of distance education is "a distinct 'nontraditional' type of education," which focuses on the independence of the student learner [19, 20]. The

ideal distance education system that encompasses what Wedemeyer believed to be the essence of distance education is made up of ten characteristics. In order to emphasize independence and autonomy, the systemshould:

- be capable of operation any place where there are students – or even only one student – whether or not there are teachers at the same place at the same time;
- place greater responsibility for learning on the student;
- free faculty members from custodial-type duties so that more time can be given to truly educational tasks;
- offer students and adults wider choices (more opportunities) in courses, formats, methodologies;
- use, as appropriate, all the teaching media and methods that have been proved effective;
- mix and combine media and methods so that each subject or unit within asubject is taught in the best way known;
- cause the redesign and development of courses to fit into an "articulated media program";
- preserve and enhance opportunities for adaptation to individual differences;
- evaluate student achievement simply, not be raising barriers concerned with the place, rate, method, or sequence of student study; and
- permit students to start, stop, and learn at their own pace (In Keegan, 1986, p. 63).

Additionally, Wedemeyer indicated four essential elements involved in every teaching- learning scenario: a teacher, a learner(s), communications system, and information to be taught or learned. His philosophy of successful distance education efforts included the development of a relationship between the teacher and the student [22]; however, Wedemeyer's proposal on the separation of teaching from learning, included the following six characteristics of independent study:

- The student and teacher are separated.
- The normal processes of teaching and learning are carried out in writing or through some other medium.
- Teaching is individualized.
- Learning is made convenient for the student in his own environment.
- The learner takes responsibility for the pace of his or her own progress, with freedom to start and stop at any time [23].

Theory of Independent Study – Michael G. Moore. Building on the work of [24] formulated a theory that investigates two variables in distance education programs: learner autonomy and distance between learner and teacher [22]. The latter variable became known as "transactional distance", which is used to define the unique relationship between the student learner and the teacher [19]. For Moore, two factors are the essence of 'distance' – two-way communication (dialog) and the level of responsiveness to the needs of the individual learner (structure) [22]. According to Saba [19], "Moore's concept of transactional distance is important because it grounds the concept of distance in education in a social science framework and not in its usual physical science interpretation…this is a significant paradigm shift" (p. 5).

The second part to Moore's theory involves learner autonomy; due to the

distancebetween the teacher and the learner, a distance education student must accept responsibility for the learning process. Moore categorizes distance education programs into two categories: (1) learner-determined or "autonomous" and (2) teacher-determined or "non-autonomous" [22]. In order to determine to degree of autonomy,Moore utilizes the following three questions:

- Is the selection of learning objectives in the program the responsibility of the learner or of the teacher (autonomy in setting of objectives)?
- Is the selection and use of resource persons, of bodies and other media, the decision of the teacher or the learner (autonomy in methods of study)?
- Are the decisions about the method of evaluation and criteria to be used made by the learner or the teacher (autonomy in evaluation)? [23].

Theory of Industrialization – Otto Peters. Peters (1988, 1994) theory of industrialization incorporates the idea that distance education is an industrialized method of teaching and learning, which can reach a mass audience [19, 22]. He compares distance education to the industrial production of goods, and in 1988, he introduced new terminology to be used inanalyzing distance education.

- *Rationalization*: the utilization of methodical measures to decrease the amount of input of power, money, and time that is required [22]. In distance education, "ways of thinking, attitudes, and procedures can be found which only established themselves in the wake of an increased rationalization in the industrialization of production processes" [25].
- *Division of labor*: the dividing of duties or tasks into simpler subtasks [22]. With distance education, all tasks, such as conveying information, assessment and performance recording, are conducted by individuals separately. Peters (1988) stated, "the division of labor is the main prerequisite for the advantages of [distance education] to become effective".
- *Mechanization*: without machines, distance education would not be possible [25]. "Duplicating machines and transport systems are prerequisite, and later forms of distance learning have the additional facilities of modern means of communication and electronic data processing installations" (p. 101).
- *Assembly line*: workers usually remain stable, and the objects on which they are working move past them [22]. This is similar to instruction materials in distance education, because they are "designed, printed, stored, distributed, and graded by specialists" [22].
- *Mass production*: large quantities of good production. According to Peters (1988), the demand of distance education outweighs the supply in universities and colleges; therefore, large-scale operations, which are not common with traditional classes, have become the trend. Peters claims that such operations can help to enhance quality. He stated, "the large number of courses produced forces distance teaching organizations to analyze the requirements of potential distance learners far more carefully than in conventional teaching and to improve the quality of the courses" [25].
- *Preparatory work*: this involves determining "how workers, machines and materials can usefully relate to each other during each phase of the production

process." Peters (1988) indicated that he believes that success of distance education depend on a "preparatory phase." "It concerns the development of the distance study course involving experts in the various specialist fields with qualifications also often higher than those of other teachers involved in distance study".

