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CHAPTER 1
MODERN TRENDS IN PUBLIC ADMINISTRATION

REGULATORY AND LEGAL MECHANISMS OF REGULATION FOR THE LOBBYISM INSTITUTE IN UKRAINE: PROBLEMS AND SOLUTIONS

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Abstract. *The article analyzes draft legislative acts of Ukraine, which regulate the institute of lobism, lobbying activities. The objective of the article is a theoretical substantiation and systematization of problems and prospects for development of regulatory and legal framework mechanisms for regulating the institute of lobbying in Ukraine. It has been proved that there are ongoing attempts to envisage the institution of lobbying in the current legislation in Ukraine. At the same time, mechanisms of legislative regulation differ. Some jurists suggest registering lobbyists in special registers, others suggest registering only in the Verkhovna Rada of Ukraine. The need to regulate the institute of lobbying in the legislation of Ukraine has been substantiated. We find it reasonable to define that a lobbying activity is the one of representatives of non-governmental organizations to establish contacts with officials and deputies of the Parliament, Government and other public authorities and local self-governmental bodies in order to influence development, adoption and implementation of political and administrative decisions as well as regulations by the said persons on behalf and in the interests of specific non-governmental organizations (their associations). In addition, it is necessary, firstly, to introduce activities on regulating lobbying carried out by the National Council of Ukraine, which is a central executive body that operates to ensure the national security of Ukraine in the process of registration and supervision of lobbying activities. Secondly, it is required to initiate formation of the Unified Register of Lobbyists of Ukraine, which is supported by the National Council of Ukraine on regulating lobbying. Thirdly, it is important to determine that a person (legal or natural) acquires the rights defined by this Law from the moment of inserting information about it into the Unified Register of Lobbyists of Ukraine.*

Keywords: *Parliament of Ukraine, Cabinet of Ministers of Ukraine, lobbyist, lobbying, lobbying activity, stakeholders, corruption, regulating activities, regulatory and legal framework.*

JEL Classification: H10, H11, H70, K29

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Introduction. The institute of lobbying has been formed in many countries abroad, including the United States, Canada, and Europe. This institute is also being formed in Ukraine. Unfortunately, today there are no legal documents that would regulate the lobbying processes, lobbying activities, which calls into question the lobbying process. At the same time, lobbying of certain interests takes place regardless whether this institute is regulated or not. Therefore, today there is a real objective need to address the mechanisms for regulating lobbying in Ukraine.

Literature review. Problems of the regulatory and legal framework of the institute of lobbying, including lobbying abroad are analyzed by political scientists, sociologists, jurists, specialists in public administration, including: V. Andrushchenko, M. Anokhin, T. Aravina, O. Barvin, O. Binetsky, D. Cohen, V. Bebyk, T. Bogynia, D. Bogush, I. Bogdanovska, A. Ball, F. Kyrylyuk, V. Korolko,

O. Lisnychuko, M. Mikhalchenko, V. Nesterovych, M. Obushny, M. Ozhevan, A. Onuprienko, O. Porfyrovych, G. Pocheptsov, M. Rachynska, V. Sumska, S. Teleshun, E. Tykhomyrova, M. Khylko, O. Saltovsky, V. Fedorenko and others. These authors analyze problems of regulation of the phenomenon of lobbying in the current regulatory and legal framework of Ukraine, define functions of lobbying, scientific approaches, as well as modern opportunities for lobbying.

At the same time, there are no systematic studies of problems and prospects for development of regulatory mechanisms for regulating the institute of lobbying in Ukraine.

Aims. The objective of the article is a theoretical substantiation and systematization of problems and prospects for development of regulatory and legal framework mechanisms for regulating the institute of lobbying in Ukraine.

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

Results. In the regulations of the countries where lobbying is already regulated by law, there are various procedures for regulating the issue of legalization of lobbying activities.

In Canada, the regulation of lobism is under joint management of the federation and the provinces as laws are adopted at both the federal and regional (provincial) levels. The combination of these laws, together with the guidelines of lobbyists' codes of conduct and ethics, is Canada's lobbying legislation. The main normative act regulating lobism in Canada is the Federal Lobbying Act, which was adopted in 1988 and entered into force in 1989 [1]. The provinces of Canada (Nova Scotia, Quebec, British Columbia, Newfoundland, Ontario and others) passed laws regulating lobism in accordance with federal experience. For example, in Newfoundland, the law was adopted in 2005, and in Ontario in 1998 [2], in Quebec a law called *The Lobbying Transparency and Ethics Act* was adopted in 2002 [3].

For this purpose a mechanism of registering interest groups involved in political activities was created. Openness of lobbying provided an possibility to understand what is happening in the political process, as well as to balance private interests with the public ones. For example, if some political forces act driven by private interests of any corporation, their opponent will seek to oppose them either another private or public interest, depriving the competitor of benefits.

The main task of lobbying legislation in Canada is to oblige lobbyists to register and insert information into a special register [4].

There are several legal regulations in the United States that regulate lobbying. The are as follows:

Foreign Agents Registration Act of 1938, which regulates the procedure for lobbying in the United States in favor of foreign legal entities. The US Congress passed a number of amendments to improve the provisions of the Act. These amendments drew a legal line between political propaganda and activities of foreign economic entities in the field of economics, singled out the Presidential Administration, government departments and institutions/agencies as objects of

lobbying, and also regulated the system of registration and reporting of lobbyists and lobbying organizations, that defend foreign interests, in more detail. [5].

The Lobbying Disclosure Act of 1995 is the basic legal act in the field of lobbying. This Act defined the status of lobbying entities and the basis for their registration and reporting in more detail; a list of lobbying entities and lobbying objects has been significantly expanded; control and supervision over the legality of lobbying relations was intensified; penalties for violation of requirements of the established registration procedure by lobbyists was increased from USD 5 thousand to 50 thousand [6].

Honest Leadership and Open Government Act of 2007 specified the forms of contact between government officials and lobbyists and lobbying associations to minimize corruption risks when lobbying. In particular, the term, during which a congressman who terminated his powers, has no right to engage in lobbying activities, was extended from one to two years; the clause on a possibility of a congressman to receive gifts in the amount of USD 50 was suspended; a fine for violating the law on lobbying was increased from USD 50 thousand to 200 thousand and imprisonment for up to five years was introduced; a term of the reporting period of lobbyists was reduced from six to three months [6].

Thus, it can be noted that a clear regulation of lobbying will allow lobbyists to exist not in the "shadow sphere", but to add value to the state and society through involvement of public in government and administration decisions.

The first attempts to resolve the problem of lobbying in the current legislation of Ukraine were curtailed in 1999 in the draft Law of Ukraine *On Lobbying in Ukraine* dd April 13, 1999 No 3188 [7]. This project provided that lobbying is using of means that are not prohibited by the legislation of Ukraine in order to influence authorities or a representative of the government for making a decision that meets the interests of a lobbyist. Lobbyists are established and operate on the basis of voluntariness, equality, legality and transparency. They are free to choose areas of their activities, except for those areas and activities that are prohibited by law. Restrictions on the activities of lobbying associations can be established by the Constitution and laws of Ukraine only. Lobbyists must regularly publish and disclose their key documents [7].

The draft law *On the Legal Status of Groups United by Shared Interests (Lobby Groups) in the Verkhovna Rada of Ukraine* dd November 3, 1999 No 3188-1 stipulates that groups united by shared interests are associations of citizens of Ukraine that represent certain economic and social interests of interested communities and population groups and they have the right to legally influence formation of Ukrainian legislation. Political parties are outside shared interests groups. A purpose of a shared interest group is to influence adoption of legislative acts by the Verkhovna Rada of Ukraine. Registration of shared interests groups is carried out by the Unit for Work with Shared Interest Groups of the Secretariat of the Verkhovna Rada [8].

The draft Law *On Regulation of Lobbying in Government Authorities* dd March 25, 2003 (which was not submitted to the Verkhovna Rada of Ukraine) incorporates a category of “a lobbying activity” to define a concept of “lobbying”. It means “an

interaction of legal entities and individuals with public authorities in order to influence development and adoption of regulations and other decisions in the personal interest or for the benefit of specific clients by the said bodies." The right to engage in lobbying activities (a status of a lobbyist) have individuals (individuals-lobbyists) and legal entities (legal entities-lobbyists) who are registered in the Register of Lobbyists of Ukraine and have received a Certificate on the right to conduct lobbying activities. State registration of lobbyists is carried out by the Ministry of Justice of Ukraine (hereinafter referred to as the registration body) in the manner prescribed by this Law and the Regulations on Registration of Lobbyists and the Register of Lobbyists of Ukraine approved by the Cabinet of Ministers of Ukraine. A fee for the state registration of lobbyists and registration of changes in the Register of Lobbyists of Ukraine is charged in the amount determined by the Cabinet of Ministers of Ukraine [9].

The draft Law of Ukraine *On Activities of Lobbyists in the Verkhovna Rada of Ukraine* dd November 4, 2005 No 8429 stipulates that a a citizen of Ukraine may be registered as a lobbyist in the Verkhovna Rada of Ukraine in the manner prescribed by this Law who on a paid or unpaid basis on behalf or in the interests of a legal entity (client), within and in a manner not prohibited by the Constitution of Ukraine, this and other laws of Ukraine, makes influence on the subjects defined by this Law, in order to influence development, discussion and adoption of draft laws of Ukraine and other decisions of Verkhovna Rada of Ukraine (lobbying influence) [10]. Thus, there is a simplified procedure for registration of lobbyists, their activities are limited to activities in the Verkhovna Rada of Ukraine.

The draft Law of Ukraine *On Lobbying* dd September 20, 2016 No 5144 states that a person acquires the rights defined by this Law from the moment of inserting information about him into the Unified Register of Lobbyists of Ukraine. In order to collect, store, record and provide information on lobbying entities, the Ministry of Justice of Ukraine maintains the Unified Register of Lobbyists of Ukraine (hereinafter referred to as the Register), which is open, accessible and free of charge. The Register is maintained in accordance with this Law and the Regulation on the Unified Register of Lobbyists of Ukraine, which is developed and approved by the Ministry of Justice of Ukraine [11]. Thus, the registration of lobbyists is handled by the Ministry of Justice of Ukraine.

The draft Law of Ukraine *On Lobbying* dd October 05, 2016 No 5144-1 stipulates that a person acquires a status of a n entity of lobbying from the moment of inserting information about him into the Electronic Register of Lobbying Entities. In order to collect, store, record and provide information on lobbying entities, the Administrative Office of the Verkhovna Rada of Ukraine maintains the Electronic Register of Lobbying Entities (the Register). The Register is free of charge, carried out in accordance with this Law and the Regulation on the Electronic Register of Lobbying Entities, approved by the Administrative Office of the Verkhovna Rada of Ukraine [12]. Thus, the maintenance of the Register is provided by the Verkhovna Rada of Ukraine, and activities of lobbyists are carried out within the scope of activities of the Parliament of Ukraine.

The draft Law of Ukraine *On State Registration of Lobbying Entities and Conducting Lobbying Activities in Ukraine* dd February 11, 2020 No 3059 stipulates that a person acquires the status of a lobbying entity from the moment of inserting information about him into the Electronic Register of Lobbying Entities. The holder of the Electronic Register of Lobbying Entities is the Ministry of Justice of Ukraine, which takes organizational measures to ensure the continuous operation of the Register. The Electronic Register of Lobbying Entities is maintained in the state language with the use of software developed in accordance with the state standards, which ensures its compatibility and interaction with other information systems and networks. The Electronic Register of Lobbying Entities is open for anyone for getting familiar with the information entered into it, both in terms of information about lobbying entities and in relation to contracts for rendering lobbying services [13].

The draft Law of Ukraine *On Legal and Transparent Regulation of Lobbying Activities* dd March 02, 2020 No 3059-2 stipulates that an individual who is a citizen of Ukraine acquires a status of a lobbying entity from the moment of taking the oath and inserting information about him in the Unified Register of Lobbying Entities, which is formed and maintained by the Ministry of Justice of Ukraine (by the Council of Lobbying Entities of Ukraine after its creation and transfer of rights to the Council of Lobbying Entities of Ukraine by the Ministry of Justice of Ukraine in order to form and maintain the Unified Register of Lobbying Entities). A legal entity acquires the status of a lobbying entity from the moment of inserting information about it into the Unified Register of Lobbying Entities, which is formed and maintained by the Ministry of Justice of Ukraine (by the Council of Lobbying Entities of Ukraine after its creation and transfer of rights to the Council of Lobbying Entities of Ukraine by the Ministry of Justice of Ukraine in order to form and maintain the Unified Register of Lobbying Entities) [14].

Discussion. The conducted analysis gives grounds to note that there are ongoing attempts to enshrine the institute of lobbying in the current legislation of Ukraine. At the same time, mechanisms of legislative regulation differ, some jurists suggest registering lobbyists in special registers, others suggest registering them only in the Verkhovna Rada of Ukraine.

Conclusions. In our opinion, the institute of lobbying is to be regulated in the legislative acts of Ukraine. We find it reasonable to define that a lobbying activity is the one of representatives of non-governmental organizations to establish contacts with officials and deputies of the Parliament, Government and other public authorities and local self-governmental bodies in order to influence development, adoption and implementation of political and administrative decisions as well as regulations by the said persons on behalf and in the interests of specific non-governmental organizations (their associations). In addition, it is necessary, firstly, to introduce activities on regulating lobbying carried out by the National Council of Ukraine, which is a central executive body that operates to ensure the national security of Ukraine in the process of registration and supervision of lobbying activities. Secondly, it is required to initiate formation of the Unified Register of Lobbyists of Ukraine, which is supported by the National Council of Ukraine on

regulating lobbying. Thirdly, it is important to determine that a person (legal or natural) acquires the rights defined by this Law from the moment of inserting information about it into the Unified Register of Lobbyists of Ukraine.

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THE GENESIS OF THE FORMATION OF THE TERRITORIAL ORGANIZATION SYSTEM OF POWER IN UKRAINE

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Abstract. *The article is devoted to the analysis of processes of Ukraine's transition from a rigidly centralized system of territorial organization of power of the Soviet type to a modern system of decentralized type. The objective of the article is to determine the subject matter, content and forms of the societal institution of territorial organization of power in the modern scientific discourse of public administration through the analysis of the genesis of formation and modernization of the territorial organization of power in modern Ukraine in the period from 1990 to 2020. The subject matter and content of the political and territorial organization of the system of the state public power institutions, which is called the "territorial organization of government" is highlighted. It is substantiated that in order to effectively perform the functions of government regarding regulating public relations, the state organizes its internal territorial organization, divides its territory into administrative units of different levels, types and legal status, which is designed to ensure optimal form of the state unity of central and local governments, the most rational and adequate system of building the state apparatus, effective exercising of powers and running the country by the latter.*

The historical way of political and territorial organization of public power of Ukraine from the beginning of its independence to the present has been characterized. It is concluded that the main task of modernization of the system of territorial organization of power at the present stage of development of society is to ensure completion of decentralization processes and creation of new amalgamated territorial communities, integrity and unity of the public and state body as well as its components, to carry out ubiquity and continuity of administrative, organizational and regulatory activities of the system of public administration bodies aimed at improving the economic, social, environmental, etc. situation and well-being of citizens.

Keywords*: territorial organization of government, state, state policy, public administration, local self-government.*

JEL Classification: H10, H70, H79, K40

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Introduction. Ukraine emerged as a new independent state in late 1991 and immediately faced huge problems of state-formation, as the young country's striving to be democratic and social required not only a radical breakdown of social relations, but also a breakdown of the system of government institutions and the entire system of territorial organization of government that our state had inherited from the Soviet party-economic-repressive machine. It took other nations and countries a dozen years to go through the path from totalitarianism to democracy, while we wanted to do it in the shortest time possible. The history and theory of the science of public administration shows that the success of any state is associated with a number of different factors of historical, geographical, political, economic, social, cultural, demographic, etc. nature, among which the territorial and political dimension is one of the basic ones. For Ukraine, this has become one of the negative factors, as the problem of administrative and territorial division of our state, both historically and

today, has proved to be complex and painful. The genesis of forming the division that exists in Ukraine has no regularity, consistent logic of domestic development, as it was the case in most countries of the world. This is not surprising, since Ukraine itself did not have its own statehood, but at different times it was scattered with its separate territories around different states, where these territories were to be subordinated to the interests of the dominating countries.

In our opinion, the deep influence of geographical territory on peculiarities of molding of certain forms and models of political power as an expression of state existence of society indicates the importance of such territorial organization of power in modern states, which would best meet particular cultural and historical conditions of ethnogenesis of a given people. This determines the topicality of this scientific study.

Literature review. Source analysis of modern Ukrainian scientific discourse of problematics of the subject matter and content of the territorial organization of the state public power, its impact on the processes of state formation, building and implementation of the state economic, social and security policy by the state executive bodies and local governments shows that considerable research attention of a wide range of scientists and practitioners is paid to the abovementioned topics in independent Ukraine. In particular, among the latest publications on the depicted topic we can note the works of such scientists as S. Adamovich [1], N. Agafonova [2], P. Bilyk [4], I. Vereshchuk [5], M. Dnistryansky [8], I Zhovnirchyk [9], E. Keba [10], O. Kuchabsky [11], V. Lytvyn [12], O. Radchenko [16], O. Stohova [19], L. Chmyryova and N. Fedyai [21].

Aims. The objective of the article is to determine the subject matter, content and forms of the societal institution of territorial organization of power in the modern scientific discourse of public administration through the analysis of the genesis of formation and modernization of the territorial organization of power in modern Ukraine in the period from 1990 to 2020.

Methods. The methodology of this study implies the use of historical and comparative approach, the study of documents, events and political processes in modernization processes of the system of territorial power in Ukraine.

Results. A scientific approach to the study of any societal phenomenon involves a preliminary definition of its subject matter as well as categorical and conceptual definition. In the context of the chosen topic, we note that at the present stage of human civilization the most particular form of institutionalization of structured life of human communities is the state, a democratic understanding of which is established as a "political and territorial organization of public power" in the science of public administration [4, p. 33]. A similar view is shared, in particular, by Iryna Vereshchuk, a people’s deputy and former head of Rava-Ruska, who notes that "geographical space is an important configurator of the public administration system, which under certain conditions can serve as a factor of disintegration or integration of social, economic and managerial processes, and is the basis for the formation of the public administration system" [5, p. 261].

So let us find out what a «territorial organization of power» is and when and how a need for political and territorial division of the geographical space of society and the state arose.

In the modern administrative and legal sense, the territorial organization of power is "the system of public authorities (local executive bodies, territorial bodies of central executive bodies and local governments) and the relationship between them formed in accordance with the administrative and territorial structure of the state and has features of functioning at its various levels. This system is defined by the Constitution of Ukraine and mainly by the domestic administrative legislation" [10, p. 123].

In the public and administration dimension, it is a scientifically substantiated localization of interconnected spatial combinations of systems and forms of organization of power, which is based on the normative, legal and legislative basis and political organization of society and covers, as a rule, three levels of territorial organization of power in the state structure, including macro level which is the territory of the country; meso level which is the territorial organization of power of oblasts, regions; micro level which is the spatial organization of local self-government (villages, towns, cities) [9, p. 17]. As V. Lytvyn rightly emphasizes, such a division "should ideally reflect the specifics of internal "territorial tectonics", i.e. the size of the territory controlled by a particular society/community, population density, optimality of the communication system, historically formed features of settling, a role of cities as centres of gravity" [12, p. 59].

Thus, in order to perform functions of power and management, effective operation of the state apparatus, the state organizes its internal territorial organization, divides its territory into administrative units of different levels, types and legal status. This is designed to ensure an optimal form of state unity of central and local public authorities, the most rational and adequate system of building the state apparatus, an effective exercise of their powers and governance in terms of ruling the country. In particular, a well-known Polish scientist T. Kaczmarek explains the need for territorialisation of management by the fact that even the most rational organization of the central administration cannot ensure proper performance of public tasks within the whole state. Thus, implementation of regulatory, organizational functions of the state cannot be carried out without territorial administration, and multilevel management today is an essential element of the implementation of the state’s tasks [23, p. 37].

When choosing a form of territorial organization of power, the key is to find and choose optimal parameters of relations and interactions of central, regional and local levels of government, as well as compliance with a number of other criteria in terms of prevailing values and mentality of the nation-building people (nation). M. Dniestryznsky defines the mentioned criteria, including the following: a) a number of hierarchical levels of the administrative and territorial system should correlate with the size of the country, the number and location of its population at high level; b) sizes of administrative units of the same level should not contrast too much against each other; c) each administrative unit must be integral, communicatively connected,

with a favourable location of its administrative centre, which would have the necessary human and infrastructural potential [8, p. 139].

The fundamental importance of the territorial organization of power is revealed by the fact that the Basic Law of any state obligatory incorporates the relevant political and territorial relationship of political interests and social forces, peculiarities of regulation of power and social relations arising from the organization and exercise of power in the public administration system of the country.

All the historical diversity of the territorial organization of the state power is embedded in five main forms, namely, direct people's power or democracy, unitarism, federalism, confederation, empire. The problem for the young independent Ukraine, which emerged as such in 1991, is that in its prehistory, as various Ukrainian lands belonged to empires, unitary states and the totalitarian federation of the USSR for a long time. That is why it was clear from the very first days of independence that first of all it was necessary to break the system of power relations of the totalitarian society and introduce fundamentally new criteria, mechanisms and structures of public administration into political and social practice. In scientific circles and among the progressive democratic political elite there was a clear understanding of the need to build a fundamentally new system of territorial organization of power which is in many respects complete opposite of the rigidly centralized hierarchy of state bodies of the USSR. At the dawn of independence the leader of the democratic opposition V.M. Chornovil stressed that the constitution that was in force at the time was the Stalinist one: "this is the Constitution of the centralist unitary state. Our state was conceived to be a union, as a real federation of socialist independent republics with a broad, the broadest self-government." [6, p. 462–463].

In his 1990 election program, Vyacheslav Maksymovych wrote that "Ukraine must reject Moscow's centralism but it must also renounce the Kiev dictatorship." "I think that having suffered from totalitarianism and imperial centralism, a free Ukraine will gain lasting immunity against all kinds of dictatorships, one-party regimes, infallible leaders, parties and doctrines. And my people will not want to change the Moscow centralism thrown externally to their native Kyiv one, but it will follow a path of traditional democratic self-government known since the princely and Cossack times." [22].

V.M. Chornovil imagined a future Ukraine as a "federal state, i.e. a union of lands that have developed as such historically and bear natural and climatic, cultural and ethnographic, linguistic and dialectal, household and other differences that create a unique face of a unified nation. I see such lands as Kyiv region, Podillya, Volyn, Galicia, Bukovina, Transcarpathia, Hetmanate, Slobozhanshchina, Zaporozhye, Donetsk region, Tavria (the Black Sea territory) as part of the Ukrainian People's Republic and I see Crimea as an independent neighbour, or an autonomous republic in alliance with Ukraine" [6, p. 579].

The same position was taken by the Constitutional Commission established in October 1990, which published its new Constitution draft on January 29, 1992, which "provided for the introduction of administrative autonomy (i.e. formation of state territorial units) at the level of regions (lands) and the Republic of Crimea on the

basis of segregation of normative, constituent, control and executive functions, which were to be carried out by the councils and executive committees of oblasts (lands), respectively" [2, p. 72]. In the autumn of 1992, this draft was even submitted for public discussion, during which Ukrainians submitted about 50,000 comments and suggestions. The elaboration of the said proposals resulted in a new draft as amended on May 27, 1993. The new draft also provided for federalization and a bicameral parliament, in which one of the chambers, the Council of Territories, was designed to reflect the interests of Ukrainian lands. The draft was submitted to the Verkhovna Rada of Ukraine for consideration, where, with the active opposition of the Communists, on the one hand, and the "red directors" and the new-born bourgeoisie (who advocated strong centralized power) on the other, the proposed changes were never adopted and put into force.

At that time the main opponents of federalization were the Communists and they were present as the majority in the Verkhovna Rada of Ukraine of the first convocation, led by their leader Leonid Kravchuk, who was good at centralized ruling the country and did not want to risk giving power away to the regions. In addition, it should be noted that the territorial organization of power in Ukraine at the time of gaining independence was characterized by a significant splitting up of administrative districts (there were 605 of them) and village and town councils (there were more than 10.5 thousand at that time), which made public and administration processes more complicated.

It was clear that in the case of granting broad autonomy and powers to local governments, which were formed in conditions of a rigid centralized party government and in fact had neither skills, nor necessary knowledge, nor psychological willingness to take over responsibility, the existing system of public authorities at the local level could collapse due to failure to perform its tasks. That is why, as noted by O. Stogov, all attempts to reform the territorial organization of power in Ukraine over the past century have aimed at creating a model that is the most convenient for management from the centre. Each stage is characterized by compliance with the requirements of the current political system, rather than striving to meet needs of citizens [19, p. 231]. This was one of the reasons why attraction to highly centralized unitary state has taken root in our country, where decentralization processes began only after the victory of the 2014 Revolution of Dignity.

At the beginning of independence, Ukraine lost its chance for rapid democratization by breaking the old totalitarian system of territorial organization of power and replacing it with a new one, typical for most democratic countries, with a tendency to maximize the powers of local authorities on a subsidiary basis. However, the leaders of our state did not risk carrying out radical reforms (as, for example, our neighbours in Poland did at that time), but tried to change the system of territorial organization of power by minor modernizations, which despite numerous projects and proposals of scientists and experts did not affect the regional division.

First of all, in March 1992 on the initiative of L.M. Kravchuk, the first reform of the territorial organization of power was carried out since the time Ukraine became independent. The said reform boiled down to the fact that "local councils at all levels

were destatised and relieved of local government functions. This function was entrusted to local state administrations headed by representatives of the President of Ukraine, who were appointed to districts and regions, as well as the cities of Kyiv and Sevastopol "[1, p. 10].

Making reforms of the institutions of territorial organization of local power, which was carried out as part of the administrative and territorial division of the Soviet type without sufficient scientific justification, mostly based on empirical experience, resulted in creation of a cumbersome and inefficient government system, which led to further significant disparities in social and economic development of regions in Ukraine. It soon became clear that the institution of the President's Representatives had not paid off; the country had been covered by a wave of economic collapse, hyperinflation, non-payment of salaries and pensions, resulting in a political crisis and a sharp confrontation between the President and the Parliament. As O. Kuchabsky notes in this regard, "Conflicts and inconsistencies between the President and Parliament have affected uncertainty, inconsistencies and fluctuations in the implementation of the territorial governance model. As a result, during 1992-1995 Ukraine underwent three reforms of the state executive power and local self-government." [11, p. 411].

During 1991-1993, many options of the territorial organization of power in Ukraine were disclosed publicly, which were developed by various enthusiastic scientists, experts and politicians, and entire research institutes. According to N. Agafonova, "during this period a number of drafts of the Constitution of Ukraine was developed, in particular, the Draft Constitution of Ukraine (Slavic Federal Hetmanate of Kievan Rus – Ukraine) (1991); Draft Constitution of Ukraine (submitted by the Khmelnytsky Regional Council of Deputies with an explanatory note of V. Nazarov in 1992), the Draft Constitution of Ukraine (authored by Vladimir Zolotarev, Dmitry Dzhangirov, Vladimir Timokhin (1992)), the Draft Constitution of Ukraine (prepared by Serge Volkonsky in 1992), the Draft Constitution of Ukraine in version of May 27th, 1993 (prepared by the author team consisting of Kozyubra M.I., Kopeychikova V.V., Matsyuk A.R., Tikhonova E.A., Tsvika M.V., Yuzkova L.P., etc.); the Draft Constitution of Ukraine of the Humanitarian Ecumenical Research Fund "RAH" (prepared by A. Dombrovsky in 1993); the Draft Constitution (Basic Law) of Ukraine (prepared by the Congress of Ukrainian Nationalists in 1994)" [3, p. 35].

Mainly, it was envisaged to consolidate the existing regions with receiving back their historical names and territorial boundaries. Thus, in 1993, a team of experts from the National Institute for Strategic Studies under the President of Ukraine, headed by V.A. Popovkin, proposed dividing Ukraine into the following ten economic areas-regions: 1) Donbass - Donetsk, Luhansk region; 2) Ekaterinoslav Dnieper region - Dnepropetrovsk, Zaporozhye region; 3) Sloboda Ukraine - Poltava, Sumy, Kharkiv regions; 4) Kyiv Polissya - Zhytomyr, Kyiv, Chernihiv regions; 5) Odessa-Tavriya (Northern Black Sea territory) - Mykolaiv, Odessa, Kherson regions; 6) Ukrainian Carpathians - Transcarpathian, Ivano-Frankivsk, Lviv, Chernovtsy regions; 7) Podillya - Vinnitsa, Ternopil, Khmelnitsky regions; 8) Middle Dnieper

region - Kirovograd, Cherkasy regions; 9) Volyn Polissya - Volyn, Rivne regions; 10) Crimea - the Autonomous Republic of Crimea [21].

In 1994, Lviv professor O.I. Shabliy approached the consolidation of Ukraine's regions more radically from a standpoint of social and economic zoning. According to him, it would be expedient to divide our state into six regions, which could later become the basis for the federal division of Ukraine: Central area consisting of Kyiv, Zhytomyr, Chernihiv, Cherkasy and Vinnitsa regions; 2) Western area consisting of Lviv, Ivano-Frankivsk, Transcarpathia, Chernovtsy, Ternopil, Khmelnitsky, Rivne, Volyn regions; 3) North-eastern area consisting of Kharkiv, Sumy, Poltava regions; 4) Eastern area consisting of Donetsk and Luhansk regions; 5) Central-Eastern area consisting of Dnipropetrovsk, Zaporizhia, Kirovohrad regions; 6) Southern area consisting of Odessa, Mykolaiv, Kherson regions and the Autonomous Republic of Crimea [21].

Another professor, D. Koptiv, expressed a similar position of the federal system consisting of 12 lands. The movement towards federalism at that time was led by the chairman of the Luhansk regional council and at the same time the president of the Ukrainian Association of Local and Regional Authorities Viktor Tikhonov.

It should be noted that the idea of federalism did not have mass support, moreover, it was rejected by the ruling group led by the "red director" Leonid Kuchma, who all his life acted exclusively in the rigid centralized vertical of a large defence enterprise, which had always been "Yuzhmash" headed by him. Therefore, in the course of fierce political debates and open confrontation between the institutions of the President and the Verkhovna Rada against the background of the political crisis threatening the impeachment for the former and the dissolution of the latter, the Constitution of Ukraine of 1996 was adopted during a night voting that preserved the Soviet system of territorial organization of power in Ukraine with its division into 24 oblasts, a region with a special status Crimea and two cities with a special status, i.e. Kyiv and Sevastopol.

This resulted in the half-hearted nature of the changes and transformations that were being introduced, combining new democratic structures (by their form) and old authoritarian mechanisms of their activities (by their nature). All attempts to harmoniously combine ethical and liberal models of the state resulted in the emergence of only hybrid power creatures, where totalitarian power and society relations dominated over democratic forms. In many cases, some government institutions duplicated the competencies and powers of others, leading to aggravations in relations and confrontations both between branches of government at the central level and between government structures at the oblast and region levels.

The objective compromise of the Constitution of 1996 very quickly exercised its regulatory potential and began to hamper the democratic development of the state. The administrative and territorial structure of Ukraine was increasingly becoming a brake for democratic transformations; it required radical reforming due to its inconsistency with the new conditions for building a legal, social democratic state with a market economy, democratic principles of people’s power and the strategic orientation of our country to the European perspective and European values [16, p.

275]. In many cases, some government institutions duplicated the competencies and powers of others, leading to aggravations in relations and confrontations both between branches of government at the central level and between government structures at the oblast and region levels. The constant confrontations between the President of Ukraine, its executive branch, on the one hand, and the Verkhovna Rada of Ukraine, on the other, escalated into a large-scale confrontation involving a large part of Ukrainian society, which significantly reduced influence of the state power on the regulation of social processes, and eventually resulted into the "Orange Revolution".

The Orange Revolution closed down the topic of the federal type of territorial organization of power in Ukraine for a long time because of its obvious attraction to separatism and a threat of further collapse of Ukrainian statehood itself. At the same time, the flaws of the still existing post-Soviet system became increasingly apparent, leading to a truly revolutionary project of reforming the territorial organization of power in Ukraine, "Reform for Man", led by Roman Bezsmertny, who became the Deputy Prime Minister for Administrative Reform under the President Viktor Yushchenko's government.

The purpose of this reform was as follows:

"– to form the territorial community organizationally, financially and materially capable to perform both its own functions as well as those delegated to it by the state;

– to create conditions for improving life of the population;

– to ensure spatio-temporal equal access of all citizens (regardless of their place of residence) to resources of development of human potential, including the whole complex of social and cultural institutions with the rendering various services (in the field of education, culture, health care, trade, etc.);

– to observe social standards guaranteed by the state for each of its citizens, regardless of place of residence;

– to use natural, economic, labour, scientific and other potentials of territories in an effective way" [18, c. 16].

Unfortunately, like most of the reforms initiated by the "Orange Team", this reform has remained on paper, also due to inability of democratic leaders to agree among themselves and due to their inability to establish effective communication with their own people, which manifested itself in the fact that the main ideologist of reforms Roman Bezsmertny was thrown into with tomatoes and eggs in his home Makariv district during the presentation of his project. The discrepancy between the principles declared by the Orange Revolution and the state and administrative practice of its leaders became a serious source of political instability, low legitimacy of the Orange government and a brake on further democratization of the Ukrainian statehood [20, p. 34].

With the defeat of Viktor Yushchenko in the 2010 presidential election and the Donetsk clan led by Viktor Yanukovych coming to power which tended to centralize power and concentrate all the country's resources in the same hand, the reform of the territorial organization of power was immediately forgotten. Political corruption flourished in the country [17], which already posed a threat to the national security of

the state, as the "purchase of carcasses" of deputies and formation of a ruling faction of more than 300 deputies posed a serious threat to change the Constitution of Ukraine to please the political expediency of the Party of Regions.

The political corruption of the regional clan and their leader Viktor Yanukovych caused the Revolution of Dignity, one of the most successful reforms of which the decentralization reform was, which is de facto a reform of the territorial organization of power. In this regard, in April 2014 the Government approved the main conceptual document, i.e. the Concept of reforming local self-government and territorial organization of power, the main direction of which was the reorganization of the district (subregional) level of administrative and territorial structure of Ukraine which will be the basis for the organization and operation of public authorities locally, of the relevant local governments [14].

After that, the Action Plan for its implementation was approved, which launched the reform, during which 982 united territorial communities (UTCs) were voluntarily established in Ukraine in 2015-2019, in which 11 million people live. These UTCs incorporated about 4,500 former local councils. Such pace of inter-municipal consolidation is called very high by international experts [7]. The recently adopted Law of Ukraine *On Voluntary Association of Territorial Communities* of May 14, 2020 No 157-VIII [13] became an important step, which provided the legal basis for the formation of a capable basic level of local self-government. This law also introduced the institution of elders in UTCs, who represent interests of village residents in the community council (as of mid-2020, 3,207 representatives of local territorial communities were already working as UTC elders or acting elders in Ukrainian villages).

The approval of a new administrative and territorial structure of the basic level on June 12, 2020 by the Cabinet of Ministers of Ukraine has become the most recent step. According to it, after the local elections in Ukraine there will be 1,469 territorial communities that will cover the entire territory of the country. Finally, on July 17, 2020, the Verkhovna Rada of Ukraine adopted Resolution No 3650 *On the Formation and Liquidation of Districts* [15]. From now on, instead of the former 490 districts, 136 administrative districts will function in Ukraine in 24 oblasts and the Autonomous Republic of Crimea (Table 1).

Discussion. Thus, only 30 years later after gaining independence, Ukraine became able to carry out a real reform of the territorial organization of power and get a democratic political and territorial dimension of the placing and functioning of many-tiered institutions of public governance that subordinate to different levels of power and that are integrated into a holistic system of public governance which is designed to carry out organizing, regulating and putting in order influence of the state on public and community life, to ensure the sovereignty, unity and integrity of the state and its territorial entities, to promote self-preservation, reproduction and development of the people, realization of legal rights, freedoms and interests of every citizen.

Table 1. The nature of changes in the system of territorial organization of power in Ukraine

Indicator		As of 1991	1996 – 2014	As of 2020
Type of government		Centralized unitary state	Unitary state with one federal element – the Autonomous Republic of Crimea	Decentralized unitary state with one federal element - the Autonomous Republic of the Crimea
Regional level		**25 oblasts** **2 cities** with special status	**24 oblasts** 1 the Autonomous Republic of Crimea **2 cities** with special status	**24 oblasts** 1 the Autonomous Republic of Crimea **2 cities** with special status
Subregional level		**605** administrative districts, including **485** village districts	**490** administrative districts	**136** administrative districts
Basic level:	*Territorial communities*	**11159** city, town and village councils (with some councils incorporating the others)	**11512** (with the presence of "matryoshka dolls" – with some communities incorporating the others)	**1470** fully independent united territorial communities
	Populated localities	**436 cities**, of which **145 cities** of regional subordination **927** urban-type villages **800** towns **28840** villages	**2 cities** with special status **187 cities** of regional significance **159 city**-district centres **272 cities** of district significance **882** urban-type villages **1168** towns **27207** villages	**2 cities** with special status **459** cities **2050** towns **27207** villages

Source: official web portal of the Verkhovna Rada of Ukraine

Of course, it is too early to say about real results of this reform, as they will show themselves only during a decade. However, from the legislative, political and administrative perspective a certain administrative and territorial foundation has already been established in Ukraine to ensure integrity and unity of the public and state body and its components, the universality and continuity of administrative, organizational and regulatory activities of public administration aimed at improving economic, social, environmental, cultural, etc. situation and well-being of citizens.

Conclusions. The historical way of political and territorial organization of public power of Ukraine from the beginning of its independence to the present has been characterized. It is concluded that the main task of modernization of the system of territorial organization of power at the present stage of development of society is to ensure completion of decentralization processes and creation of new amalgamated territorial communities, integrity and unity of the public and state body as well as its components, to carry out ubiquity and continuity of administrative, organizational and regulatory activities of the system of public administration bodies aimed at improving the economic, social, environmental, etc. situation and well-being of citizens.