- *Planning*: includes the "system of decisions which determines an operation prior to it being carried out." Peters (1988) notes the high importance of planning, due to the fact that "the contents of correspondence units, from the first to the last, must be determined in detail, adjusted in relation to each other and represented in a predetermined number of correspondence units. The importance of planning is even greater when residential study is a component of a distance education program".
- *Organization*: Peters (1988) defines this construct as"creating general or permanent arrangements for purpose-oriented activity." He claims that "organization makes it possible for students to receive exactly predetermined documents at appointed times, for an appropriate university teacher to be immediately available for each assignment sent in" (p. 105). The concept of organization is "optimized in large distance education programs" [22].
- *Scientific control methods*: Peters (1988) indicates that these are the methods by which "work processes are analyzed systematically, particularly by time studies, and in accordance with the results obtained from measurements and empirical data the work processes are tested and controlled in their elementary details in a planned way, in order to increase productivity, all the time making the best possible use of working time and the staff available".
- *Formalization*: In order to have successful distance education, the phases of the manufacturing process must be predetermined exactly, and this is termed formalization [22, 25].
- *Standardization*: restricts the "number of types of one product, in order to make these more suitable for their purpose, cheaper to produce and easier to replace." A characteristic of distance education is that "not only is the format of the correspondence units standardized, [so is] the stationery for written communication between student and lecturer, and the organizational support, as well as each single phase of the teaching process, but also the academic contents".
- *Change of function*: changing of the roles of workers within the production process (Hanson et al, 1997). " The original role of provider of knowledge in the form of the lecturer is split into that of study unit author and that of marker; the role of counselor is allocated to a particular person or position. Frequently, the original role of lecturer is reduced to that of a consultant whose involvement in distance teaching manifests itself in periodically recurrent contributions".
- *Objectification*: the decrease of the "subjective element which used to determine" the work of craftsmen (p. 108). According to Peters (1988), in distance education, "most teaching functions are objectified as they are determined by the distance study courses as well as technical means. Only in written communication with the distance learner or possibly in a consultation or the brief additional face-to-face

event on campus has the teacher some individual scope left for subjectively determined variants in teaching method".

- *Concentration and centralization*: Due to the large amount of capital needed for large-scale productions, the trend has been to established "large industrial concerns with a concentration of capital, a frequently centralized administration, and a market that is not seldom monopolized". According to Hanson and colleagues (1997), "it is more economical to establish a small number of such institutions serving a national population, rather than a larger number of institutions serving regional populations.

Peters' theory of industrialization has received much attention, and according to Saba (2003), "industrialization has been a feature of distance education for many years…in fact, it is hard to imagine distance education without some elements of industrialization" (p. 5). However, with the development and use of the Internet in the recent years, a potential for a "postindustrial form of education" has led to criticisms ofthe theory of industrialization [21].

Garrison and Anderson [26], built their research around the distinction between the role of what Daniel's [27] research terms the "mega university" and research universities. This research also draws on "Schramm's [28], distinction between 'big media' and 'little media'" [19]. Garrison and Anderson [26], "argued that, whereas mega universities might rely on big media to respond to a mass audience, research universities might rely on little media to offer a seemingly postindustrial form of education, or 'little distance education' (LDE)" [19].

Due to the emergence of a postmodern era in the area of distance education, Peters changed his definition of distance education from…

A rationalized method – involving the division of labor – of providing knowledge which, as a result of applying the principles of industrial organization as well as the extensive use of technology, thus facilitating the reproduction of objective teaching activity in any numbers, allows a large number of students to participate in university study simultaneously, regardless of their place of residence and occupation [25, 19] …to the following extended definition of distance education, which acknowledges thepostindustrial era:

Distance education can be defined as a complex, hierarchical, nonlinear, dynamic, self-organized, and purposeful system of learning and teaching [19].

Theory of Interaction and Communication – Borje Holmberg. In 1986, Holmberg developed a theory of distance education that fits into the classification of a communication theory. The following are seven background assumptions for this theory:

- The core of teaching is interaction between the teaching and learning parties; it is assumed that simulated interaction through subject-matter presentation in pre-produced courses can take over part of the interaction by causing students to consider different views, approaches and solutions to generally interact with a course.
- Emotional involvement in the study and feelings of personal relation between the teaching and learning parties are likely to contribute to learning pleasure.

- Learning pleasure supports student motivation.
- Participation in decision-making concerning the study is favorable to student motivation.
- Strong student motivation facilitates learning.
- A friendly, personal tone and easy access to the subject matter contribute to learning pleasure, support student motivation and thus facilitate learning from the presentations of pre-produced courses, i.e. from teaching in the form of one-way traffic simulating interaction, as well as from didactic communication in the form of two-way traffic between the teaching and learning parties.
- The effectiveness of teaching is demonstrated by students' learning of what has been taught [29].

In 1986, Holmberg formed his "normative teaching theory" from the above assumptions: Distance teaching will support student motivation, promote learning pleasure and make the study relevant to the individual learner and his/her needs, creating feelings of rapport between the learner and the distance – education institution (its tutors, counselors, etc.), facilitating access to course content, engaging the learner the activities, discussions and decisions and generally catering for helpful real and simulated communication to and from the learner [29].

In 1995, Holmberg developed an expanded and more comprehensive theory of distance education, and it is divided into eight different parts. This new theory incorporates concepts, such as the idea of the centralized learner, student freedoms and independence, the concept of free access to learning opportunities and equity, mediated communication and deep learning, personal relationships, study pleasure and empathy between students and instructors, and the idea of serving conceptual learning and problem learning [30]. The new theory also emphasizes that "distance education is open to behaviorist, cognitive, constructivist, and other modes of learning" [30]. For a more in-depth look at the eight divisions of Holmberg's new theory, refer to Holmberg's document, entitled *The Sphere of Distance –Education Theory Revisited* (1995).

Discussion. A discussion of the earlier studies conducted in the area of distance education is important in article for two reasons:

1) to obtain a better understanding of the history of distance education and

2) to provide criticisms of the research that may eventually lead to future studies, as the field strives for high quality distance education practice and research.