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INSTITUTIONAL ANALYSIS OF THE PRACTICE OF APPLICATION OF PUBLIC-PRIVATE PARTNERSHIP IN THE FIELD OF INFRASTRUCTURE OF UKRAINE

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Abstract. *Over the last two decades, public-private partnership (PPP) mechanisms in the field of infrastructure in Ukraine have been used more and more widely. However, the issues of creating a favorable institutional environment for the effective implementation and development of PPP projects still remain relevant. The purpose of this study is to assess the PPP policy of Ukraine in the field of infrastructure on the basis of in-depth and comprehensive analysis of the institutional environment and the development of proposals for its improvement. Theoretical analysis of normative-legal support of PPP development in the field of infrastructure is carried out and the general organizational structure of institutional environment of regulation of PPP relations in the field of infrastructure is formed, which determines the logic of subordination and interaction of different levels in PPP system. An assessment of the level of PPP development in the field of infrastructure of Ukraine at the international level using the Infrascope Index. Based on the study of the level of infrastructure development and the effectiveness of PPP policy and projects, a SWOT-analysis of PPP projects in the field of infrastructure of Ukraine was conducted. The findings suggest that changes in the institutional environment need to be consistent with PPP policies, and PPP effectiveness is closely linked to its institutional environment.Proposals have been made to improve the institutional environment of Ukraine to ensure the effective implementation of PPP policy in the field of infrastructure.*

Keywords: *institutional environment, infrastructure, concession, public administration, PPP project.*

JEL Classification: H40, H41, H42

Formulas: 0; fig.: 4; tabl.: 3; bibl.: 25

Introduction. Infrastructure is a service sector that supports the functioning of all sectors of the economy (Noel & Brzeski, 2005) and has long been under the monopoly of governments. However, the problem of insufficient level of infrastructure development exists in almost all countries, which is especially felt in the conditions of limited funds in the public sector (Matos-Castaño, Mahalingam & Dewulf, 2014). In addition, the public sector monopoly in the field of infrastructure is seen as one of the reasons for the low efficiency of development and operation of infrastructure.

Recently, the world has begun to actively use the mechanisms of public-private partnership (PPP) as an alternative model for infrastructure projects. PPPs typically cover various stages of infrastructure projects, including facility design, construction, financing, operation, and maintenance through long-term contracts with private partners or consortia (Casady, Carter & Geddes, 2016).

It is argued that the implementation of PPP mechanisms underpins the problem of financing infrastructure development through its ability to address some of the shortcomings of traditional infrastructure development. Today, the development of PPPs in the field of infrastructure is the most important trend in the public sector

worldwide (Garvin & Bosso, 2008), and good governance in this area is an important factor in the success of PPP projects in terms of sound economic policy and project administration (Li, Akintoye, Edwards, & Hardcastle, 2005). However, the effectiveness of PPP infrastructure projects today remains a discursive issue (Hodge, Graeme & Greve. 2017).

According to the World Bank (World Bank, 2015), the PPP management structure of Ukraine does not meet the requirements of the global PPP market. As the PPP system must be based on a functioning public investment management system, Ukraine's prospects for attracting international investment from the global PPP market may currently be unattainable. The latest legislative reform, which has focused on addressing existing regulatory challenges, is encouraging, although its effectiveness will largely depend on the effectiveness of implementation and the ability of institutional actors to understand and comprehend these issues.

Literature review. A review of the literature indicates the active implementation of PPPs in the field of infrastructure around the world. Researchers emphasize that some countries are willing to implement PPP policies and develop large PPP development programs, while others remain skeptical about this approach (Verhoest, Carbonara, Lember, Petersen, Scherrer, & van den Hurk, 2013). Scientists have identified a number of reasons for the failed experience of PPP projects, which include the limited capabilities of the public sector, lack of political will, problems of legality and trust between the public and private sectors, and others. (Soecipto & Verhoest, 2018).

Recently, there has been an increase in the number of studies emphasizing the importance of the institutional environment as a fundamental factor in the successful implementation of PPP policy (Casady, Eriksson, Levitt, and Scott 2019).

Although most PPP projects are supported directly or indirectly by governments and international development organizations, empirical evidence increasingly demonstrates the importance of a favorable institutional environment and good governance in achieving positive PPP development dynamics. In general, the sustainable development and attraction of private investment in infrastructure through the PPP mechanism largely depends on the key factors of development and institutional conditions of the country. Moszoro et al. (2014) argue that the participation of private capital in infrastructure projects depends on the corruption component, the rule of law and regulatory procedures. This sensitivity of PPPs to more general institutional factors creates the need to improve the regulatory and investment environment to ensure the effective implementation of PPP projects. Despite the limited information on the effectiveness of PPP policy at the national level in Ukraine, the data of the Economist Intelligence Unit (EIU) Infroscope (EIU 2018, 2019) and World Bank reports (World Bank 2017, 2018) show that the success of leading countries in the field of PPP are directly related to the favorable investment climate (PPIAF 2016). Other scholars studying the effectiveness of PPP projects and policies (Muhammad & Johar, 2017) confirm the fact that the lack of a favorable institutional environment, weak governance and inconsistencies in the regulatory framework reduce the effectiveness of PPP projects in practice. 2019) and

the World Bank reports (World Bank 2017, 2018) show that the success of the leading countries in the field of PPP is directly related to a favorable investment climate (PPIAF 2016). Other scholars studying the effectiveness of PPP projects and policies (Muhammad & Johar, 2017) confirm the fact that the lack of a favorable institutional environment, poor governance and inconsistencies in the regulatory framework reduce the effectiveness of PPP projects in practice. 2019) and World Bank reports (World Bank 2017, 2018) show that the success of the leading countries in the field of PPP is directly related to a favorable investment climate (PPIAF 2016). Other scholars studying the effectiveness of PPP projects and policies (Muhammad & Johar, 2017) confirm the fact that the lack of a favorable institutional environment, poor governance and inconsistencies in the regulatory framework reduce the effectiveness of PPP projects in practice.

The study of critical factors in the success of the implementation and implementation of PPP programs is devoted to the work of many scientists (Matos-Castaño, et al., 2014; Chou & Pramudawardhani, 2015; Opara et al. 2017). Chou & Pramudawardhani (2015) argue that adequate institutional support, transparent procurement processes, effective government management / support, and stable macroeconomic, political, and social conditions lead to a positive effect of PPPs. Opara et al. (2017) also suggest that strong PPP political support, a favorable political environment, and effective organizational support are essential factors for the successful implementation of PPP projects.

Differences in the existing PPP policies of different countries, their legislative and regulatory support, and consequently in the institutional environment make it difficult to conduct effective analysis (Van den Hurk, Brogaard, Lember, Helby Petersen & Witz, 2015) and identify best practices to follow and adaptation to the national policy of Ukraine. Therefore, it is necessary to conduct a comprehensive institutional analysis of the practice of PPP mechanisms in Ukraine to further compare the positive and negative factors of development and make suggestions for its improvement.

Aims. The purpose of our study is to assess the PPP policy in the field of infrastructure of Ukraine on the basis of in-depth and comprehensive analysis of the institutional environment of its development.

Method. The PPP study in the field of infrastructure of Ukraine is based on the structure of institutional analysis, namely the assessment of the existing political, economic and legal environment, identification of factors influencing the implementation of PPP projects. The structure of the article is an analysis of the institutional conditions for the development of PPP policy in the field of infrastructure - institutions, legislative and regulatory support, other political factors influencing the implementation of PPP policy; assessment of strengths and weaknesses of PPP projects in the field of infrastructure of Ukraine on the basis of SWOT-analysis; assessment of the possible impact of changes in the state policy of implementation and support of PPP in the field of infrastructure on the efficiency and dynamics of the Infrascope index of Ukraine; and the formation of proposals to improve the state policy of PPP in the field of infrastructure.

Results. There is no single effective way to regulate PPPs today. Public authorities in different countries use different approaches to PPP regulation. Moreover, it is not possible to determine one specific legal configuration that would be better than others, or to unify it, because the economic systems of different countries are built on different legal principles, which directly affects the type of regulatory support in the field of PPP, which they adopt.

In Ukraine today there are a number of regulations relating to PPP and used to regulate it. The most important are three: a) Law of Ukraine "On Public-Private Partnership" № 2404-VI; b) Resolution of the Cabinet of Ministers of Ukraine "Some issues of public-private partnership" and recently adopted in a new version c) Law of Ukraine "On Concession" of 03.10.2019 № 155-IX, which, inter alia, is designed to improve the legal regulation of concession activities and harmonize concession legislation with public-private partnership legislation.

The Ukrainian legislation defines the scope of PPP quite widely, in addition, provides for the possibility of its application in other areas, in addition to those types of economic activity that are directly defined by law. However, there are limitations set out in specific laws governing the relevant industries. Today, the National Transport Strategy of Ukraine for the period up to 2030 (hereinafter - NTSU) is the only systemic program document that defines the goals and objectives for the development of the transport sector and takes into account integration with the European transport system (Order of the Cabinet of Ministers of Ukraine from 30.05.2018 № 430 -p). However, a more general, conceptual document to ensure further strategic development of the country's infrastructure, as a prerequisite for economic development, has not yet been developed.

In 2018-2020, the policy of regulation and financing of infrastructure development measures at the expense of PPP is being gradually reformed, accompanied by the adoption of a number of new legislative acts and amendments to existing ones. Consider the main legislation that stimulates the development of PPP in the field of infrastructure.

1) The Law of Ukraine “On the State Budget for 2019” of February 28, 2019 № 2696-VIII (Ukraine. Verchovna Rada of Ukraine) provides for funding in the amount of over UAH 5 million. on "measures to strengthen the institutional capacity aimed at preparing PPP projects";

2) Resolution of the Cabinet of Ministers of Ukraine "On approval of the Procedure for the use of funds provided in the state budget for measures to strengthen institutional capacity for the preparation of public-private partnership projects" of May 15, 2019 № 407 (Ukraine. Verchovna Rada of Ukraine), created a new state body - the PPP Project Support Agency (PPP Agency) - the recipient of budget funds.

3) The Law of Ukraine "On Amendments to Certain Laws of Ukraine on Construction and Operation of Motor Roads" on February 27, 2018 № 2304-VIII., Among other things, allows to withhold the concession fee and provides for the procedure for calculating the fare. Previously, concession payments had to go to a special state fund, which hindered the formation of a typical business model of toll roads and the attraction of private capital.

4) The new Law of Ukraine "On Concession" dated 03.10.2019 № 155-IX (Ukraine. Verchovna Rada of Ukraine) prescribes a detailed concession procedure, the possibility of regulating the concession agreement by foreign law, the transformation of the lease of state property into a concession, etc.

Table 1. Regulations of the infrastructure development policy of Ukraine

№ p / p	Regulatory documents	Number and date of acceptance
Concepts		
1.	Order of the Cabinet of Ministers "On approval of the Concept for the development of public-private partnership in Ukraine for 2013-2018"	from 14.08.2013 № 739-r
2.	Order of the Cabinet of Ministers "On approval of the Concept of the State target economic program for the development of public roads of state importance for 2018-2022"	11.01.2018 № 34-r
3.	Order of the Cabinet of Ministers of Ukraine "On approval of the Concept of development of public-private partnership in housing and communal services"	from 16.09.2009 № 1184-r
Strategies		
1.	Order of the Cabinet of Ministers of Ukraine "On approval of the National Transport Strategy of Ukraine for the period up to 2030"	from 30.05.2018 № 430-r
2.	Order of the Cabinet of Ministers "On approval of the Strategy for the development of seaports of Ukraine for the period up to 2038"	from 11.07.2013 № 548-r.
3.	Resolution of the Cabinet of Ministers of Ukraine "On approval of the State Strategy for Regional Development for 2021-2027"	from 05.08. 2020 № 695.
4.	On the Strategy of Sustainable Development "Ukraine - 2020" Decree of the President of Ukraine;	from 12.01.2015 № 5/2015
Government programs		
1.	Resolution of the Cabinet of Ministers of Ukraine "On approval of the State target economic program of energy efficiency and development of energy production from renewable energy sources and alternative fuels for 2010-2021"	from 01.03.2010 № 243.
2.	Resolution of the Cabinet of Ministers of Ukraine "On approval of the State target economic program for the development of public roads of state importance for 2018-2022"	from 21.03.2018 № 382.
3.	Resolution of the Cabinet of Ministers of Ukraine "On approval of the State target program for the development of airports for the period up to 2023"	from 24.02.2016 № 126.

** Source: formed by the author on the basis of (Ukraine. Verchovna Rada of Ukraine.)*

The effective functioning of the PPP in the field of infrastructure is based on the clear implementation of all authorities participating in it, their powers and responsibilities, which are enshrined in the Constitution of Ukraine and other laws and regulations. The organizational structure of the institutional support for the regulation of PPP relations in the field of infrastructure of Ukraine with the appropriate gradation in accordance with the level of public administration is shown in Fig. 1.

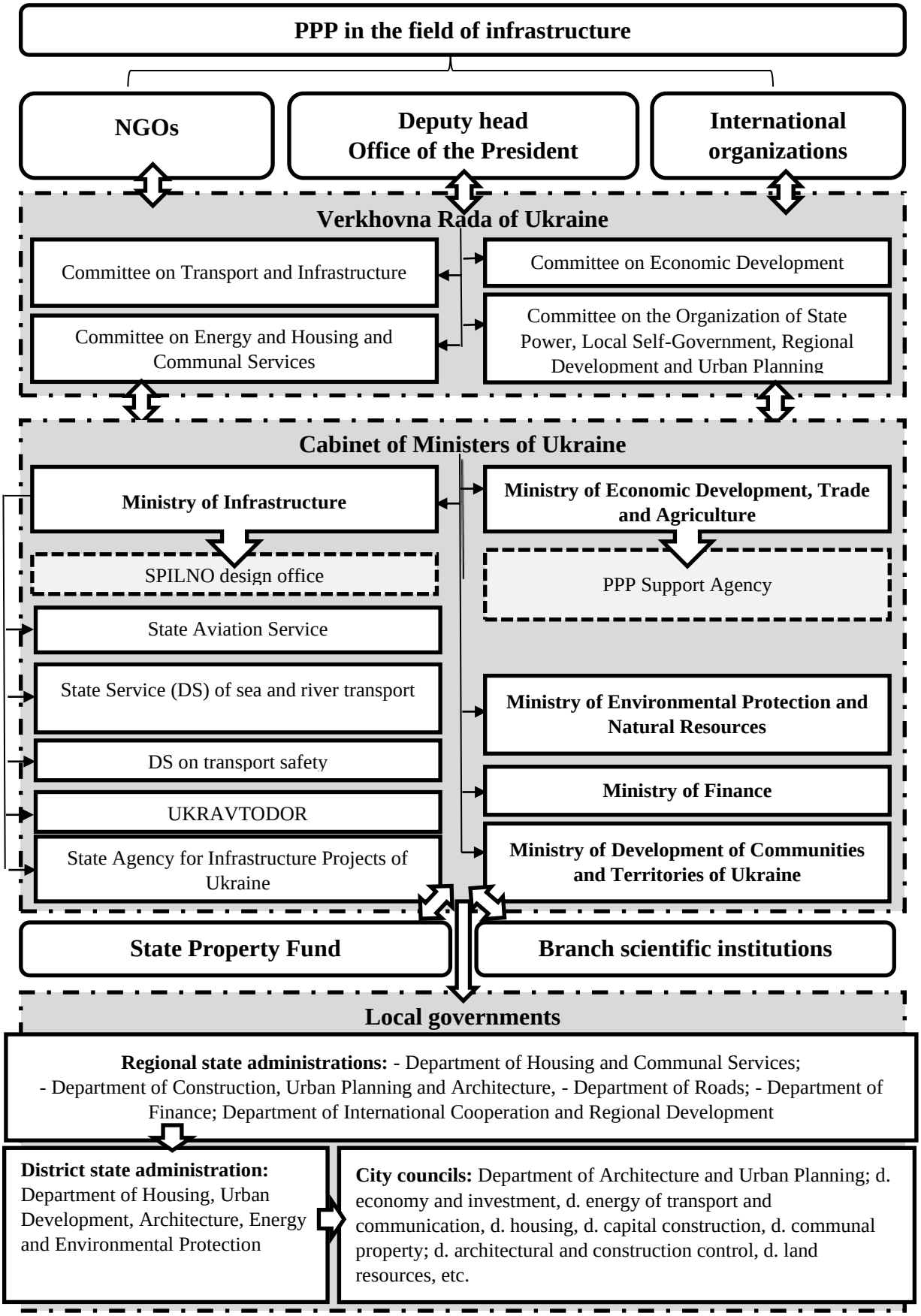

Figure 1. Organizational structure of the institutional environment for regulating PPP relations in the field of infrastructure

Source: author's own development

Representatives of the World Bank are actively involved in the advisory bodies of the process of implementation and implementation of an effective PPP mechanism in Ukraine. In particular, in 2019 a Memorandum of Understanding was signed between the Ministry of Economic Development and Trade of Ukraine and the International Finance Corporation (IFC) of the World Bank Group, which will allow the Ministry of Economic Development to receive expert support from the International Finance Corporation's consultants. (Ukraine. Ministry for Development of Economy, Trade and Agriculture of Ukraine).

Another specific body for the development of the public-private partnership mechanism in Ukraine under the Ministry of Infrastructure is the SPILNO Project Office for the Development of Public-Private Partnership. The main task of the Project Office is to launch a public-private partnership mechanism in Ukraine. The first part of the project is aimed at changing the Ukrainian legislation, the second - at the preparation and implementation of the first three pilot projects (Ukraine. Ministry of Infrastructure of Ukraine).

According to the World Bank (World Bank. Infrastructure Finance, PPPs & Guarantees Database) as of the beginning of 2020 in Ukraine in the field of infrastructure implemented 82 PPP projects (Fig. 2) related to energy, information technology, natural gas, ports, utilization and processing of waste, water resources, etc. (Fig. 3.) for a total investment of 6.888 million dollars. USA. The largest share of investments falls on the electricity sector (Fig. 3), especially in the field of infrastructure development for alternative energy sources.