As noted by Meyer [2], one of the most quoted and perhaps most misunderstood research study conducted in the field of distance education was by Russell [31]. In this comprehensive study, Russell reviewed 355 studies on distance education from the year 1928 to 1998. A majority of the studies in Russell's work compared instruction via some type of distance education technology (i.e. videotape, interactive video, telecourses, and television) to traditional, on-campus courses. The student measures that were compared consisted of test scores, grades, student satisfaction, and/or other measures that were specific to a certain study in the review. The results were overwhelming consistent; statistical tests indicated "no significant differences" between the distance education groups and the traditional, on-campus groups [2]. As

noted by Meyer [2], the important finding from Russell's work is that regardless of what technology was utilized, the results were the same – "no significant difference in student achievement". Therefore, from these results, Russell indicated, "there is nothing inherent in the technologies that elicit improvements in learning," however, "the process of redesigning a course to adapt the content to the technology" can help to enhance the course outcomes [31]. Meyer [2] re-emphasized these findings by stating, "learning is not caused by the technology but by the instructional method 'embedded in the media'" (p. 14). Finally, Russell [31] concludes, "No matter how it is produced, how it is delivered, whether or not it is interactive, low-tech or high-tech, students learn equally well". The same "no significant difference" results were found in two studies conducted by Saba [19, 21], when data gathered from hundreds of comparative studies between traditional classroom instruction and mediated education were analyzed [19]; however, as mentioned earlier, Saba questioned the research designs and foundational theories (or lack thereof) of these comparison studies [21].

In an extensive review of original comparison studies conducted by Meyer (2002), she indicates her surprise in the number of comparison studies, similar in experimental design as the studies reviewed by Russell [31] that have been conducted, even after Russell's work implied the need for additional research. The studies of Bourne, McMaster, Rieger, and Campbell [32], Davies and Mendenhall [33], Dominguez and Ridley [34], Gagne and Shepherd [35], Hahn and colleagues [36], Johnson [37], McNeil and others [38], Miller [39], Mulligan and Geary [40], Ryan [41], Schulman and Sims [42], Sener and Stover [43], Serban [44], Wegner, Holloway and Garton [45], and Wideman and Owston [46] compare distance education delivery methods to traditional forms of educational delivery only to find that there is "no significant difference" in student achievement(Meyer, 2002).

However, Meyer's analysis does indicate that "several [studies] found differences in completion or student satisfaction," although no differences were found in final grades or exams [2].

In a study conducted by Schutte [47], online students were compared to face- to-face students in terms of the number of points earned for the course; results indicated that online students earned more points (out of 200) than the on-campus students. In Benbunan-Fich's, Hiltz's, and Turoff's [48] study on the differences in face-to-face and asynchronous distance education learning groups, the asynchronous group carried out broader discussion and submitted reports that were more complete than the face-to-face groups; however, the face-to-face group worked through case study problems more sequentially. Another study conducted in 2000 by Hartman, Dziuban, and Moskal, compared asynchronous learning networks (ALN) to traditional courses, and the results indicated that ALN courses had lower withdrawal rates and higher rates of success.

Hilz's 1997 study on ALN's indicated that students within the ALN tended to procrastinate, which could be related to any number of factors (i.e. asynchronous design, quality of student, proactive actions and behaviors of faculty and student); however, the results also showed that the ALN students felt they had worked harder

in the course, had better access to their professor, and were appreciative of the convenience of learning from a distance [48].

Other comparative studies include Sener [49] and Neuhauser [50], which also compared asynchronous distance education courses to face-to-face courses. Sener [49] found that community college students who participated in ALNs had improved student success rates and high student satisfaction rates. The comparison of two sections of the same course, one taught on-campus and the other via asynchronous distance education methods, by Neuhauser [50] resulted in no significant differences of the two courses in tests scores, assignments, and final grades; however, the online group's overallaverages were slightly better than the on-campus group's averages.

In a meta-analysis of 24 studies comparing student satisfaction of distance education courses versus on-campus, traditional courses, Allen, Bourhis, Burrell, and Mabry [51] conclude that there is a slight preference of students to take courses delivered in a traditional method over distance education; however, the findings also support that students are equally as satisfied with instruction via distance education as with traditional course delivery. As evident by the research presented, a majority of theresearch studies conducted on comparing traditional courses to distance education courses result in similar findings. With that being said, it is also important to note that there are many criticisms of the comparative research studies conducted in this area [2]. A discussion of these criticisms will help dissect where the field of distance education has been thus far, in terms of research and practice, and where the field needs to go in the future.

Conclusions. Studies of the history of distance education and the evolution of theories of its organization have shown that future opportunities for distance education are limitless. Each of the considered theories proved their necessity and effectiveness in appropriate conditions. The main area that needs to be addressed in further research is related to the relationship between the quality of educational services in distance education and the cost of its organization.

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PUBLIC ADMINISTRATION IN THE FIELD OF HUMAN RESOURCES DEVELOPMENT: EDUCATIONAL ASPECT

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Abstract. *The article analyzes the educational aspect of the current state of public administration of human development. The purpose of the article is to analyze the educational aspect of the current state of human development public administration. It is proved that in the conditions of the global role of education in solving the problems of modernization and national security in Ukraine, the socio-cultural conditionality of modern educational policy grows, which is formed in accordance with the national social development practice. It is determined that the state educational policy is most effectively combined with the state innovation policy. It is an utterly important sphere of activity in a quickly developing society which is characterized by interconnected innovations in all spheres of society. It is claimed that the main organizational principles of educational policy as a tool of public education management are choice and competition; autonomy and implementation of one's own variable educational components; centralization and implementation of the norms of assessment, schemes and methods of work with students established by the central authorities. Philosophical-historical and constitutional-legal aspects of educational policy in the context of human development are revealed. At the current stage of development, Ukraine is in the process of reforming and reassessing values. This requires clarification of the philosophical and historical aspect of education core as a social value. The constitutional and legal aspect of education core is clarified by examining the right to education for both the individual and the state and establishing the relationship between these criteria. There are two groups of components of the legal state support, which guarantee the realization of a person's right to education, such as legal norms that define the strategy, tasks or goals of the right to education as a social value for the state and legal norms that regulate the education management organization, executive bodies structure, as well as the educational activity functioning order. There are factors that affect the definition of the social value of the right to education, such as socio-economic, which affects the person's right to education realization level through indirect action on the regulatory and legal support for the national economy development; personnel, which consists in establishing clear requirements for the teaching staff that ensures the proper quality of education; the level of legal culture of the population; European integration factor, which consists in the gradual adaptation of Ukrainian legislation to European standards, including the ensuring of social guarantees of the right to education. It is proved that the guarantee of the human right to education reflects the instrumental potential of human development through education.*

Keywords: *public administration, educational policy, human development management, right to education, innovative development of education.*

JEL Classification: A20, H52

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Introduction. The field of education largely determines the level of human development which is becoming a national priority in an increasing number of countries. Global trends in the innovative development of social processes encourage Ukraine to choose a proactive model of further development and mobilization of public resources, which significantly affect the national education system as a whole

and its general education component in particular. Innovative technologies in education are becoming an effective mechanism for the state advanced development and an effective factor in reforming education and ensuring human development.

The state of affairs in the field of education, the speed and depth of transformation do not meet the needs of society. Preservation and dissemination of the best national education system traditions, ensuring the quality education availability for all citizens and the entry of the Ukrainian education system into the educational and scientific space of Europe remain urgent tasks. The reproductive nature of the national education system management is unable to ensure the self-reproduction of innovation-oriented educational policy for the advanced development of human potential in Ukraine.

Modern theorists define a new stage of society development as noosphere-creative. The latter is characterized by the growth of humanization in all spheres of social life, the priority of human values, the interdependence and interdependence of the human factor, human development, that is the socially active element of production processes. Therefore, in the context of the global education role in solving Ukraine modernization problems, its national security, the socio-cultural conditionality of modern educational policy is growing, which is formed in accordance with national social development practice.

Thus, public policy plays a significant role in the socio-economic development of the country and aims to develop those areas of public life that directly or indirectly determine the growth of human potential. It means that the implementation of state programs aimed at developing human capabilities is extremely important. And in this area, an important place is given to educational policy, which is related to economic, informational, legal, ethical and other components of society and has its roots in the system of all social policy.

Optimal educational policy requires deeply considered, strategic thinking of public managers, a clear idea of the social core of the educational policy itself. Therefore, it is relevant to study the theoretical and practical aspects of educational policy in order to strengthen the position of human potential as the main productive resource through the instrumental possibilities of education.

Literature review. Theory and practice of the education regional body management, information and analytical support of educational systems management and ways of management principles introduction in this process were studied by V. Gumeniuk, L. Danilenko, O. Zaichenko, L. Kalinina, V. Maslova, S. Podmazina .

Guidelines and principles of education renewal, modeling of the criteria system for assessing its development are considered in the works of L. Haievska, N. Hrytsiak, T. Lukina, L. Zhabenko, Y. Molchanova, O. Parkhomenko-Kutsevil, L. Prokopenko, I. Semenets-Orlova , N. Synytsyna, O. Shyian, R. Shyian and others.

Aims. The purpose of the article is to analyze the educational aspect of the current state of human development public administration.

Methods of research. In the process of the research a set of general scientific and special methods was used, in particular systematization, generalization, synthesis, abstraction, in order to establish the essence, components and conditions of human

development. Expert-analytical method was used in the analysis of mechanisms for human development. The acmeological approach made it possible to identify factors that influence the tendencies of human development.

Results. The process of creating public education policy as a tool for public education management in postmodern society is not linear, it requires the involvement of broad sections of the population as stakeholders and is increasingly becoming a public policy. It is a dynamic, competitive and innovative process which is open to change. And here the cross-forces of change are needed to each other.

Post-industrial society is very sensitive to innovation, not only because of its own inherent reliance on ever-increasing knowledge and information, but also because of its social activism in finding a solution to the problem of social justice. In the 1980s, the term "society of one and two thirds" became widespread, which began to be used to describe a possible or real social structure of developed western countries (where 2/3 of the population are rich, integrated into the process of production and consumption). and 1/3 - doomed to unemployment and poverty). In such a social context, education is determined by the authorities as a tool to reduce social inequality.

In developed countries, education is moving to the foreground during the implementation of state reforms, because it is an important part of social strategy. As the state acts as a guarantor of quality education, it is responsible for the timeliness of updates in education, proper management and resource provision of these updates. The state educational policy should promote the growth of the well-being of every citizen and the competitiveness of the whole state. In addition, the state educational policy is most effectively combined with the state innovation policy, which is an important area of activity in a society of rapid development and is characterized by interconnected innovations in all spheres of life.

The main task of public administration is to regulate public relations by ensuring the rights, freedoms and legitimate interests of citizens. Cultural rights are one of the largest groups of constitutional rights, with the right to education taking precedence. After all, in a social, legal, democratic state, the priority of human rights over the rights of the state is a fundamental value. The form, process and procedure and guarantees of ensuring the human right to education are enshrined in the Constitution of Ukraine and relevant regulations. This is due to the fact that the constitutional right of a person to education is a key element in shaping the constitutional and legal status of citizens. We will consider how guarantees of the human right to education directly affect the development of human potential in the country.