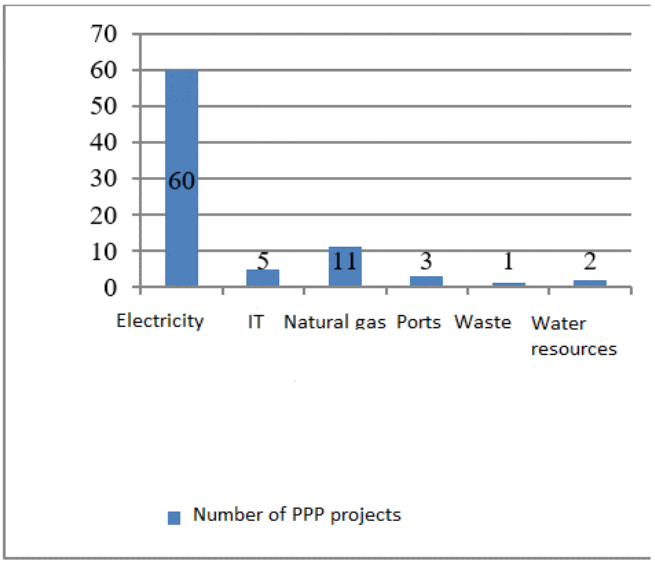

Figure. 2. Number of PPP projects implemented in the field of infrastructure in Ukraine as of the beginning of 2020

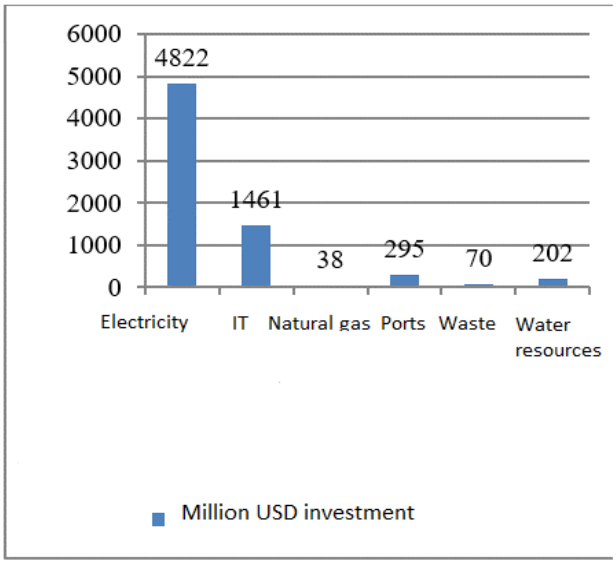

Figure. 3 Investments from PPP projects in the field of infrastructure in Ukraine as of the beginning of 2020

Source: generated by the author based on (World Bank. Infrastructure Finance, PPPs & Guarantees Database)

The Infrascope Index is used to assess the level of PPP development in the field of infrastructure at the international level. It is a benchmarking tool that assesses countries' ability to implement sustainable and effective PPP policies in key infrastructure sectors, mainly transport, energy, water and water. solid waste management. Currently, the Infrascope Index index includes 69 countries whose PPP sector is mature, including Ukraine, which ranks 48th with an average PPP development rate of 50.

According to the methodology, which determines the effectiveness of PPP policy implementation, the scope of PPP project implementation is assessed in five areas (EIU, 2018, 2019):

1) Regulatory framework governing the implementation of PPP in the field of infrastructure;
2) Institutional environment for PPP development in the field of infrastructure;
3) Experience in implementing PPP projects and state PPP policy in the field of infrastructure;
4) Business, political and social environment to attract investment;
5) Financial support for infrastructure development.

Generalized comparative indicators for assessing the effectiveness of PPP policy implementation in the field of infrastructure of Ukraine and the world in 2019 are shown in Fig. 4.

According to Figs. 4. It can be concluded that despite the fact that Ukraine, according to the indicators of PPP policy in the field of infrastructure, belongs to the countries with a developed PPP sector and is characterized as a mature market, other indicators, including legislation, institutional environment, investment climate and financial security do not even reach the average level in the region.

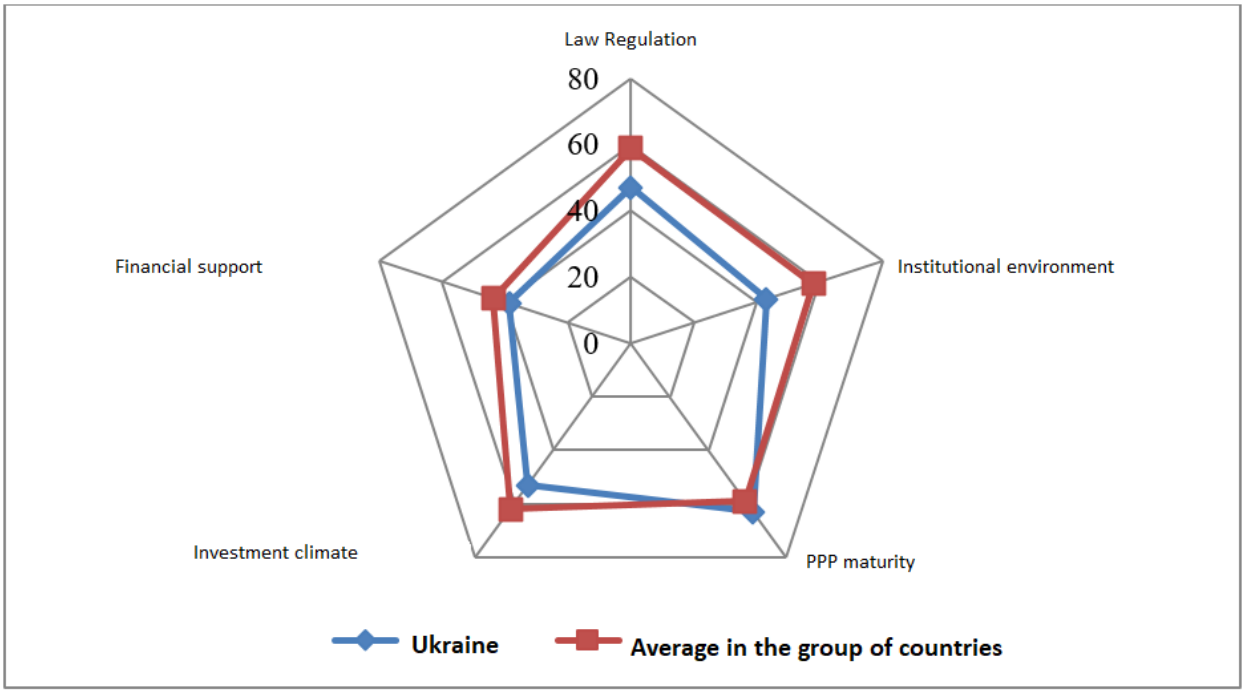

Figure 4. The effectiveness of the implementation of PPP policy in the field of infrastructure in 2019

Source: generated by the author based on (EIU, 2019)

In 2019, compared to 2018, Ukraine strengthened its position in the international ranking of the effectiveness of PPP policy in the field of infrastructure. To assess the main factors that influenced the positive changes in the country's ranking of PPP development in the field of infrastructure, we analyzed the change in the main components of the Infrascope Index, the data are presented in Table 2.

Table 2. Dynamics of the main components of the Infrascope of the index of Ukraine, 2018-2019

Indicator	2018		2019		+/-
	Value	Rank	Value	Rank	
1.1.Regulatory environment	100	= 1	100	= 1	0
1.2.Criteria for selection of PPP projects	100	= 1	100	= 1	0
1.3. Flexibility of the tender procedure	78	= 10	78	= 13	0
1.4. The mechanism of application of the amicable agreement	50	= 27	50	= 44	0
1.5. Risk allocation	0	= 23	0	= 42	0
1.6. Coordination of public authorities	0	= 37	0	= 64	0
1.7. Negotiation process	11	= 30	11	= 47	0
1.8. Sustainability	38	= 23	38	= 34	0
2.1. Institutional support of PPP	100	= 1	100	= 1	0
2.2. Stability of PPP Agencies functioning	33	= 28	33	= 49	0
2.3. Ensuring the preparatory process for the implementation of PPP projects	0	= 23	0	= 47	0
2.4. Transparency and accountability	40	= 15	40	= 32	0
3.1. Experience in implementing PPP projects	44	= 15	42	= 23	-2
3.2. Risks of expropriation	100	= 1	100	= 1	0
3.3. Terms of termination of the contract	50	= 32	50	= 51	0
4.1. Political efficiency	26	= 35	31	= 61	+5
4.2. Business environment	37	= 35	35	= 61	-2
4.3. Political will	75	= 9	75	= 22	0
4.4. The level of competitiveness of the infrastructure	100	= 1	100	= 1	0
5.1. Risks of public funding	64	= 14	67	= 20	+6
5.2. Private capital market for financing infrastructure projects	58	= 11	58	= 11	0
5.3. Institutional investors and the insurance market	0	= 11	0	= 37	0
5.4. Currency risks	24	39	30	68	+6

Source: generated by the author based on (EIU, 2018, 2019)

According to Table 2, we have two indicators with negative dynamics, namely: the indicator of the experience of PPP projects, which lost 2 points due to the number of canceled PPP projects in the field of infrastructure according to the World Bank database and the business environment indicator (absolute deviation - (-2)), which lost its position due to increased risks of the macroeconomic environment. The positive dynamics of Ukraine's rating in terms of PPP development in the field of infrastructure is ensured by the positive dynamics of financial and political indicators.

In particular, the indicator of political efficiency changed its position (+5) by increasing the level of political stability and efficiency of public risk management. Indicators of public funding risks and currency risks have strengthened due to the country's financial stability.

Based on the study of the level of infrastructure development and the effectiveness of PPP policy and projects in the field of infrastructure in Ukraine, we identified a number of problems and negative factors that hinder the effective implementation and development of PPP in the field of infrastructure. However, along with the negative factors, significant potential in the field of infrastructure development from the implementation of PPP projects has been identified. SWOT - analysis of the implementation of PPP projects in the field of infrastructure of Ukraine is given in table 3.

Discussion. Thus, the legal framework for regulating the development of PPPs in Ukraine is very complex, multilevel and bureaucratic, which in a high level of corruption creates risks for the effective use of this mechanism to intensify investment activities. We support the opinion of scientists from the National Institute for Strategic Studies (Ukraine. National Institute for Strategic Studies) that such a situation in the legislative provision of PPP is one of the factors in the absence of real PPP projects, despite significant interest from potential private partners.

During the analysis of the organizational structure of the institutional environment of regulation of PPP relations in the field of infrastructure, it was found that the CMU is the main (highest) authority operating in the field of PPP. The CMU can either develop PPP regulations by making PPP decisions in principle, or act as an authorized PPP body or delegate relevant powers to other government bodies (for example, the CMU can act as a body that formulates PPP projects, in accordance with provisions of the law "On Concession"). The Cabinet of Ministers of Ukraine, as the highest body in the system of central executive bodies, carries out its activities on the implementation and development of PPP in the field of infrastructure directly through the relevant ministry - the Ministry of Infrastructure of Ukraine and the Ministry of Economic Development, Trade and Agriculture of Ukraine (MRETSU), as a specially authorized body for PPP, the main tasks of which include the formation and implementation of policy in the field of PPP. However, in addition to the Ministry of Infrastructure, the Ministry of Development of Communities and Territories of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance implement the state policy in the field of infrastructure, taking into account the complexity of the concept itself.

In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not coordinating actions at both state and local levels. as a specially authorized body for PPP issues, the main tasks of which include the formation and implementation of policy in the field of PPP.

Table 3. SWOT - analysis of PPP projects in the field of infrastructure of Ukraine

Strengths	Weak sides
• High transit potential and favorable geographical position of Ukraine. • Opportunity to attract financial and technical support from international organizations in the field of PPP infrastructure projects. • Skilled cheap labor. • Improving the regulatory and legal support for the implementation of PPP and concessions. • The need for public hearings and negotiations in the implementation of PPP projects. • Involvement and transfer of experience of international experts in the implementation of pilot concession projects in the field of infrastructure. • Flexible mechanisms for the implementation of PPP through various models of financing and risk sharing. • Possibility of application of arbitration and amicable settlement mechanisms. • Functioning of the Project Office for the implementation of PPP projects in infrastructure. • Sufficient methodological and analytical support for the implementation of PPP projects. • Existence of a monitoring and reporting mechanism. • Transparent system of competitions in the field of PPP.	• Lack of stability in the political and legislative components, which makes long-term planning and budgeting impossible. • Over-bureaucratization in the field of doing business (complex permitting system in construction), corruption component. • The military conflict in Donbass and the annexation of Crimea, the unstable political situation, the sanctions of the Russian Federation, the decline in transit. • Worn and outdated infrastructure • Economic crisis and high inflation in the country. • Lack of state funding for infrastructure facilities and high cost of their reconstruction, construction and modernization. • Lack of experienced and qualified personnel in the field of PPP implementation. • Lack of a national infrastructure development strategy with the definition of PPP priority areas. • Lack of a clear algorithm of actions in the application of a specific mechanism for the implementation of PPP projects. • Lack of clear interaction and coordination between public authorities at different levels and a single detailed database of PPP projects in the field of infrastructure. • Lack of a centralized institution in charge of PPPs in the field of infrastructure, their preparation, implementation and monitoring.
Opportunities	**Threats**
• A large number of infrastructure facilities where it is possible to attract business. • Possibility to attract international investment capital, in particular financing from international development funds. • Foreign policy and public support for the implementation of PPP policy in the field of infrastructure. • Empowering the private sector to participate in socially and strategically important PPP infrastructure projects. • GDP growth and ensuring the socio-economic development of the country. • Creating added value in the process of implementing PPP infrastructure projects. • Effective risk allocation and management. • Opportunity to attract the experience of international partners. • Development of innovative methods and approaches in infrastructure management.	• Annual budgeting and approval of PPP projects. • Lack of funds from a private partner to complete the project, the need to raise additional funds, bankruptcy of a private partner, corruption. • Lack of reliable data on the private partner or low efficiency from the transfer to the management of infrastructure facilities. • Risks of non-fulfillment of PPP project conditions • High cost of private capital. • Unfair competition and market restrictions. • The reluctance of private partners to invest in social infrastructure, the predominance of the commercial component. • Corruption manipulations in the selection of partners, financing, evaluation of the effectiveness of PPP projects. • Unfavorable investment climate in the country.

Source: author's own development

However, in addition to the Ministry of Infrastructure, the Ministry of Community and Territorial Development of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance also implement the state policy in the field of infrastructure, taking into account the complexity of the concept itself. In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not coordinating actions at both state and local levels. as a specially authorized body for PPP, the main tasks of which include the formation and implementation of policy in the field of PPP. However, in addition to the Ministry of Infrastructure, the Ministry of Community and Territorial Development of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance also implement the state policy in the field of infrastructure, taking into account the complexity of the concept itself. In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not ensuring coordination of both state and local levels. whose main tasks include the formation and implementation of policy in the field of PPP. However, in addition to the Ministry of Infrastructure, the Ministry of Community and Territorial Development of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance also implement the state policy in the field of infrastructure, taking into account the complexity of the concept itself. In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not ensuring coordination of both state and local levels. whose main tasks include the formation and implementation of policy in the field of PPP. However, in addition to the Ministry of Infrastructure, the Ministry of Development of Communities and Territories of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance implement the state policy in the field of infrastructure, taking into account the complexity of the concept itself. In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not coordinating actions at both state and local levels. also the Ministry of Development of Communities and Territories of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance. In addition, there are two specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not coordinating actions at both state and local levels. also the Ministry of Development of Communities and Territories of Ukraine, the Ministry of Environmental Protection and Natural Resources and the Ministry of Finance. In addition, there are two

specialized units focused on the implementation and implementation of PPPs in the field of infrastructure: the Project Office at the Ministry of Infrastructure and the PPP Support Agency at MRETSU, but these bodies operate separately, not ensuring coordination of both state and local levels.

Based on the study of the effectiveness of PPP policy in the field of infrastructure in 2019 based on the Infrascope Index, we can conclude that the effectiveness of PPP in infrastructure in Ukraine has strengthened not by improving public policy and implementing effective mechanisms of government and business in infrastructure, and by stabilizing the financial and political situation in the country, which in the future, together with the improvement of legislative and institutional support will contribute to more active investment in infrastructure through the use of PPP projects.

Based on the analysis of the institutional environment of PPP development in the field of infrastructure, we can identify three most significant systemic shortcomings in the formation of policy to ensure the interaction of government and business in the field of infrastructure:

– lack of a comprehensive national strategy that would regulate the process of identifying priority sectoral areas of development and attracting investment;

– inconsistency of actions and uncertainty of roles between the authorities involved in PPP in the field of infrastructure;

– lack of institutional support at the local level, which hampers the active application of PPP practices on the ground.

To eliminate the shortcomings of the existing institutional environment of PPP, the Government of Ukraine needs to improve activities in the field of PPP in the following areas:

– Make changes to the current legislation and regulations that contradict the legislation in the field of PPP, develop and implement a unified Concept of PPP development for the next decade.

– Within the framework of the developed Concept, prepare a strategic roadmap and a unified action plan for local authorities, which are the actual executive bodies for the implementation of PPP projects, followed by the development of detailed instructions for each infrastructure sector.

– Establishment of independent regulatory bodies as a third party to oversee the entire implementation cycle of the PPP project, collecting feedback information.

– Create PPP units at state institutions at the local level as a special mechanism for project implementation, which will strengthen the institutional capacity of PPP.

– Create a mechanism for public participation in the selection of PPP projects, through which the public, as a stakeholder, is involved in the hearings, thus creating a democratic and transparent process for the selection of PPP projects.

Conclusion. The proposed directions of reforming the institutional environment of Ukraine will not have a positive effect without the formation of key stakeholders, where the government is the dominant partner, a coherent conceptual vision that will help join forces to achieve a common goal and gain experience in developing and implementing PPP infrastructure projects. Given the wide range of stakeholders

(public authorities who do not want to lose their power at the administrative level), it will not be easy to achieve a balance of interests in the current institutional system, as institutional change is a slow and sensitive process that is often resisted.

Our study analyzed PPPs at the institutional level, but proper PPP management in the area of infrastructure also applies to the organizational level, which provides a positive end result. Given the large number of participants in PPP projects in the field of infrastructure and long-term implementation, which can last more than 30 years, the development of clear "rules of the game" (PPP terms) at the organizational level and study the interaction between institutional and organizational levels will provide more effective models of interaction in this area. Therefore, we propose to focus further research on PPP management on an integrated multi-level analysis covering the areas of (a) the impact of the institutional environment on concession agreements; (b) developing institutional models for assessing PPP maturity; and (c) the relationship language of efficiency of functioning of the contractual network of PPP projects, taking into account the complexity of infrastructure projects. Such studies of institutional change will provide an opportunity to form more effective and sustainable strategies for the implementation and implementation of PPP projects in the field of infrastructure and, thus, will create a reliable management system in the PPP system.

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PECULIARITIES OF THE STATE POLICY ON PROMOTING DEVELOPMENT OF THE INVESTMENT AND BUILDING COMPLEX OF UKRAINE IN THE CONDITIONS OF POWER DECENTRALIZATION

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Abstract. *The article considers topical issues of formation and implementation of the state policy on promoting development of the investment and construction complex of Ukraine and the construction industry as a whole in the context of the decentralization of powerIn accordance with the outlined scope of issues it is determined that the objective of the article is to investigate the subject matter, problems and prospects of formation and implementation of the state policy on promoting development of the investment and construction complex of Ukraine and the construction industry as a whole in the context of the rollout of power decentralization. The methodology of this study involves the use of problem and factor analysis in combination with a discourse approach, which leads to the focus of scientific attention on the study of factors and features of the decentralization of power in Ukraine on formation and development of the investment and construction complex. The conditions for conducting effective economic activity which is attractive for stakeholders in the housing sector of public policy have been analyzed. The main tasks of such a policy and key principles of stimulating investment processes in the construction industry have been identified. The directions of perspective state policy on stimulation of formation and development of the investment and construction complex taking into account reforms of decentralization of Ukraine and strengthening of regions and united territorial communities from administrative, political, budgetary and economic perspectives have been suggested. It has been substantiated that in the new conditions the role of regional public authorities and regional investment and construction complexes is significantly increasing.*

Keywords: *state policy, construction industry, investment and construction complex, decentralization.*

JEL Classification: H10, H13, L24

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Introduction. Elinor Ostrom is known to have won the Nobel Prize in the field of economics for her theory of institutional mechanisms related to effective management and administration of shared resources by efforts of local communities. The American economist proved the need to form such a state economic policy that would stimulate extended participation of local communities in economic management processes, which is especially important for Ukraine as it has carried out a large-scale reform of decentralization of power over the past two years.