In the information society, there is a need for innovation in education. It is important that for a student who is learning, knowledge of the basics of functioning and development of society becomes important not only in education but also in various fields of human activity, such as public service and entrepreneurship. At the same time, the dynamism of the development of social systems highlights the problem not only of lifelong learning, but also of educational changes that provide an opportunity for more effective organizational learning. The teacher, educational manager is responsible for training the employees of the organization and needs

knowledge of the basic features, functionalities of educational changes and mechanisms of their implementation. According to the theorist A. Elbing, in the XXI century. leaders of the most important organizations for society, such as business, educational, and government, tend to focus on the rapidly changing environment and its impact on the internal structure of the organization [1, p. 9].

According to Canadian researcher M. Fullan, the object of educational change is a developing personality. Among the conditions for the introduction of innovations in education, currently relevant are: renewal of education by the emergence and resolution of contradictions between the form and content of education; stimulation (raising the status) of special innovative activity among educators; emergence and growth of the role of interdisciplinary innovations; increasing the importance of scientific and pedagogical transfer in the field of application of new knowledge between science and pedagogical practice. [2].

An important tendency in modern socio-economic development is the definition of intelligence and continuous staff development as the basis for effective human resource management in the XXI century. New approaches to human resource management can be a major source of positive change in education, as they focus on using the individual abilities of employees in accordance with the strategic goals of educational policy and integrating the needs of employees with the interest of each educational institution [3].

Therefore, the transition to modern approaches to human resource management in Ukraine should begin with the education system, because, in our opinion, the formation of attitude towards people as the highest value of society happens exactly through educational institutions. The strategic goal of education management is to create the most favorable conditions for self-development and self-actualization of the personality of participants in the educational process.

The object of state management of education is the education system, which is directed to the influence of government. The main organizational principles of educational policy as a tool of public education management are as follows: choice and competition, which are reflected in the fundamentality and focus of education on the consumer; autonomy and implementation of their own variable educational components, which reveal the basics of management and commercialization of education and centralization and execution of instructions (establishment of assessment norms, schemes and working methods with students by central authorities).

Today, Ukraine, which is a full-fledged subject of the European educational space, must quickly and with the least losses modernize the system of public administration of education to create a competitive national education system. The current state of reforming Ukrainian society provides grounds for rethinking the objectives of education, legal guarantees for the realization of the right to education, taking into account the requirements of the XXI century.

To understand the essence of education as a social phenomenon, it is necessary to reveal its inner side, philosophical-historical and constitutional-legal aspects. Clarification of the philosophical and historical aspect of the essence of education as

a social value is due to the fact that Ukraine is in the stage of reform and reassessment of values. Therefore, the definition of the education content, which follows from the analysis of different historical periods of its formation and development, will provide a basis for a better understanding of the current situation in the field of education. Education is a structured system of scientific knowledge about the world, nature, human, society and religion, which aims to prepare an intellectually developed individual. The possibility of educating such an individual, ensuring equal access of everyone to education is guaranteed in the legal regulations at the constitutional level to guarantee a person the right to education.

The constitutional and legal aspect of the essence of education can be clarified by examining the right to education as a social value for both the individual and the state and establishing the relationship between these criteria.

Education as a social phenomenon, as well as the right to it is one of the main directions of state development. The right to education, in the national sense, is a legal institution, a system of constitutional and legal provisions, the implementation of which is guaranteed and carried out by the state in the interests of citizens. With the help of regulations the state establishes the procedure for obtaining a level of knowledge, skills and abilities, taking into account all the determinants of dynamic personal development, individual characteristics of work, managerial strategic skills needed to manage society and the state. In fact, the state is interested in forming a high level of education in the individual in order to ensure the functioning of the state as a whole. However, among scholars there is no unambiguous approach to understanding the right to education as a social value of the state. T. Grachova interprets the right to education as a social human right to receive a sufficient amount of knowledge and skills for comprehensive development and preparation for life in society [4, p. 49]. We only partially agree with this statement, because the state can only provide certain guarantees for a person to realize the right to education, but the level of a person's use of this right depends only on each individual.

A.V. Monaienko expressed a one-sided approach to understanding the essence of the right to education as a social phenomenon for the state. He considers the constitutional right to education as a set of legal norms governing the part of social relations that provide the order of education. [5]. It is difficult to agree with this statement, because the right to education cannot be strictly dependent on state regulation in a democratic, legal and social state, which is Ukraine. Although the state enshrines the right to education at the constitutional level, its understanding is reduced not only to an indication of its existence, but also to the formation by the state of legal support for their observance and guarantee.

Legal support of the state guarantee of realization of the person’s right to education can be systematized into two groups. The first group should include legal norms that define the strategy, objectives and goals of the right to education as a social value for the state. The goals and norms determine the main parameters of the object of legal regulation of education, which is content, borders of space and time, goals and procedures for exercising the right to education. The second group of legal norms should be called security, because they regulate the organization of education

management, types and structure of executive bodies operating in the field of education, determine their legal status, as well as rules governing the functioning of educational activities.

The first group of regulations should include article №53 of the Constitution of Ukraine [6], which imposes a person's right to education, as well as the laws of Ukraine "On Education" of 05.09.2017, "On professional and technical education" of 10.02.1998, "On higher education" of 01.07.2014, the statute of the National Strategy for the Education Development in Ukraine until 2021 of 25.06.2013 and others.

Another group of legal norms is decrees of the President of Ukraine, in particular "Issues of the Ministry of Education and Science of Ukraine" dated 25.04.2013, On some issues of the National Academy of Public Administration under the President of Ukraine dated 14.08.2012 [7]. In addition, this group includes the rules of the relevant regulations on ministries and departments that have subordinate higher education institutions. The proposed classification shows some synergy between the groups of legal support of the right to education.

In the first group there are norms by which the state determines the social value of education by legislating the goals of education, the content of education, borders of space and time. The legal norms of the second group are based on the provisions of the norms of the first group and determine the organization of the realization of the right of a person to education.

This information provides grounds for identifying the main features of the right to education as a social value for the state, namely: a set of rules governing relations between citizens and the state in the field of education and ensuring comprehensive, full and objective development of the individual.

Thus, a person's right to education is socially significant for the state, as it is aimed at the formation of the individual in society. For each person, the ensuring of rights and freedoms, including the right to education, is a guarantee of the realization of the right to free development of their personality, if it does not violate the rights and freedoms of others, and responsibilities to society, which provides free and comprehensive development of the personality.

The right of a person to education is reflected in the Constitution of Ukraine (Article 53) [6] and referred to section 3. This section is devoted to the rights and freedom of citizens. For these reasons, the state, highlighting the socially significant right to education, points to such characteristic features as inviolability (Article 21 of the Constitution of Ukraine), state guarantee (Article 22 of the Constitution of Ukraine), equality before the law (Article 24 of the Constitution of Ukraine) and others.

Analysis of Articles 3, 8, 10, 11, 12, 19, 21 - 24, 26, 32, 34 - 36, 40, 43, 46, 53, 54, 55, 56, 59 and 157 of the Constitution of Ukraine, which are based on legal status of a person and a citizen, gives grounds to assert that all human and civil rights in general and the right to education in particular, are the personal rights. [6]

To confirm this, we can give the position of V. Kyrychenko and Y. Sokolenko, who define the right to education as a targeted process and result of development, upbringing and education, as a human right to acquire a clearly defined amount of

quality knowledge, skills, professional qualifications, talent development, mental and physical abilities, education of high moral qualities and enrichment of creative, cultural and spiritual potential of the person and acquisition of the educational levels established by the state. [8]

Therefore, determining the social value of the education right for a person is one of the main criteria for forming its essence. The axiom is that the right to education is individual, inalienable and belongs to each person. The social value of the education constitutional right for the individual is due to the providing the person with certain opportunities to meet their needs in the field of education.

O. Kulinich considers the social significance of the right to education for a person as a set of opportunities to receive appropriate education inherent for each person [9, p. 32]. The analysis of the scientific literature gives grounds to state that the issue of understanding the essence of education as a social value for a person has been studied by scientists as the right to education in the subjective sense, where the key concept is the subject (person, individual). The subjective right to education is a measure of the possible behaviour of the subjects of legal relations arising in the field of education, which is enshrined in state regulatory documents.

The implementation of this behaviour is guaranteed by the state through the current system of public authorities, local governments, a network of educational institutions and institutions of various forms of ownership. Also, it is aimed at obtaining the appropriate level, type, form of education, upbringing, involvement in the national and world scientific and cultural heritage in order to ensure a progressive development of each individual and society as a whole [10, p. 8].

According to L. Dolnikova, a person's subjective right to education should be understood as a measure of possible behaviour of a subject established by the state and regulated by law in determining the scope, type and form of realization of this right free of charge in the interests of both the individual, the state and society as a whole. [11, p. 6].

This statement has lost its relevance today, because in a market economy, the right to education, which can be used by the individual should not be reduced only to a free form of obtaining it. A number of scientists think that it is expedient to distinguish between a positivist and a natural legal approach to understanding the essence of a person's subjective right to education.

Thus, according to T. Grachova, the positivist approach characterizes the right to education as a certain possibility of realization of this right only through the system of its state regulation [4, p. 50]. M. Matuzova, A. Malko point out that a person’s subjective right to education is naturally legal, as it originates from human nature itself and is a personal intangible [12]. O. Karmanyuk thinks that the subjective right of a person to education has two criteria: formal, which expresses in writing the rules of law in international and national law; semantic, which distinguishes among all human rights its basic rights that ensure the physical, spiritual, cultural and social development of a competitive individual [13, p. 50].

Although these two approaches to understanding a person's subjective right to education coexist, their synergistic combination is seen as the most successful in

determining the social value of the right to education. After all, the right to education cannot be alienated and depend on the will of another person. However, the exercise of this right by a person largely depends on certain factors that influence the definition of strategies for the development of Ukrainian state system.

Discussion. Defining the core of a person's right to education as a social value, it is necessary to take into account other spheres of social life of a person and a citizen that directly affect the quality level of legal regulation of a person's right to education. In the study of the concept of the right to education V. Boniak identified the following guarantees of the right to education.

1) Economic (the right to private property, ensuring the financing of state educational institutions, institutions at the expense of the relevant budgets, funds of economic complex branches, state enterprises and organizations, the possibility of attracting additional sources of funding).

2) Political (standardized policy in the field of education for the state and its bodies, creation of various types of general and professional educational institutions, organization of preparatory departments at higher educational institutions, active work of trade unions and public organizations to realize the right to education.

3) Ideological (spiritual and moral) the accessibility of education, the prohibition of restrictions on the right to education on racial or religious grounds; access to information.

4) Legal guarantees (constitutional implementation of the analyzed law, legislative and normative work on creating and financing of educational institutions from the state budget, effective activity of judicial and law enforcement bodies of the state on recovery in case of violation, creation of legal mechanisms to promote human constitutional right to education in Ukraine). [10, p. 9].

Conclusions. In this context, we can name a number of factors that affect the definition of the social value of the right to education.