During this time it became clear that at the stage of political, administrative and budgetary decentralization the domestic construction industry needs significant transformations, primarily through construction of effective public policy on reforming and regulating construction, stimulating development of investment and construction in the regions and in Ukraine as a whole. The fact remains that low competitiveness of construction companies leads to a decrease in investment attractiveness, low financial and economic indicators and insignificant realization of the potential of the national construction market, its investment and construction

complex. A successful solution of these problems is closely related to increasing the level of process management of formation and regulation of investment and construction activities in accordance with innovative requirements in the context of decentralization. This is explained with the fact that numerous current guidelines, regulations, methods of formation, planning and evaluation of effectiveness of investment resources in activities of the investment and construction complex do not have a general theoretical and methodological basis, they are fragmented and incomplete.

Literature review. The subject of formation and implementation of the state housing policy, including the policy of promoting development of the investment and construction complex of Ukraine is quite common in the Ukrainian scientific discourse space. The official website of the Vernadsky National Library displays 97 scientific articles and 277 titles from the abstract database based on the keyword search "housing policy", and 24 scientific publications based on the keyword search "investment and construction complex". Such scientists as O. Bilousov [1], E. Vylgin [2], L. Danchak [3], O. Kononova [5], V. Semenov and K. Frolina [7, 10], A. Tkachenko and E. Plaksina [8], O. Yurkevich [11] have been quite actively researching this issue in recent years.

Aims. In accordance with the outlined scope of issues it is determined that the objective of the article is to investigate the subject matter, problems and prospects of formation and implementation of the state policy on promoting development of the investment and construction complex of Ukraine and the construction industry as a whole in the context of the rollout of power decentralization.

Methods. The methodology of this study involves the use of problem and factor analysis in combination with a discourse approach, which leads to the focus of scientific attention on the study of factors and features of the decentralization of power in Ukraine on formation and development of the investment and construction complex.

Results. One of the key tasks of the state in modern conditions of transition to "the fourth information revolution" [9, p. 6] is creation of conditions for development of the economic system, in particular of the construction sector as an infrastructure sector, which leads to the revival of many other related areas and industries of the domestic economic complex. One of the most active sectors of the construction activity in Ukraine today is the housing sector, which dominates the structure of construction in Ukraine as a whole.

Stirring up the role of housing is one of the most important directions of continuation of the country's reforms. In conditions of the market economy, housing and social infrastructure is the most significant indicator that reflects the dynamics and confidence of the population in their future and the future of their country. The housing market and the level of its development characterizes the degree of matureness of the national economy. According to L. Danchak, it is no coincidence that "The government of each country aims to influence the social structure of the population and the most effective of the redistributive functions is housing. Housing fund is also an indicator of how successful the national policy is. It is more visible

than other sectors of the economy as the lower the welfare of the population is, the greater the importance of housing in the range of social problems is" [3, p. 70].

The formation of the housing market in Ukraine is seen as one of the main factors in the transition to the market economy, which stimulates other productive and service areas. The state should make every effort to promote development of the investment and construction complex of Ukraine in these conditions, which provides for qualitative changes in the entire system of economic relations between participants of the investment and construction process.

It should be noted that the lack of a clear housing policy in a changing external and internal environment became one of the reasons that the pace of housing construction began to decline, and a housing problem became one of the most acute social problems in the country, leading to such a negative phenomenon as corruption [6], which is the most widespread in the field of housing. Among such problems and ways to solve them, Ukrainian experts and researchers also lay emphasis on the following:

1) imperfection of the state policy in the field of stimulation of investment processes of construction organizations, which negatively affects the investment activity of economic entities [8, с. 7]:

2) prevention and cessation of further decline in construction production, preservation and development of the potential of investment and construction complexes of the regions and Ukraine as a whole;

3) creation of necessary preconditions for stabilization of volumes of construction production and conditions of further progressive reform of construction organizations, modernization of their fixed assets and technological base;

4) gradual transition to sustainable growth of construction production in the country and in some regional investment and construction complexes by optimizing the increase of investment in equity with a qualitative change in their nature and structure, a general scientific and technical level of material and technical base of the construction complex and construction products created in it [2, с. 40];

5) increasing the investment value of construction companies in order to create a favorable investment climate and strengthen positions of the construction industry in the national market [10, с. 268].

A significant shortcoming of the Ukrainian state's approach to reforming the construction sector is neglecting the regional aspect of the sector's development and the dominance of uncertainty over the segregation of functions between the public and private sectors. This has led to a number of phenomena that hinder development of the construction industry, including the lack of an effective system of scientific support for the industry, destruction of vocational training for the construction industry and the lack of effective organizational mechanisms for development of economic entities in the construction market.

In the context of the decentralization reform of Ukraine and the administrative, political, budget and economic strengthening of the regions and united territorial communities, the role of regional public administration bodies and regional investment and construction complexes is significantly increasing. In our opinion,

development of economic relations is possible only on the basis of the overall economic policy of the region in general and the construction policy in particular. The latter should be formed depending on the current market situation, the state of factors of production and opportunities, i.e. on the regional economic potential. This determines the scale of the goals and the timing of their achievement. At the regional level, to promote development of the investment and construction complex in the rollout of power decentralization are among the most important goals of the state policy. Today such goals are as follows:

1. High level of employment. One of the manifestations of socially oriented economic policy is the level of social protection, which is realized, in particular, in the form of housing that an employee can buy. Improving living conditions is possible if the working conditions of the employee improve. This can also be used as an additional incentive, in particular, at the regional level.

2. Continuous and proportionate economic growth. Economic growth should, in addition to material consumption, help improve the quality of life by creating better environmental conditions, humanization of the workplace, better health care system and providing for old age.

3. Balance of economic operations with other regions. In economic relations with other regions and countries, it is important that economic ties develop so that all trading partners can remain solvent.

4. Participation of local self-governments bodies, public authorities in public and private partnership, which guarantees solvency, reliability, return of prepayment to customers by the state, and observance of social guarantees towards the state regarding saving jobs for citizens by the business integrated structure with vertical management [5, с. 83].

In the conditions of modern decentralization to solve such tasks under pre-formulated conditions the united territorial community can use the powers provided by the state and regional legislation in order to implement its policy of development of the investment and construction complex of the region according to the following principles:

− amiability in relations with participants of the economic mechanism;

− презумпції сумлінності учасників процесу житлового будівництва presumption of good faith of participants in the housing construction process;

− balance of regional and private interests;

− openness and accessibility of information for all participants of the housing construction process;

− clarity and simplicity of the process of housing construction in the state;

− equality of participants of the process and unification of public procedures;

− objectivity and common sense in decision-making;

− invariability of taken decisions;

− mutual responsibility of the country's authorities and participants of the process.

According to O. Bilousov, in the context of innovation and investment development of the construction industry a priority direction of implementation of the

investment policy is intensification of sustainable innovation and investment development of the construction industry through implementation of strategic development goals, which includes the following measures:

– optimization of investment financial resources and investment directions;

– formation of the mechanism of making investment decisions;

– minimization of investment risks;

– increasing the pace of implementation of investment programs (plans);

– creation of an effective mechanism for resolving issues of land ownership under buildings and structures;

– development of a motivational and indicative mechanism for regulating investment processes in the construction industry;

– introduction of innovative mechanisms of mortgage lending;

– involvement of construction work in progress into the economic turnover;

– stimulation and support for innovation activities;

– regulation of the accelerated depreciation process;

– stimulation of attraction of household savings into the investment process by using opportunities of no-capital involving growth [1, с. 33].

Discussion. One of the tasks of the housing policy is also to increase budget efficiency which is a positive change in the regional budget balance. In other words, the economic policy should lead either to increase of revenues or reduction of regional budget expenditures. In our opinion, the main conditions for the housing policy to be reasonable and attractive for participants of the economic mechanism are the conditions as follows:

− accessible and complete information about construction sites;

− established and written procedure for obtaining housing rights;

− criteria for determining winners in the case of tenders for the right to carry out construction;

− a clear mechanism for estimating the value of construction rights;

− the state institute of registration of rights;

− state measures to stimulate and support participants of the economic mechanism of the housing policy.

Today, analyzing the experience of stimulating investment processes in construction, we can identify the following conditions for building a promising investment policy for the construction organization [2, 5, 8, 10]:

– gradual and constant reorientation of construction organizations for application of advanced technologies, methods and tools of modern management of construction production;

– increasing the scientific level and practical efficiency of public administration in the field of development of investment processes of construction organizations; state support for the construction industry;

– further bringing production capacity, the number of employees in construction companies in line with new economic realities, market requirements, restructuring of the construction industry;

– preservation and development of scientific and production potential of construction organizations, creation of state research and production centers and associative units (product and function oriented) on their basis;

– more active development of cooperation and mutual cooperation between construction organizations;

– formation of a single technological base of construction organizations, stimulation of the processes of creating "breakthrough" technologies of the 21st century and acceptance of results of scientific and technological progress;

– solving the issue of effective support and development of mobilization capacities of construction organizations, normalization of working capital of the said organizations;

– reorganization of banking activities in the interests of development of investment and construction complexes and the construction industry as a whole;

– formation of favorable conditions for the work of construction companies, the environment of fair competition in the country;

– study of the domestic market of construction products and its organization taking into account protection of Ukrainian construction companies;

– development of analytical and marketing research of construction organizations;

– expanding a range of consulting and expert services for construction companies;

– a regular assessment of the state, trends and forecasts of development of investment and construction complexes, construction companies and the construction industry as a whole;

– in the field of development of investment and construction complexes;

– formation of programs for development of investment and construction complexes and construction organizations, improvement of approaches and technologies for their development;

– certification of construction industries, increasing the level of competitiveness of products of construction companies;

– intensification of coordinated activity of all components of the infrastructure of business circles in the field of development of investment and construction complexes and increase of efficiency of functioning of construction organizations;

– resource saving, concentration of efforts to improve efficiency of use of all types of resources by construction organizations;

– development of small business in cooperation with the activities of construction companies and investment and construction complexes;

– accounting of energy, environmental, social and personnel aspects of the scenario of development of construction organizations, investment and construction complexes and the construction industry as a whole;

– raising the level of image activity of construction organizations, regular publication of directories of construction products;

– further development and improvement of the legal field within which the construction industry is operating today.

The presence of all these conditions will ensure long-term efficiency and optimality of the long-term investment policy in construction and in terms of accounting of the evaluation criterion, i.e. of investment attractiveness of the region; the entire emphasis should be refocused on forming a system of evaluation of these conditions.

Conclusions. As can be seen from the above in accordance with the set goal, we can conclude that the prospects for solving the problems of formation and implementation of the state policy on promoting development of investment and construction of Ukraine and the construction industry as a whole in the rollout of decentralization processes boils down to three main areas:

1. Supporting regional housing initiatives by creating a regulatory framework to attract resources to housing construction on the region territory; creating a regional fund for housing insurance and business risks of participants of the housing construction process; creating a specialized regional coordination body of the housing construction process.

2. Attracting corporate housing initiatives by stimulating creation of active from investment perspective business entities and improving their image outside the region; supporting promising businesses involved in housing construction, bringing them from the micro- to the mesolevel; stimulating regional vertical and horizontal integration for increasing flexibility of the housing policy.

3. Simulating civic (personal) housing initiatives by creating social and financial conditions for the purchase of housing; stimulating improvement of living conditions through guarantees and sureties; developing relations at the level of the developer vs consumer for direct target financing of housing improvement.

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FEATURES OF FORMATION OF INTEGRATED CITY DEVELOPMENT

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Abstract. *The article identifies the main elements of the concept of integrated city development, which forms a modern tool of informal regulation that takes into account the main challenges and needs of the city. The aim of the article is to study the current state of integrated urban development and outline the relevant areas of urban development. 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 application of the historical-logical method, 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. A complex and comprehensive approach to regulating the development of the city in accordance with the principles of participative management is presented. That is why at all stages of development of the Concept of integrated development of the city the interested parties and inhabitants of the city need to actively express their own thoughts concerning the future development, to bring the ideas and wishes. There are many opportunities for this, in particular, holding integrated development forums, numerous round tables, workshops, information meetings in the city's neighborhoods, urban festivals, and more. The vision of the city and the system of goals are the Concept core of integrated city development. They are developed on the basis of a preliminary analysis of various spheres of the city's life, its features and determine the nature and direction of further action on the city's development. A separate, main component of the concept of integrated city development is the vision of the city and the system of goals, which are developed on the basis of a preliminary analysis of various spheres city's life. There are also key areas of activity that offer approaches that will best meet the needs of current and future residents in a comfortable and safe living.*

Keywords: *integrated city development, participatory approach, integrated approach, vision, concept of integrated urban development.*

JEL Classification: H10, H73, O10, R20, R28

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Introduction. In a rapidly changing world, cities face the need to simultaneously solve a number of problems: economic, environmental, demographic, and socio-spatial. The success of a city's development and prosperity in the future depends on how flexible a city can respond to new challenges and plan long-term solutions that will ensure its sustainability. Thus, cities need a comprehensive approach that addresses new challenges and pressing issues, considers the needs and requirements of all sectors on an equal footing, and involves politicians, businessmen, investors, civil society, and residents in these processes.

Literature Review. Such scientists as O. Boyko-Boychuk, Z. Gerasymchuk, T. Nishchyk, L. Rudenko, O. Grigorieva, V. Chevganova, V. Mamotova, M. Troyan, and other researchers dealt with the issues of research of integrated urban development [1-10].

Aims. The aim of the article is to study the current state of integrated urban development and outline the relevant areas of urban development.

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 application of the historical-logical method, 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. In today's world, the concept of integrated urban development is just such a flexible tool that, if necessary, can be adapted to new situations. An integrated approach is used in the development of KIRM, so the relationship and interdependence between different areas are considered. This ensures that clearly focused optimal planning decisions for long-term urban development are found and adopted and that they are aligned with higher-level programs and strategies.

This is a long-term guideline for the city, city government, community, and business, which allows:

- to promote the transformation of the city, to find a new way of development based on its features and principles of partnership;
- to cover the needs of the city in a comprehensive way;
- to choose strategic directions of actions in the conditions of the changing external environment and limited resources;
- to focus on priority topics and areas that require urgent change and development, harmonize development actions;
- to coordinate the actions of various institutions, organizations, enterprises to achieve the common goals of the city;
- to make projects and regulatory processes clear and transparent to residents;
- to create an important base for attracting funding for national and international programs and assistance;
- to create framework conditions that allow the city to become more attractive for living.

While developing the concepts of integrated development of the city, the city authorities, the expert community, representatives of business structures, public institutions, and city residents cooperate and together choose the course of development for the next decade. In order to implement such a complex and comprehensive approach to regulate the development of the city in accordance with the principles of participation, it is important to implement several preparatory stages:

- representatives of various stakeholders should be acquainted in detail with the approaches to integrated development;
- for the general coordination of the process an interdisciplinary working group should be created, which includes representatives of the relevant executive bodies of the city council and public organizations;
- formation of a support group consisting of local experts, representatives of the local scientific community, NGOs and thematic groups consisting of relevant

specialists and community representatives who would work out possible solutions during the relevant events, regularly organized with the support of the project;
- creation of an information center of integrated development, which would act as a platform for uniting the efforts of concerned citizens of the city;
- creation of a website that would provide all the information about the process of developing the Concept of Integrated Urban Development and regularly acquaint the local community with the news.

A full-scale functional SWOT analysis based on the results of the analysis will identify the city's strengths and weaknesses, the strengths of all sectors and areas of development, the limitations and risks that hinder development, and those areas that need to be addressed by the city and community.

Based on the results of the work of specialists, thematic groups, and citizens of the city involved in the process of developing the concept, it becomes possible to formulate a common vision of what the city wants to be, what and how the city should achieve the appropriate strategic and operational goals and objectives.

To achieve quantitative indicators of development, demographic forecasts with different development scenarios should be used to calculate future demand for social, environmental, technical, and economic infrastructure.

The results of all previous stages will identify areas in need of priority transformation on the path to prosperity and sustainable development of the city. Thus, certain areas of development will reflect an integrated approach, as they are consistent (harmonized) with each other, and each of them contains components that complement, reinforce and support others.

Within each of the areas of development it is necessary:
- to identify problem areas and suggest possible transformations;
- to formulate guidelines and relevant development goals, so-called "cross" goals;
- to determine what, how, and where to do to achieve these goals;
- to choose possible activities and projects.

Projects and measures should be considered in the spatial dimension according to certain criteria, such as realism, soundness of facts, compliance with the principles of integrated development, optimization of synergies, high level of efficiency, area of influence (coverage, the intersection of several areas). Then from the list of all offered ideas key, driving initiatives which can as much as possible influence qualitative transformations in the city in the long run on the basis of which the catalog of project ideas is created are selected.

It is important to note that the concepts of integrated city development are developed by the city authorities together with various municipal institutions, local experts, and the public. The participatory approach is a prerequisite for the perception of transformations that offer the concepts of integrated urban development, and therefore is the basis for their successful implementation. Involving all potential stakeholders in the regulatory phase in the process of finding possible solutions helps to find future partners who can take responsibility for the implementation of relevant projects that will be of interest to them. Building government dialogue with the community and the business community encourages consensus for a common future

and makes regulatory processes clear and transparent to all. An open and comprehensive exchange of interests and opinions helps to find optimal solutions in each case. Ongoing dialogue with the community in the development process initiates the creation of networks of potential partners, actors of integrated development.

The process of internal communication within the local self-government body is very important for the successful implementation of integrated approaches in urban planning. Awareness of officials, interest in the implementation of planned long-term changes are the success levers of the concepts of integrated the city development, which are based on the synergy of interactions. And the success of actions, of course, is associated with well-established communications between all participants in the process.

That is why at all stages of development of the Concept of integrated development of the city the interested parties and inhabitants of the city need to actively express their own thoughts concerning the future development, to bring the ideas and wishes. There are many opportunities for this, in particular, holding integrated development forums, numerous round tables, workshops, information meetings in the city's neighborhoods, urban festivals, and more.

The vision of the city and the system of goals are the Concept core of integrated city development. They are developed on the basis of a preliminary analysis of various spheres of the city's life, its features and determine the nature and direction of further action on the city's development.

The vision describes the desired state of development of the city, which the city wants to be, and serves as a basis for further development. Strategic goals interpret the formulation of the vision, reflect how to achieve it, what strategic directions of development should be chosen. And the areas of development, to which the relevant operational and development goals are integrated, describe what exactly needs to be done to realize the vision, what actions, approaches, projects, measures need to be implemented.