First, the socio-economic factor that affects the level of realization of the right to education by indirect action on the regulatory and legal support for the development of the national economy.

Second, the personnel factor, which is based on establishing clear requirements for teaching staff and ensures the proper quality of education.

Third, the legal culture of citizens, which ensures the spread of awareness in the legal guarantees in the exercise of their right to education through media.

Fourth, the European integration factor, which means the gradual adaptation of Ukrainian legislation system to European standards, including the ensuring of social guarantees of the right to education.

All this gives grounds to conclude that the right to education on the subjective side is based on the individual's need for scientific knowledge, and on the objective side is expressed in regulations. In our opinion, it is the guarantee of ensuring the human right to education that reflects the instrumental potential of human development through education.

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INSTITUTIONAL AND LEGAL MECHANISMS FOR IMPLEMENTATION STATE POLICY IN THE FIELD OF INFORMATION SECURITY: EXPERIENCE OF EU COUNTRIES

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Abstract. *The article analyzes the features of institutional and legal mechanisms for implementation state policy in the field of information security in the EU. It is determined that the Safer Internet Program is a tool for implementation the Safer Internet Centers policy, which expands the rights and protection of children / others online by implementing awareness-raising initiatives and combating illegal (destructive) content and behavior. It is noted that a significant element of the institutional and legal mechanism for ensuring the state information policy of European countries is the involvement of civil society institutions in the process of ensuring the security of Internet use. It is noted that the fight against cybercrime in the European Union is endowed with a powerful institutional and legal mechanism. In particular, the European Commission has developed «anti-cyber measures», which were formulated in the Communication «Towards a common policy on cybercrime» (May 22, 2007). The normative act defines the main elements of this policy: the development of cooperation between law enforcement agencies, public-private partnership and international cooperation.*

It is concluded that the institutional mechanism for combating cybercrime in the European Union, along with the institutions of the European Community, includes two main specialized agencies – Europol and Eurojust.

Keywords: *institutional and legal mechanisms, state policy in the field of information security, EU, state of the public data protection sector, awareness raising mechanisms.*

JEL Classification: F52, F68.

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Introduction. Ensuring state information security policy in the European Union is characterized by hierarchy. Thus, the European Commission, the Council of Europe and the European Parliament are responsible for the effectiveness of institutional regulation. In turn, the latter exercise their powers through their delegation to responsible sub-institutions.

As a result, all 27 member states of the European Community currently have Safer Internet Centers, which are responsible for ensuring the proper use of the Internet and mobile networks by children and the public [1].

These centers are divided into separate types: there are information centers (the purpose is to disseminate information materials, conduct campaigns and information interviews with children, parents, educators and teachers to raise awareness of online risks and ways to ensure safety on the Internet); helplines (personal counseling of children, parents to ensure online safety); hotlines (accept reports of illegal content on the Internet, conduct a check on them to identify their origin, based on which the law enforcement agencies of the country and Internet providers are informed to remove this content) [2, p. 21-22].

All the above highlights the need to study the best European experience in the formation of public policy in the field of information security, as well as, on this basis, the development of proposals for its effective reform in Ukraine.

Literature Review. Note that in most studies of authors such as: V.L. Buryachka, Yu.V. Bogdanovicha, P.O. Balashova, S.V. Kavuna, S.V. Kazmirchuka, O. G. Korchenka, V.O. Horoshka information security stands out as an integral element of national security, as well as an integral qualitative parameter and a characteristic indicator of the protection of the population and the state as a whole. This, in turn, highlights the importance of proper scientific substantiation of institutional and legal mechanisms for the implementation of state policy in the field of information security in the EU.

Aims – to determine the features of institutional and legal mechanisms for the implementation of state policy in the field of information security in the EU.

Methods. The methodological basis of the study is formed on the use of a number of interrelated general and special methods (systemic, historical-retrospective, comparative, structural-functional, analysis and synthesis, generalization and systematization, induction and deduction, unity of whole and part, problem and prognostic analysis).

Results. I would like to note that the information centers and helplines of the EU Safe Internet Center are merged into another supranational body – the European network of information centers "Insafe". The aim of the campaign is close cooperation between partners and other participants in order to strengthen the standards of awareness and security of the Internet, as well as to support the development of information literacy in the member states of the European Union [3].

In turn, the legal basis for the implementation of these provisions is formed in the European Community through the Recommendations on the Protection of Minors and Human Dignity 98/560/EC of 24.09.1998 and 2006/952 EC of 20.12.2006, which implemented a set of measures aimed at protecting children and individuals from destructive information in the media and the Internet. Implementation is carried out by the Member States of the European Union, the European Commission and other subjects of state control [4].

Separately, the Safer Internet Program is a tool for implementing the Safer Internet Centers policy, which expands the rights and protection of children / others online by implementing awareness-raising initiatives and combating illegal (destructive) content and behavior. The general mechanism of the program is designed to increase the uniqueness and security of the Internet in European countries.

It is important to note that the program «Safe Internet» provides for the implementation of such activities as: funding targeted projects aimed at creating a safe online environment; support for Safe Internet Day; organization of the Safe Internet Forum; stimulation and support of corporate regulation.

For example, under the Safer Internet Program Plus 2013-2020, € 55 million has been allocated to work in the following areas: public awareness of safe Internet use; creation of national contact centers (hotlines) to collect reports of citizens about

illegal and harmful information on the network; approval of self-regulation initiatives; encouraging children to participate in creating a safe Internet network; collecting data on the use of new technologies and related risks through research [5].

The European Union will regulate the procedure for implementing the Safer Internet program through targeted projects at national and European levels aimed at creating a secure online environment. As part of the institutional and legal support, there are FIVES projects (development of criminal investigations); ROBERT (study of deviant behavior online and factors of insecurity of people on the Internet) [6, p. 11].

At the same time, the Council of Europe established the International Association of Internet Hotlines (1999) to support state regulation of information security. Its members are all member states of the European Union. The Association represents the interests and coordinates the activities of the global network of Internet hotlines, creating a mechanism to combat illegal content in order to make the Internet a secure network. It is estimated that the average monthly rate of illegal Internet content detected by the Association is more than 30 thousand cases [7].

It should be noted that an indicative element of the institutional and legal mechanism for ensuring the state information policy of European countries is the involvement of civil society institutions in the process of ensuring the security of Internet use. Through a joint initiative of the European Commission and the European Parliament, the European Alliance for Child Safety Online was established in 2011, bringing together organizations to protect the rights of children (and others). The Alliance's responsibilities include developing and providing guidance to national, European and international decision-makers, including proposals for future Internet governance management [8].

Another important government action is the European Parliament's initiative to establish a Safer Internet Forum (2004). It is an annual conference on Internet security that brings together industry, law enforcement, child protection organizations and senior policymakers. The forum has an international character, because its participants, in addition to European countries, are Australia and the United States. The forum discusses such issues as: security of persons and information announced on mobile phones, the fight against illegal content and illegal behavior, mechanisms to raise awareness, etc. [9].

In addition, the European Community provides protection against the negative information impact of computer game users. The Council of the EU adopted Decision 2002 / C 65/02 on the protection of users, namely young people, by labeling a specific video game and a computer game according to age group (01.03.2002). The document draws attention to the diversity of game content, its focus on different age groups; Concern has been expressed about the possible harmful effects of content on the psyche of minors. To solve the problem, the method of age classification and appropriate labeling of computer and video games is used in order for the buyer to always have an idea of the content of the product, as well as to create mechanisms to protect children from harmful content [10].

As a control and supervisory method for monitoring the implementation of this institutional initiative, the European Commission provided information on the state of the public data protection sector (Notification dated 22.04.2008). The report notes that countries such as Cyprus, Luxembourg, Romania and Slovenia have not introduced the Pan-European Game Information age rating system (PEGI) as a voluntary system of self-regulation in this area [11].

Given the fact that the PEGI system is not accepted by the European Community (Nielsen Games survey showed that only 60% of respondents are aware of the European classification system and only 50% of parents consider the system useful when buying video games), some countries have changed the institutional and legal policy. security. For example, the German Bundesrat established the Common Agency for Youth Protection on the Internet. In addition, in Ireland, the user of the game has the right to call the 24-hour hotline (for Q&A), and Latvia arbitrarily sets strict requirements for the use and distribution of games at the government level [12].

It is also worth noting that the fight against cybercrime in the European Union is endowed with a powerful institutional and legal mechanism. In particular, the European Commission (in cooperation with the Member States and the institutions of the European Community) has developed «anti-cyber measures», which it formulated in the Communication «Towards a common policy on cybercrime» (22.05.2007). The normative act defines the main elements of this policy: the development of cooperation between law enforcement agencies, public-private partnership and international cooperation [13].

In turn, the European Commission proposes a set of measures to combat cybercrime, including the launch of operational cooperation between national law enforcement agencies, increased financial support for initiatives to train national law enforcement agencies to investigate cybercrime, support research to combat cybercrime, cybercrime, raising awareness of the dangers of cybercrime, implementing measures to prevent and counter coordinated and large-scale attacks on the information structure [14].

The European Commission has also stepped up dialogue with the private sector. From a political and practical point of view, its participation in combating cybercrime is crucial – because this sector controls most of the information infrastructure. Operational cooperation between the police and private operators was approved by two memoranda of the Council of Justice – in 2008 and 2010, respectively (are the leading and current).

In addition, the European Commission has set up a separate institutional body, the European Training Platform on Cybercrime Investments, with Europol, Sipol, Member States, civil society institutions and the private sector. In addition, the European Commission has launched the European alert platform for Internet-related offenses, together with Europol and the Member States of the European Union. This system allows you to combine information about cybercrime committed in different European countries, in order to coordinate the investigation and increase its efficiency [15].

Discussion. Continuing the analysis of theoretical and practical aspects of building of institutional and legal mechanisms of implementation state policy in the field of information security in the EU, I note that some authors, such as M.

Wittman and N. Mattord note that information security policy is a set of legal, organizational and technical measures, aimed at the formation and use of technological, infrastructural and information resources for the protection of information of national importance, as well as the rights and legitimate interests of entities involved in information relations [16, p. 38].

In my opinion, the state policy of information security is the activity of state and legal institutions to manage real and potential threats and dangers in order to meet the information needs of man and citizen, as well as the realization of national interests.

V. Nikitin notes that an effective state policy in the information sphere, including in the aspect of information security, largely depends on the correct choice of priorities in the organizational and legal solution of these problems, scientifically sound development of adequate models and approaches to their solution. .

However, I note that national security significantly depends on ensuring the information security of the country, the elements of which are the totality of information, means of its production, processing and storage, information infrastructure, entities collecting, generating, disseminating and using information, and regulatory system emerging relationships .

Conclusion. Thus, the article argues that actions against private and public IT systems in EU member states have given the problem a new dimension, demonstrating that cybercrime is a potential new economic, political and military weapon. This problem, therefore, can be considered an official confirmation of the threat of using information weapons. The European Strategy of 2003, in turn, only indirectly indicates that «in this area further work is needed to develop a comprehensive European approach, raise awareness and strengthen international cooperation» [17; 18].

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