The vision of the city is a shared, consensus-based vision of what the city should look like. It presents a vivid image of the desired future and key values shared by residents, entrepreneurs, big business, the public, local authorities, and defines the unique character of the city. The vision of the city is developed on the basis of the results of large-scale analysis of all spheres of the city's life, it summarizes the possibilities of strengthening the existing potentials and intentions of the city for future transformations in the desired direction.

According to the vision of the city's development, special characteristics of the significant weaknesses and strengths, strategic goals are formed, the content of which corresponds to the vision and outlines the following possible directions of the city development, such as:

- a city with diversified environmentally eco-friendly production;
- a city of applied sciences, education, knowledge economy, and creative industries;
- a powerful regional center and center of Ukrainian culture;
- an appealing tourist destination, recreation, and rehabilitation center;
- a city for a comfortable life, etc.

Strategic goals are the starting point for further definition of operational goals and expected development (development goals), which differ in diversity, but correspond to the vision, on the one hand, and are based on objective factors and trends identified in the analysis, on the other.

Based on the analysis of the current state of the city, its vision and system of goals, key areas of activity are identified, which offer approaches that will best meet the needs of current and future residents in comfortable and safe living, movement, employment, healthy and attractive environment, fresh air and clean water, complete recreation, etc., namely:

1. Diversification of the economy.
2. Strengthening the status of the city as a regional center.
3. Housing and infrastructure.
4. Development of culture and tourism.
5. Environment and development of green areas.
6. Mobility.

These focal areas of transformation, which will be a priority in the future development of the city, are identified and developed by a group of experts with the support of participants of thematic groups during workshops, broad discussions, forums. They take into account the synergy of available resources and strengths of the city when diverse areas and projects reinforce each other through integration.

Relevant development goals are also defined for each area and logical chains are built, which clearly demonstrate the sequence of the process of finding the right solutions: from summary results of SWOT-analysis by area to key drivers and activities that will have the best effect for several areas.

To ensure the capital of the city during economic crises and confronting demographic challenges, the city is known to focus on creating new jobs, finding new promising economic activities, in the diversification of the local economy. The main potential activities for which the city offers favorable and private conditions relate to the knowledge economy, in particular, creative structures that can join the new territories of previously abandoned industrial enterprises, as these groups cannot be combined in another fabric. The recommended diversification of the economy also includes the placement of innovative environmentally friendly industries in the city.

Discussion. In order to strengthen the competitive position of the city in comparison with neighboring cities and successfully compete for people, resources, investments, visitors, and residents, it is necessary to plan measures to strengthen the status of the city as a regional center. It is necessary to create a clear hierarchy of centers with a defined physically developed primary center. All existing centers and sub-centers should become more attractive, including through landscaping, reconstruction of the city, restoration, preservation, and proper development of the historic center.

Functional SWOT-analysis is the most important step in the development of integrated development, which allows critical analysis of the current situation and identifies potential areas of development of the city, based on identified strengths and weaknesses as internal factors, identified opportunities and threats as external factors.

This methodology also aims to analyze and assess the interaction and interdependence between different parameters to identify the root causes that directly affect the social, economic, and spatial development of the city. Such an analysis allows us to find the most effective approaches and initiatives for development - those that do not affect the consequences, but the root causes of problems.

The purpose of the SWOT-analysis of the city is to determine the most important factors that affect the development of the city, namely:

- positive internal key factors and features of the city that can be optimized to ensure economic growth and increase employment, welfare, and quality of life Poltava's residents (Strengths);
- negative internal factors that may hinder or limit of the city's development (Weaknesses);
- external key potential opportunities related to the environment, legislation, favorable development conditions at the regional and national levels, which can improve the situation (Opportunities);
- trends or external circumstances that may worsen or even jeopardize the future development of the city (Threats).

Conclusions. Therefore, a comprehensive assessment of the city in terms of SWOT components should be carried out taking into account a wide range of economic, spatial, social, and demographic indicators obtained in the preliminary stage of analysis of the main areas of city life.

First of all, the following are subject to analysis: location in the region, employment level, population income, demography, historical and cultural heritage, life quality, transport, city economy, infrastructure, public and private services, and institutions, urban planning, and urban regulation. This approach allows you to get a comprehensive (integrated) picture of the "physical", socio-economic and environmental condition of the city. The components of the SWOT-analysis are determined on the basis of the results of various sectoral and thematic studies and are summarized by the main components "Strengths", "Weaknesses", "Opportunities", "Threats", which concerned the city as a whole. As a result of a combination of components of SWOT-analysis, strategic goals, and spatial conditions, areas that need priority development can be identified. These are complex spheres of influence that reflect various needs and, therefore, are focused not on individual sectors, but on the qualitative of the city's development as a whole, and are areas of integrated development. Relevant strengths and weaknesses, opportunities, and threats are also identified for each of the areas of development depicted.

Author contributions. The authors contributed equally.

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PECULIARITIES OF THE TRANSFORMATION'S PROCESS MANAGEMENT OF MEDICAL INSTITUTIONS OF CHILDREN'S INSTITUTIONAL CARE AND UPBRINGING INTO AN INCLUSIVE ENVIRONMENT FOR CHILDREN WITH DISABILITIES

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Abstract. *The effective implementation of the deinstitutionalization and transformation reform of institutions of children's institutional care and upbringing is currently one of the priorities of the state's social policy, because the future renewal of the country's human resources potential and further prosperity and well-being of Ukraine depends on the ability to socialize children and provide quality social, medical, educational services for children and families with children and their harmonious development. In accordance with the principles of deinstitutionalization and decentralization reform, local governments have to ensure the development of all types of health care, development and improvement of the medical institutions network, determining the need and forming orders for staff for these institutions, provision in accordance with the legislation of privileged categories of the population with medicines and medical devices, including families with children with disabilities (Article 32 of the Law of Ukraine "On Local Self-Government in Ukraine"). At the same time, the health care institutions network should be formed taking into account the needs of the population in medical care, the need to ensure the proper quality of such services, timeliness, accessibility for citizens, efficient use of material, labor and financial resources (Article 16 of the Fundamentals of the Legislation of Ukraine on Health Care). Adhering to the above principles in the Lviv region to comply with the order of the head of the Lviv regional state administration № 719/0/5-19 from 05.07.2019 "On conducting a comprehensive assessment of the municipal institution of the Lviv regional council" in "Orphanage № 2 for children with central nervous system disorders and mental disorders" in the period from July 22 to October 21, 2019 was carried out a comprehensive assessment process in order to further transform this institution. The results of this assessment and medical statistics provided an opportunity to analyze the need of Lviv region for inclusive medical rehabilitation services for children and families with children.*

Keywords: *public administration, children, social services, medical services, deinstitutionalization, inclusion, institutional institution, medical institution, evaluation, reform, decentralization.*

JEL Classification: J13, J18, I18, H83, H75, H72, H51, H52, Z18

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Introduction. According to the report of the Center for Medical Statistics of the Ministry of Health of Ukraine on children with disabilities under the age of 18 living in the area of treatment and prevention facilities, orphanages or boarding schools, at the end of 2019 there were 163 thousand children with disabilities. 100% of these children need medical rehabilitation services. After all, according to current legislation, every child with a disability has Individual Rehabilitation Program (IRP) for Persons with Disabilities, which determines a set of optimal types, forms, amounts, timing of rehabilitation measures with determination of the order and place of their carrying out, aimed at restoring and compensating for impaired or lost body functions and the ability of a particular person to perform activities, defined in the recommendations of the medical and social expert commission [1].

When comparing statistics for recent years, there is a tendency to increase the number of children with disabilities by about 1.5-2% per year. On average, about 16,000 new cases of child disability are registered in Ukraine every year [1].

In addition, a significant number of children are registered each year who do not have the status of a disabled child, but have vital activity limitations in need of rehabilitation care. These include children of the first year of life who were born with various health disorders or have pathological conditions that occur in the perinatal period (which are well amenable to rehabilitation treatment and do not always lead to disability); children who have received injuries that require a long-term rehabilitation process (these conditions are not grounds for disability assignment), etc.

However, the existing network of institutions that can provide medical rehabilitation services does not provide rehabilitation assistance to the entire number of children in the country who need it. Today in Ukraine there are 54 institutions in the health care system that provide rehabilitation assistance to children. The average number of children undergoing rehabilitation treatment per year is about 37 thousand people. Moreover, it should be understood that some of these institutions specialize in providing medical rehabilitation services only for acute and subacute pathological conditions, and children with disabilities need long-term, sometimes lifelong, rehabilitation care [2].

There are also 2 institutions (Poltava, Chernihiv), subordinated to the Ministry of Social Policy of Ukraine and a number of institutions of the Ministry of Education and Science of Ukraine, which provide some services related to the system of medical rehabilitation. But the total capacity of all these institutions is still not enough. There are no exact statistics on the number of children in need of medical rehabilitation services, but even if we take into account only children with disabilities, which is 163,886 people, the powerful capacity of existing institutions does not cover 30% of the need [3].

At the same time, Ukraine is currently undergoing a nationwide health care system reform and a children's institutional care and upbringing system reform (DI - deinstitutionalization reform), which provide for a radical change in the health care financing system and a number of significant changes in the health sector as a whole. Today, health care institutions have to enter into agreements with the National Health Service of Ukraine (NHSU) for the provision of certain medical services. But for each type of service there are approved special requirements for the availability of appropriate staffing, logistics and other support. However, not all medical institutions that provide rehabilitation care meet the required requirements, which will also lead to an even greater shortage of this type of service.

In any case, medical reform is reformatting the existing children's medical rehabilitation system, inherited from the Soviet era, with large centers that are more suitable for spa treatment, which does not fully address the problems of rehabilitation and integration into society of children with disabilities. At present, it takes about a year from the moment a child is referred to a rehabilitation center and to the beginning of treatment - valuable time is lost, the child's condition deteriorates, and rehabilitation takes much longer and less effectively than if the child began receiving

care immediately after the problem detection. This is especially true of rehabilitation measures for young children, which, when started in time, give high functional results and avoid further disability of the child and, in particular, to prevent parents from abandoning children due to health problems. After all, most children are sent to boarding schools due to health problems. This is especially true for young children, ie babies. Exactly congenital malformations, diseases of the nervous system, musculoskeletal system exactly are the main reasons for the admission of children to orphanages, which are boarding schools for the youngest children. The creation of a wide range of quality and affordable medical rehabilitation services for children and their families within territorial accessibility of their place of residence will reduce the percentage of institutionalization of children and ensure their upbringing in a family environment, which is one of the key tasks of institutional institutions reform, which is also currently taking place in Ukraine. Thus, the task of creating and developing local services for children with disabilities and their families, which would improve the child's health, help parents in caring for the child, socialize the child for its future life and avoid its placement in boarding school, meet the common principles of health care reform, decentralization reform and deinstitutionalization reform.

But it is important in the regions (territorial communities) to research in advance what medical services families need to provide their children with adequate medical care, to make an inventory of available services in order to avoid duplication, and only then to identify ways to develop necessary services in the territorial accessibility of the place of residence of families.

Literature Review. Today such scientists as: A. Dakal, J. Bordiyan, V. Sobchenko, O. Radchenko, V. Moskalenko, V. Skurativskyi, O. Paliy, M. Obikhod, E. Libanova study the issues of protection of children's rights and social protection. Such Ukrainian researchers as L. Volynets, N. Komarov, O. Antonova-Turchenko, I. Ivanova, I. Pesha, A. Kapska, I. Pinchuk, S. Tolstoukhova, M. Lukashevych, I. Myhovych and others are engaged in researches of problems of reforming and improvement of osocial services system in general and services for children and families with children in particular. However, reviewing the scientific works of the above authors, it should be noted that the current state of scientific development of reforming the children’s institutional care and upbringing system in the activities of public authorities in Ukraine is insufficient, as the spheres of social protection, education, medicine and children's rights are in transformation procces. The processed sources of the conducted research concerned mostly certain aspects of the functioning of the social security system and work with children, namely: the history of formation and development, directions and forms of social families with children.

Aims. Attempt to analyze data from open sources on the need of Lviv region for medical rehabilitation services for children and their families and determine the feasibility of introducing these services in the pilot municipal institution of Lviv Regional Council "Orphanage № 2 for children with central nervous system and mental disorders".

Methods. Conducting statistical analysis of children with disabilities at the regional level. Determining the socio-demographic situation of children in the Lviv

region who have disabilities and forecasting medium-term trends in their numbers. Comprehensive assessment of the municipal institution of the Lviv Regional Council "Orphanage № 2 for children with central nervous system disorders and mental disorders".

Results. At the end of 2019, there were 484,905 children aged 0 to 18 living in the Lviv region. According to the official statistics of the Center for Medical Statistics of the Ministry of Health of Ukraine, in recent years there has been a slight increase in the number of children in the region. The number of children in the region has increased by about 2,000 in the last five years. But at the same time, there is a negative trend in the birth rate, on average 6-8% fewer children are born annually compared to the previous year. In 2019, for 6,000 children less were born in the Lviv region than five years ago, accounting for about 2.5% of the total child population. When comparing statistics for the last five years, there is a tendency to increase the number of children with disabilities - by about 2% per year. On average, more than 1,000 new cases of child disability are registered annually in the Lviv region [1].

While maintaining such negative trends, we can predict that in 5 years in the Lviv region there will be about 17 thousand children with disabilities, and if the birth rate does not increase, the total number of children in the region will decrease by about 6-8 thousand people, which will increase the percentage of children with disabilities in the total child population of the region twice - almost to 5%, and this will also increase the preferential burden not only on the state budget but also on the local budget through providing the decentralization reform, which provides for the transfer of most powers to local authorities, in particular, to address the needs of persons with disabilities. Determining the needs of children in the region in medical rehabilitation services primarily involves identifying the most common diseases and pathological conditions in children that lead to disability and their division into groups of nosologies (diseases) that require a convergent set of rehabilitation services.

According to the Center for Medical Statistics of the Ministry of Health of Ukraine, the main causes of disability of children in Ukraine are diseases of the central nervous system, musculoskeletal system, congenital malformations, mental and behavioral disorders, diseases of vision and hearing. In the Lviv region, these groups of diseases also occupy leading positions as a prerequisite for the emergence of disability [1].

Currently in the Lviv region there are more than 3.5 thousand children with disabilities with congenital malformations, almost 2 thousand children with diseases of the central nervous system and mental and behavioral disorders, half a thousand children with musculoskeletal disorders, which together amount to 67% of all diseases that caused disability. Other diseases that led to disability (tuberculosis, HIV, tumors, diseases of the visual and auditory organs, blood, endocrine system, etc.), all together amounted to 33% (3756 cases) [1].

Each of these groups of diseases requires its own, clinically proven list of medical rehabilitation services, which is aimed at the most effective elimination of clinical manifestations of the disease and restoration of the patient's functional state.

Thus, for the medical rehabilitation of children with diseases of the central nervous system, it is generally accepted to use such rehabilitation services as medical treatment, hardware physiotherapy, Bobath concept therapy, Vojta's method of reflex locomotion therapy, hydrotherapy, therapeutic exercise, therapeutic massage, occupational therapy, kinesiotherapy, reflexology, mobilizing gymnastics and the list of services used in diseases of the musculoskeletal system includes rehabilitation therapy, reconstructive therapy, physical rehabilitation, wax and paraffin applications, as well as therapeutic massage, occupational therapy and kinesitherapy, etc. Medical rehabilitation of congenital malformations includes a range of services that depend on the type of pathology and severity of the child's health, for example, congenital malformations of the intestine may involve the following rehabilitation services-biofeedback-therapy, rectal electrical stimulation, the appointment of daily cleansing enemas in one and the same time of day, therapeutic gymnastics, diet therapy, hydrotherapy, correction of hypovitaminosis and malnutrition. Mental and behavioral disorders in children have their own list of medical rehabilitation services, which is based on the use of rehabilitation techniques such as psychotherapy, game therapy, art therapy, fairy tale therapy, animal therapy (hippotherapy, dolphin therapy), sensory therapy, socio-psychological adaptation and correction, etc.

Medical rehabilitation services are also needed by children who do not have a disability status but have a disease or health condition for which rehabilitation measures are indicated. At the end of 2019, according to the Center for Medical Statistics of the Ministry of Health of Ukraine in the Lviv region, there were about 5,000 such children. In particular, these are children under 1 year of age with diseases of the nervous system (1123 children), diseases of the musculoskeletal system (68 children), diseases of the eye and appendages (1238 children), ear diseases (946 children), certain conditions, which arose in the perinatal period (1468 children) or children who received injuries, poisonings and other consequences of external causes, the number of which in 2019 was 113 people [4].

Today in the Lviv region in the health care system there are 6 institutions that provide medical rehabilitation care to children, including 3 state institutions:

- sanatorium "Velykyi Liubin" (60 beds) - provides rehabilitation of children with cerebral palsy (CP);
- municipal institution of the Lviv Regional Council "Orphanage №1 for children with central nervous system disorders and mental disorders" (75 beds);
- municipal institution of the Lviv Regional Council "Orphanage №2 for children with central nervous system and mental disorders" (60 beds) - carry out rehabilitation of children with central nervous system and mental disorders, congenital malformations, premature babies, etc.

As well as 3 private institutions:

- LLC "Kozyavkin International Rehabilitation Clinic" (100 beds) - rehabilitation of children with disabilities due to cerebral palsy, correction of vertebrogenous pathology, rehabilitation of patients with the consequences of diseases and injuries of the musculoskeletal system, etc .;

- LLC "Elita Rehabilitation Center" (outpatient reception) - rehabilitation of cerebral palsy and the effects of organic lesions of the nervous system, rehabilitation program for premature infants and early rehabilitation for children under 1 year, rehabilitation of patients with diseases and injuries of the musculoskeletal system, etc.;

- LLC "Innovo Medical Center for Physical Therapy and Pain Medicine" (outpatient reception) - physical rehabilitation, which includes physical therapy, developmental therapy, "hand" therapy, sensory therapy. There are also three rehabilitation departments at the Lviv Regional Children's Clinical Hospital "OHMATDYT", the regional children's hospital and the city children's clinical hospital, but they provide rehabilitation assistance to children mainly in acute and subacute conditions and have a small bed stock.

At the same time, there are institutions in the region that are not health care institutions, but also provide some services related to medical rehabilitation, namely:

- municipal institution of the Lviv Regional Council "Lviv Regional Center for social rehabilitation of disabled children" (26 beds) - physical rehabilitation of children with cerebral palsy, musculoskeletal disorders, post-traumatic conditions;

- municipal institution of the Lviv Regional Council "Lviv City Rehabilitation Center" (Children's training and rehabilitation center "Dzherelo") (outpatient reception) - physical rehabilitation of children with musculoskeletal disorders, mental retardation and/or intellectual disorders, genetic defects, autism spectrum disorders (ASD);

- municipal institution of the Lviv regional council "Educational and rehabilitation center "Lewenia" (200 beds) - medical and psychological rehabilitation of children with visual impairments;

- municipal institution of the Lviv Regional Council Educational and Rehabilitation Center "Mriya" (200 beds) - medical and pedagogical rehabilitation of children with intellectual disabilities, mental retardation, severe speech disorders;

- municipal institution of Lviv Regional Council Educational and Rehabilitation Center "Svitanok" (200 beds) - medical and pedagogical rehabilitation of children with musculoskeletal disorders in combination with severe systemic speech disorders and mental retardation [4].

All rehabilitation institutions of the Lviv region of state subordination are designed for a total of 195 beds, their total capacity to provide medical rehabilitation services to children is 850-1000 children per year.

The capacity of private medical institutions is:

- LLC "Kozyavkin International Rehabilitation Clinic" - 800 people/year;

- LLC "Elita Rehabilitation Center" - 500 people/year;

- LLC "Innovo Medical Center for Physical Therapy and Pain Medicine" - 500 people/year.

Institutions that are not related to the health sector:

- municipal institution of the Lviv Regional Council "Lviv Regional Center for social rehabilitation of disabled children"- 80 people/year;

- municipal institution of the Lviv regional council "Lviv City Rehabilitation Center" - 500 people/year;

- municipal institution of the Lviv regional council "Educational and rehabilitation center "Lewenia" - 240 people/year;

- municipal institution of the Lviv Regional Council Educational and Rehabilitation Center "Mriya" - 250 people/year;

- municipal institution of Lviv Regional Council Educational and Rehabilitation Center "Svitanok" - 250 people/year [2].

Given that there are more than 11,000 children with disabilities in the region alone, this figure does not fully reflect the need for children's medical rehabilitation services, as there are also children with disabilities who do not have a disability but need the rehabilitation assistance, the specified state resource is too little - it covers only about 10% of the need.

However, even the total capacity of all private rehabilitation institutions is not able to meet the 100% need for children in the region for medical rehabilitation services. According to some of these institutions (LLC "Kozyavkin International Rehabilitation Clinic", Children's training and rehabilitation center "Dzherelo", LLC "Elita Rehabilitation Center") there is currently a long queue for rehabilitation courses [4].

In general, all institutions of the Lviv region that provide medical rehabilitation services to children provide rehabilitation assistance to about 4 thousand people (35%) per year. Accordingly, annually only more than 7 thousand (65%) children with disabilities in the region do not receive their appropriate medical rehabilitation services. The shortage of rehabilitation services especially affects children with congenital malformations, visual and hearing impairments, acquired musculoskeletal injuries, etc.

In line with national policy priorities and decentralization reform, both the state and local governments have to ensure the development of all types of health care for the country's population, including children with disabilities.

The system of medical rehabilitation of children in Ukraine still works as it was introduced in the Soviet Union. However, several modern rehabilitation facilities have been established, but they are new individual models and do not represent the health care system as a whole. This leads to a significant shortage of rehabilitation services (Assessment of the rehabilitation system in Ukraine. Evaluation Mission-September, 2017), so the development of a wide range of rehabilitation services for children is an urgent need [5].

This is especially true of providing rehabilitation assistance to young children, who with proper and rapid rehabilitation achieve high functional results, which are a prerequisite for their successful socialization in the future.

At the same time, the main goal of the DI reform is to change the children's institutional care and upbringing system to a system that provides care and upbringing of a child in a family or close to the family environment. Given that orphanages perform the function of constant medical care of young children, provide medical and diagnostic and rehabilitation care for children with physical and mental

disabilities, as well as have professional staff and the necessary material and technical base, they have the best potential to become rehabilitation institutions for such children at the stages of deinstitutionalization reform.

Steps in this direction began in 2010, when the Ministry of Health of Ukraine in the context of the main objectives of the State Target Program for reforming the system of institutions for orphans and children deprived of parental care by order of February 2, 2010, № 70 "On measures to development of orphanages" approved the Concept of development of orphanages for the period up to 2017, the main purpose of which was to develop and implement modern methods of children's rehabilitation, taking into account the possibility of orphanages functioning as institutions for children's rehabilitation open type.

A similar vision of the continued existence of orphanages is declared in the National Strategy for reforming the children's institutional care and upbringing system for 2017-2026. In this regard, the Cabinet of Ministers of Ukraine adopted a resolution dated July 10, 2019, № 675 "On approval of the Regulations on the center of medical rehabilitation and palliative care for children", which is the legal basis for the transformation of orphanages into new types of institutions - medical rehabilitation centers and/or palliative care for children. The main tasks of the centers will be to provide children with medical rehabilitation and/or palliative care services, comprehensive rehabilitation services, social and educational or other services, regardless of their social status and age [4].

In pursuance of the National Strategy for reforming the children's institutional care and upbringing system in the Lviv region, a Regional strategic action plan for reforming the children's institutional care and upbringing system for 2019-2026 was developed, which provides for the transformation of regional orphanages into centers for medical rehabilitation and/or palliative care for children [6].

The Ministry of Health of Ukraine, in coordination with local state and executive authorities, selected a municipal institution of the Lviv Regional Council "Orphanage №2 for children with central nervous system and mental disorders" as a pilot institution for transformation into the Lviv regional center for children's medical rehabilitation.

In accordance with the order of the Lviv Regional State Administration dated 05.07.2019 № 749/0/5-19 in order to prepare a plan for the transformation of this institution, a comprehensive assessment of the institution was conducted. The comprehensive assessment of the orphanage was based on a multi-component process of studying the needs of the child and his family, human, financial and other resources of the institution [6].

According to the results of the assessment, it was concluded that almost 60% of the orphans have various health disorders. These are mainly motor dysfunction (32% of children), mental and intellectual development disorders (34% of children) and speech development disorders (39% of children), which developed as a result of hypoxic-ischemic or organic lesions of the central nervous system. Also in the institution are almost 40% of children who, according to the anamnesis, were born

prematurely and have a combination of several disorders, including visual and hearing impairments.

At the same time, all children with health disorders in the institution are provided with appropriate preventive, curative and rehabilitation medical care, which is based on modern domestic and international clinically proven methods. All children with disabilities have individual rehabilitation plan (IRP), according to which they are provided with a set of rehabilitation measures. The institution is equipped with treatment and prevention, physiotherapy and correctional equipment.

Also, all children are under the constant supervision and accompaniment of full-time pediatricians, neurologists, psychologists and other specialists. The medical staff of the institution consists of 92 people: 5 people - doctors, 50 people - nurses, 37 people - auxiliary medical staff. Employees of the institution are characterized by a sufficient level of professionalism. All medical staff undergoes timely refresher courses, as well as additional training. In work with children such methods of rehabilitation as medical treatment, massage, medical physical training, balneological therapy, stone therapy, art therapy, physiotherapy, sensory therapy, fairy tale therapy are used.

The obtained results of the comprehensive assessment of the orphanage showed the resource capacity and sufficient experience of practical activities of the institution in providing not only medical but also comprehensive rehabilitation care for children, which indicates the possibility of further development and expansion of rehabilitation services on the basis of the pilot orphanage. At the same time, the orphanage provided rehabilitation services during the year to an average of 65 children, and the estimated capacity of the new institution will be about 600 children with dysfunction and/or disability.

Thus, given the results of a comprehensive assessment of the pilot orphanage, the presence in the Lviv region of a significant shortage of medical rehabilitation services for children, an underdeveloped network of children's rehabilitation institutions, as well as negative trends in increasing the number of children with disabilities, it can be considered expedient to create an institution on the basis of a pilot orphanage, which will specialize in providing medical rehabilitation services, primarily for children with neurological disorders and musculoskeletal disorders, which will reduce the shortage of medical rehabilitation care for children; to improve the indicators of physical and mental development of children in the Lviv region; create a new type of institution that will provide quality and modern rehabilitation services for children and their families, regardless of their social status, and will be able to set an example for the transformation of orphanages in other regions of the country.

Discussion. Thus, we have determined that in recent years in the Lviv region there has been a negative trend in the rate of child disability, along with an annual decline in the birth rate, which, predictably, in five years will lead to a twofold increase in the percentage of children with disabilities in the total number of children in the region. According to official statistics, the leading positions among the main causes of disability of children in the Lviv region are congenital malformations,

central nervous system diseases, mental and behavioral disorders, musculoskeletal system diseases, diseases of the visual and auditory organs. Each of these groups of diseases involves the use of its own, clinically proven list of medical rehabilitation services, which aims to most effectively eliminate the clinical manifestations of the disease and restore the functional state of the patient. The total capacity of medical rehabilitation services as of the end of 2020 of all children's rehabilitation institutions in the Lviv region is about 35% (4 thousand people) per year. Accordingly, more than 7,000 children with disabilities (65%) in the region annually do not receive their proper medical rehabilitation services.

Thus, the current system of medical rehabilitation in the Lviv region does not meet the urgent needs and is not able to provide children with disabilities with services as close as possible to the place of residence. In addition, children with disabilities who have not been diagnosed with a disability are excluded from this system. The pilot orphanage provides a comprehensive and systematic approach to addressing all aspects of rehabilitation of sick children with congenital malformations, mental retardation, statokinetic development, neurological diseases, movement disorders, etc. The institution has a clear system of medical rehabilitation of children, which is based on modern domestic and international clinically proven methods.

It should be noted that the obtained data of the analytical study, as well as the purpose of deinstitutionalization reform and the planned change of further activities of orphanages in accordance with the principles of medical reform, testified to the possibility and expediency of establishing the institution on the base of a pilot orphanage, specializing in medical rehabilitation services, aimed at eliminating functional disorders in children who already have a disability and prevention of disability in children with restriction of vital functions.

Conclusions. When implementing a new set of medical rehabilitation services in the new institution, it is necessary to take into account the need for material and technical equipment of the institution and its provision with the necessary qualified personnel who will have appropriate training (including expanding the range of professions involved in providing services to children and to their parents - a doctor of physical and rehabilitation medicine, physical therapist (occupational therapist), assistant physical therapist (assistant occupational therapist), doctor of functional diagnostics, social work specialist, social educator, an assistant educator for children with disabilities, etc.) It is also important to coordinate the cooperation of the institution with the territorial communities of the Lviv region regarding the algorithm of providing children from communities in need of rehabilitation, a range of services, including medical rehabilitation, psychological and pedagogical correction, social services for parents or their substitutes, who care for children with disabilities, and the financial mechanism for providing those services that are not paid for from the state budget.

However, without a doubt, the creation of a new rehabilitation institution in the Lviv region will reduce the shortage of medical rehabilitation care for children in the region; will improve the indicators of physical and mental development and

socialization of children in the Lviv region; will ensure the region's need for quality and modern rehabilitation services for children and their families, regardless of social status, and will become an example for the transformation of orphanages in other regions of the country.

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KEY FACTORS OF THE STATE'S ECONOMIC SECURITY

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Abstract. *The economic security of any country is characterized by the protection of its national interests. The system of economic security of the country is based on understanding and implementation of the concept of national economic interests at the state and international levels, the purpose of which is to maintain a balanced economy, protect it from external and internal threats, the ability to sustainable development. Neglecting of economic security can lead to negative socio-economic consequences, a depressed state of the economic branches, increase of the import dependence level, bankruptcy of market participants, etc. That is why it is important today to guarantee the preconditions for ensuring the economic security of the state and leveling of threats. The aim of article to substantiate the essence and generalize the assessment results of the main factors that influences the formation of economic security of the state. The author used the methods of logical comparison, systematization and generalization, which made it possible to achieve the goal of the study. The main factors of economic security as an important component of national security in the context of globalization have been substantiated and summarized in the article. The factors influencing the economic security of the state have been generalized and the social component has been defined as one of the important factors of economic security. The main directions of guaranteeing the economic security of the state, which are a priority under the conditions of the impact of globalization on the national economy has been identified.*

Keywords*: state, economic security, national security, factors, threats.*

JEL Classification: H12, H56

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Introduction. During the period of globalization, all subjects in the macro environment are taking steps to minimize the risks which create different types of threats. Detection, prevention and elimination of such threats are an important task of the economic security of the state. The level of economic security of the state depends on the level of functioning and development of the economic system, including all its components in the interrelationship and interdependence. Neglecting of economic security can lead to negative socio-economic consequences, a depressed state of the economy, increasing the level of import dependence, bankruptcy of market participants, etc. That is why it is important today to guarantee the preconditions for ensuring the economic security of the state and leveling of threats.

Literature Review. The problem of creation of national security and economic security effective system as one of its main components is the work of researchers such as O.I. Baranovsky, V.M. Haits, M.M. Ermoshenko, B.A. Lipkan, V.I.Muntian, H.A. Pasternak-Taranushenko, V.K. Senchagov, H.P. Sytnyk and others. They present the theoretical foundations of national security, the principle of national security public administration, the concept and content of the state national interests. Among the unresolved issues, which have important theoretical and practical significance, the problem of substantiation of the country's national economic interests priority should be included and also the creation of the economic security system that will ensure their realization.

Aims. The aim of article to substantiate the essence and generalize the assessment results of the main factors that influences the formation of economic security of the state.

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

Results. In the context of globalization, the world faces the main challenge of its social development, guaranteeing the national security of the world and rethinking of the national and economic security parameters took place in parallel with the process of globalization [1]. Under these circumstances, the development of the economic security concept and the creation of a system for its insurance concede identification of tracking and finding ways to prevent or reduce the impact of factors, major dangers and threats to the state economic activity. The identification of factors that affect the economic security of the country is associated primarily with the identification of those factors, processes and conditions that, to some extent, affect the state of the economy may repress or hinder its development.

An integral part of the national security is the state economic security. It plays a crucial role in achieving the economic sovereignty of the state, ensuring of the economic development, realization of effective social policies, protecting of society from environmental disasters, increasing of national competitiveness in terms of international economic interdependence. The creation of an effective system of the state economic security makes it possible to identify threats to national economic interests in a timely manner and to prevent damage to the socio-economic system as a whole. Improving of the economic security system is especially important for countries that slouch through the transformational crisis and exacerbation of its inherent contradictions.

Thus, the concept of economic security is based not on the balance of power (economic potential), but on achieving of a balance for the interests of different groups, such as national and international. When this balance is disturbed, the interdependence of states in the economic sphere turns from a providing factor into its opposite - a destabilizing factor that undermines economic security.

It should be noted that the main determining factor of economic security is the differences and conflicts of economic interests. In assessing this factor, the relationship between the international and national levels should be kept in mind. The prevailing economic interests in the country form not only domestic but also foreign economic policy. Achieving a balance of economic interests with the least losses is possible if each of the parties adheres to the following economic principles: stability, reliability and predictability.

Defining of the economic national interests foundations as one of the most important in the structure of the country’s national interests is the basis for effective sustainable development of its economic system. In the studies [2, 3] it is noted that economic interests are the purposefulness on obtaining economic benefits of the individual, society and the state, ensuring of the conditions for existence and development of economic independence and prosperity.

National economic interests determine the content, configuration and direction of the system of the country's economic security. Protection of the national economic interests from external and internal threats is the content and the most important function of the country's economic security system. At the same time, Ukraine has not yet formed a comprehensive system of national economic interests [4].

The Law of Ukraine "On Fundamentals of National Security" [5] defines the concept of national interests as vital material, intellectual and spiritual values of the Ukrainian people, as a bearer of sovereignty and the only source of power in Ukraine, which determine the needs of society and the state, realization of which ensures state sovereignty of Ukraine and its progressive development. And the National Security Strategy of Ukraine [6] defines the principles, priority goals, objectives and mechanisms to ensure the vital interests of the individual, society and the state from external and internal threats. Ensuring of an acceptable level of economic security in Ukraine has been recognized as one of the main strategic goals of the national security [6]. The system of national economic interests is not static one; it changes constantly under the influence of many factors. When the threats to economic security appear and disappear, increase and decrease the national economic interests of the state must be changed and adjusted.

To proper study and improvement of the state economic security system, we will identify the main factors that affect the quality of its provision. First of all, it should be noted that all these factors should be divided into two general groups: external and internal.

The external factors on which the economic security of the state depends include:

- The level of development of the national structure of foreign economic relations of the country, including the international activity of the state in terms of its membership (participation) in various international organizations;

- Attractiveness of the state economy for foreign investments. Regarding this factor, it should be noted that it has two sides: positive and negative. In the first (positive) case, foreign investments, under conditions of, unfortunately, limited opportunities of our state for independent development are a very powerful additional source of capital and development of high technology. However, on the other (negative) side - the excessive influence of foreign capital on the development of certain strategically important sectors of the national economy is dangerous for the economic independence of Ukraine and the growth of the foreign capital share in such industries. Today, by the way, foreign investors have already gained access to such strategic sectors of the domestic market of Ukraine as telecommunications, aviation, banking and media business;

- Production of economic resources optimally balanced in quantitative, qualitative and structural characteristics per capita. Exactly of this the level, quality and life expectancy of the population depends largely on both as a self-sufficient identity and as a system-forming component of economic security, the state of its (population) health, quality of food, level of education, financial capabilities of the

state and society to provide social protection of disabled, development of science and culture [7];

- The state of the "shadow" economy in the country in terms of "transparency" of foreign economic transactions. Thus, it should be noted that Ukraine has a fairly high level of illegal export of domestic capital abroad;

- Activity of the international economic crime on the territory of the state. This factor is extremely important and can significantly affect the level of economic security of the state;

- The international image of the state, which conveys the idea of the state in all spheres of its life at the international arena.

As for the internal factors that significantly affect the state of economic security of the state, they should include the following:

- Legislative, i.e. the availability of the necessary legal basis, which determines the most important aspects of the national economic policy, including financial, budgetary, tax, manufacturing, energetic ones as its mandatory components. The quality of the national legislation, its clarity and effectiveness, is one of the indicators from which it is possible to judge the conditions of economic security of the state, its preparedness for various possible threats, shocks and other processes and phenomena that have a destructive effect on the national economy ;

- High level of shadowing of the economy;

- factors that have a financial nature, namely: the stability of the banking system and the stock market, the efficient use of budget funds, lending conditions, existing currency risks, etc.

The social component is also an important factor in the economic security of any state. In this context, there is a need for special measures to stop the decline of real incomes, and in the future - to ensure their outrunning growth compared to prices. This requires the creation of a monitoring system for such key indicators of social security as the amount of employees' compensation, the amount of total per capita income, their structure and use of these incomes, the level of minimum wage, the distribution of population per capita total income, food consumption per capita, unemployment rate, the number of people employed in the economy, the degree of income differentiation of different segments of the population, the education index, the rate of general secondary education, the ratio of the number of retirees to the employed population [8].

Along with this social component of the state its technical and production component is of great importance for the systemic economic security, i.e. the ability of the economic complex of the country in case of violation of foreign economic relations or internal socio-economic shocks to compensate quickly their negative consequences. To carry out the expanded reproduction steadily and to satisfy public (including defensive) needs. This component is closely related to both material and social factors of production.

The next is the technological component of economic security envisages such a state of scientific and technological potential of the country in its scientific and technological progress, which guarantees in the shortest possible time the

independent development of new technological solutions that provide a breakthrough in leading industries of civil and defense production [9].

Increasing Ukraine's self-sufficiency in key technologies, building technological potential on the basis of the latest scientific and technical achievements - all this, without doubt, should strengthen the country's economic security. Mass use of promising technologies will contribute to the accelerated transition of the economy to an intensive model of development, positive changes in the export-import structure of Ukraine's economy, and reduction of its economic dependence on foreign countries.

Discussion. The level of the state economic security is primarily determined by its geopolitical and economic-geographical position and the associated location of productive forces on its territory, access to strategic resources, including financial ones. Ensuring of the state economic security and the formation of effective mechanisms for its management is one of the priority tasks in the context of the comprehensive impact of globalization to the national economy. The main areas of guaranteeing economic security should include: compliance with the law at all stages of economic security guaranteeing; ensuring the balance of economic interests of the individual, family, society and state; mutual responsibility of the person, family, society, state to guarantee economic security; timeliness and adequacy measures dealing with the prevention of threats and protection of national economic interests; giving priority to peaceful resolution measures both internal and external economic conflicts; integration of the national economic security with international economic security; organization of the appropriate level of implementation of state control over economic security of the state under the condition of integration into the international economic space.

Ensuring of the economic security is impossible on the basis of temporary, periodic, short-term measures. Taking into account the current situation in the Ukrainian economy, the problem of economic security as never before requires the development and implementation of a strategy for economic security of Ukraine's economy in the short and long term and in need of further research. It is necessary to develop a mechanism for implementing the strategy of economic security of the state, which means a system of organizational, economic and legal measures aimed to prevent threats to the country's economy, and which includes such elements as monitoring of economic indicators, determining of the threshold socio-economic indicators, actions of the state institutions for identification of internal and external threats to the economic system of the country, the formation of a reasonable amount of inventories for both production and non-production purposes to compensate the consumption problems in case of extreme conditions for the economy.

Conclusions. So, summarizing the above, we can conclude that although Ukraine has overcome a difficult period of transition, but to talk about the existence of a reliable and effective system of the national economic security is too early. Currently, its condition can be described as active start-up. The priority task for Ukraine on this path is to develop and approve a national strategy of economic security of the state, which will determine the main directions and mechanisms for implementation of the state policy in this area. At the same time, all the most

important factors (both real and possible in the future) that affect the state of economic security of the country must be taken into account.

Factors that affect the quality of economic security are proposed to be divided into two general groups: external and internal. In addition, from the look of our study, the internal factors of economic security of the state can still be divided by the subject of their implementation, as well as those that depend on human will and those that do not depend on human will.

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INNOVATIVE MODEL OF PUBLIC ADMINISTRATION PERSONNEL SECURITY SYSTEM

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Abstract. *The article substantiates that the problems of personnel security in the public administration system are important and timely, as important transformational problems in modern society, reform of the judiciary, constitutional system, decentralization reform, formation of innovative public authorities are related to the human factor. levels of government adopt and implement policies, officials, employees. The quality of such decisions and the quality of such important reforms for the state depend on the quality of human resources. Personnel security, the system of formation of personnel security is often considered by scientists as part of the economic security of the enterprise and is determined taking into account economic categories. Although personnel security is the basis of Ukraine's national security. The purpose of the study is to substantiate the model of the personnel security system of public administration. The theoretical and methodological basis of the study are the fundamental and modern provisions of the system of public administration, the development of scientific schools of human capital theories of foreign and domestic scientists and specialists in the field of personnel management. To achieve this goal in the work used a set of methods and techniques of scientific knowledge. The method of logical generalization is used to theoretically substantiate the importance of the tasks and clarify the key concepts of the study. Using the methodology of system analysis and synthesis, a study of approaches to the formation of a model of the personnel security system of public administration was conducted. Methods of theoretical generalization, grouping and comparison are used to study the constituent elements of the model of personnel security system of public administration. The author substantiates the innovative model of the personnel security system of public administration. The main elements of this model include: first, personnel policy in the public administration system; secondly, threats to personnel security: physical; financial, intellectual, career, administrative, technological, social, conflict, psychological, informational, image; thirdly, modern mechanisms for ensuring personnel security: organizational, legal, motivational, economic, control, selection; fourth, the Ministry of Human Resources of the Public Administration System in Ukraine; fifth, staff; sixth, civil society institutions.*

Keywords: *public administration, personnel policy, personnel security, personnel potential, system of public authorities, threats, mechanisms of public administration.*

JEL Classification: H11, H76, F72, J28

Formulas: 0; fig.: 1; tabl.: 0; bibl.: 8

Introduction. Today, important transformational problems are taking place in modern society, the judiciary and the constitutional system are being reformed, decentralization reform is being implemented, innovative state authorities are being formed, and so on. All these transformations are related to the human factor, as decisions at the state level are made and implemented by politicians, officials and civil servants. And the quality of such decisions and the quality of such important reforms for the state depend on the quality of human resources of officials.

Today, there is a change in the activities and the system of work of employees in the system of public administration - this is primarily due to globalization challenges, the COVID-19 pandemic. And therefore there is a question of personnel development taking into account new challenges and opportunities of activity. That is why the

problem of ensuring personnel security in the system of public administration is relevant.

Literature review. Personnel security, the system of personnel security formation, threats to personnel security, the formation of personnel security mechanisms are often considered by scientists as part of the economic security of the enterprise and are determined taking into account economic categories. Although personnel security is the basis of Ukraine's national security and is closely linked to threats to the public administration system.

The conceptual and categorical apparatus of personnel security, including personnel security in the system of public administration is analyzed by B. Gorodnytsky, E. Horowitz, and scientists L. Balabanov, O. Bandurko, T. Vasyltsiv, V. Danyuk, F. Evdokimov, O. Kirichenko , G. Kozachenko, I. Mihus, L. Mironov, V. Mutiyan, V. Panchenko, O. Parkhomenko-Kutsevil, V. Petyukh, S. Tsymbalyuk, and others. However, there are no system approaches to the formation of a model of personnel security system of public administration.

Aims. The purpose of the study is to substantiate the model of the personnel security system of public administration.

Methods. The theoretical and methodological basis of the study are the fundamental and modern provisions of the system of public administration, the development of scientific schools of human capital theories of foreign and domestic scientists and specialists in the field of personnel management. To achieve this goal in the work used a set of methods and techniques of scientific knowledge. The method of logical generalization is used to theoretically substantiate the importance of the tasks and clarify the key concepts of the study. Using the methodology of system analysis and synthesis, a study of approaches to the formation of a model of the personnel security system of public administration was conducted. Methods of theoretical generalization, grouping and comparison are used to study the constituent elements of the model of personnel security system of public administration.

Results. The personnel security system of public administration has its own structure.

The first element of personnel security is personnel policy in the public administration system.

Personnel policy is a conscious purposeful activity aimed at creating a workforce that would best help combine the goals and priorities of the company and its employees [1-3]. According to this definition of personnel policy, its main purpose is to provide each job and each position with staff of appropriate professions, specialties and qualifications, to create favorable conditions for high productivity and social protection. In our interpretation, personnel security is a component of economic security of the enterprise, the priority of which is protection against threats in order to create conditions for the most effective personnel management as a determining resource to ensure a high level of competitiveness [4].

The next element of personnel security is to identify the system of threats that may arise in the personnel security system. These include:

- physical threats - threats to external dangers of personnel related to their official activities or members of their families;

- financial threats - threats associated with an inadequate level of material support, which must correspond to the volume, qualifications, quality of work performed; this is due to the insecurity of employees in their workplace, the stability of wages,

- intellectual threats - the outflow of professionally trained personnel or the dismissal of professional personnel from the public service;

- career threats - lack of career growth of professionals, lack of realization of their careers in accordance with qualifications, experience, work experience; lack of support from the management of professional training of employees, their passing of general seminars, conferences, group discussions;

- administrative threats - ensuring biased evaluation of work results and identifying the potential of each employee, the possibility of appointing untrained and incompetent staff who are in a family relationship with the head of the institution (institution, organization) to management positions for which promising and experienced employees;

- technological threats - the lack of modern workplace equipment, the latest technologies, the use of best practices;

- social threats - lack of social protection of employees, their insurance, preferences for quality medical care;

- conflict threats - inconsistency, conflict of communication at the social and personal levels, lack of friendly assistance;

- psychological threats - lack of adequate interpersonal communication, lack of favorable microclimate, disregard for the interests and wishes of employees vertically and horizontally, aggressive communication style "supervisor-subordinates";

- information threats - the circulation of many false, distorted information, lack of objective sources of information, formation and maintenance of gossip and false information, which hinders the activities of both the organization and each employee individually;

- image threats - the formation of intolerant relations between state organizations, coexistence within the framework of constant conflicts, failure to provide relevant objective information, lack of cooperation, which significantly affects the image of public authorities.

The next - the third element of the model of personnel security in the system of public administration are modern mechanisms for personnel security.

These include the following:

- organizational mechanism for personnel security - is a set of different in nature specific organizational elements in the mechanism that should organize regulation, management in the interests of state power, the effective operation of the public administration system "[5, p. 39];

- legal mechanism for personnel security - complexes of interconnected legal means, which are objectified at the regulatory level [6, p. 423];

- motivational mechanism for personnel security - is the technology that provides the process of motivating employees to work [6, p. 422];

- economic mechanism of personnel security - a set of financial and economic management methods, tools and incentives through which the state regulates economic processes in the personnel security system. According to the principles of economic policy, they can be both direct and indirect influence [6, p. 421-422];

- control mechanism for personnel security - is the stinginess of methods that control the quality of human resources, the quality of staff, compliance with the results of the work of public authorities and more.

Control as an element of personnel security is aimed at eliminating opportunities to cause damage. To do this, a monitoring system should be formed, transparent, acceptable and understandable for employees on the basis of such elements of corporate business ethics as regulations, restrictions, regimes, administrative processes, etc. [7, p. 58];

- Selection mechanism to ensure personnel security is a set of methods of personnel selection to ensure the professionalism of personnel and compliance with the qualifications of personnel for their future job responsibilities.

No less important is the choice of methods and techniques of selection, because they allow you to properly place emphasis on the study of documents and test results, interviews with applicants. They should be based on scientifically substantiated professional qualification requirements for employees, professional charts, competency maps, job descriptions. When recruiting staff, it is advisable to use as an element of security of the public administration tools such as the conclusion of agreements and contracts, which clearly prescribe the responsibilities and rights of the parties, liability for non-compliance, and preferences for high efficiency (bonuses, additional points of the social package, etc.) [7, p. 59].

The next important element of the model of personnel security of the public administration system is organizational support. Thus, in our opinion, the Cabinet of Ministers of Ukraine through the relevant ministry should deal with the problems of personnel security. We consider it expedient to create a Ministry for Human Resources of the Public Administration System in Ukraine.

The main functions of this public authority include:

1) forms a unified state policy on personnel potential of the public administration system in Ukraine and ensuring personnel security in the public administration system;

2) participation in the formation of state policy in the field of service in local governments;

3) implementation of functional management of the public service;

4) ensure cooperation of public authorities in the field of human resources of the public administration system in Ukraine and ensure personnel security in the public administration system.

Discussion. The justified innovative model of the system of personnel security of public administration have created. The main elements of this model include: first, personnel policy in the system of public administration; secondly, threats to

personnel security: physical; financial, intellectual, career, administrative, technological, social, conflict, psychological, informational, image; thirdly, modern mechanisms for ensuring personnel security: organizational, legal, motivational, economic, control, breeding; fourth, the Ministry of Personnel Potential of the Public Administration System in Ukraine; fifth, frames; sixth, civil society institutions.

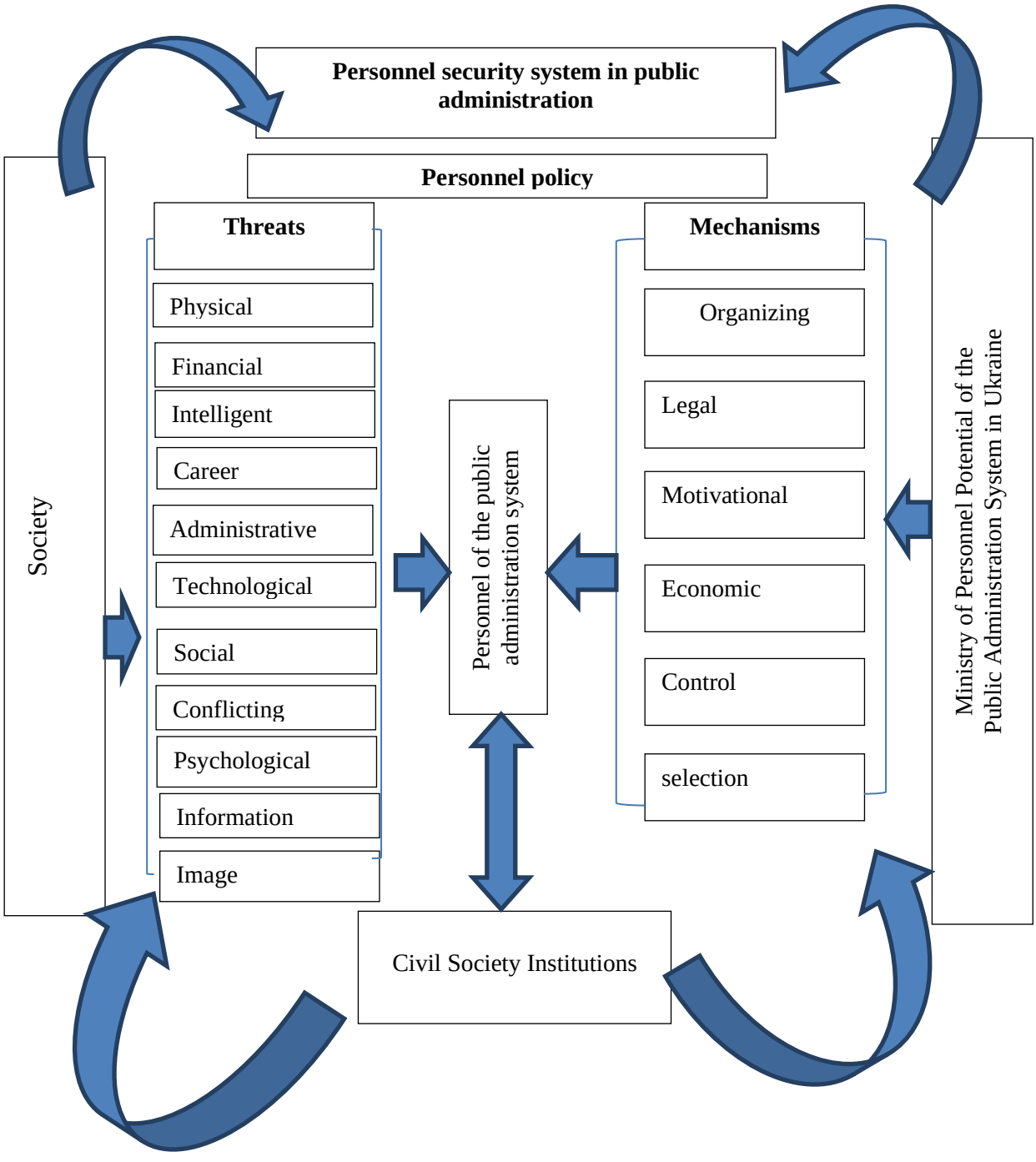

Figure 1. Innovative model of public administration personnel security system

Conclusions. The article substantiated an innovative model of the public administration personnel security system. The main elements of this model include: first, personnel policy in the system of public administration; secondly, threats to

personnel security: physical; financial, intellectual, career, administrative, technological, social, conflict, psychological, informational, image; thirdly, modern mechanisms for ensuring personnel security: organizational, legal, motivational, economic, control, breeding; fourth, the Ministry of Personnel Potential of the Public Administration System in Ukraine; fifth, frames; sixth, civil society institutions. In the future, further intelligence provides for a generalization of international experience in the formation of personnel security in the public management system, highlighting patterns of development of the public administration personnel security system.

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THE COMPETENCE OF THE EXECUTIVE AUTHORITIES OF UKRAINE IN THE FIELD OF HEALTHCARE AND NATIONAL SECURITY TO ELIMINATE THE CONSEQUENCES OF CORONAVIRUS DISEASE (COVID-19)

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Abstract*. The article discloses the competence of the executive authorities of Ukraine in the field of health and national security on the elimination of the consequences of a medical and biological emergency related to the spread of the coronavirus disease (Covid-19). A generalization of analytical, regulatory and other materials on the competence of the executive authorities of Ukraine in the field of health care and national security on the elimination of the consequences of a biomedical emergency related to the spread of the Covid-19 has been carried out. For this, the article reveals the competence of the Ministry of Health, the National Health Service of Ukraine, departments for civil protection of the population, health care of regional state administrations. One of the tasks to achieve the goal of the study is to determine the competences of regional commissions on technogenic and environmental safety and emergency situations under regional state administrations, headquarters for the elimination of the consequences of a medical and biological emergency. The competence of the main subjects of the implementation of the state policy of Ukraine in relation to the specified problems, namely, the executive authorities - central and regional, in the competence of which is the elimination of the consequences of a medical and biological emergency, has been investigated. Identified as a separate problem in the scientific and practical aspects, the issue of identifying the object in relation to which the state policy on the elimination of the consequences of a medical and biological emergency is formed and implemented. As a conclusion, the main problematic issues in the regulatory and organizational aspects are highlighted*.

Keywords*: competence of executive authorities, healthcare, national security, emergency, coronavirus disease, COVID-19.*

JEL Classification: F52, H10, I10, I11, J28

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

Introduction. Public administration of the health sector in the era of decentralization requires coordinated actions and a clear distribution of competencies between public authorities in Ukraine. Finding itself in a difficult biomedical situation, the health care system received a serious challenge and faced a number of problems of organizational, resource, personnel significance. The main subjects of the implementation of the state policy of Ukraine regarding this issue are the executive authorities - central and regional, in the competence of which is the elimination of the consequences of a medical and biological emergency. A separate problem in the scientific and practical aspect is the issue of identifying the object in

relation to which the state policy on the elimination of the consequences of a medical and biological emergency is formed and implemented.

Literature Review. The consequences of the spread of the Covid-19 appeared only in 2020 and need to be studied. In science, there are already the first thorough studies, which mainly relate to various spheres of management, issues of ensuring the safety and health of the population. The unconditional sources of information are the official web portals of government bodies. Ukraine has created a specialized web portal for information support and dissemination of information related to Covid-19, namely the official information portal of the Ministry of Health [1]. Public institutions are also involved in analyzing the situation. Thus, the public organization "Information and Analytical Center "Public Space" proposed its results of a study of the impact of COVID-19 on Ukrainian enterprises [2].The Economic Development Agency PPV Knowledge Networks, commissioned by the USAID Program "Competitive Economy of Ukraine" conducted a study on the impact of Covid-19 and quarantine measures for enterprises of the forestry sector of Ukraine [3]. Mikhailova A.Yu. presented a study "Development of the cultural sphere in Ukraine in the context of the spread of the COVID-19 pandemic and the introduction of quarantine measures: problems, prospects, risks" [4]. Kiseleva A. revealed in her research the gender dimension of the COVID-19 pandemic [5].

Aims. The purpose of this article is to disclose the competence of the executive authorities of Ukraine in the field of health and national security on the elimination of the consequences of a medical and biological emergency associated with the spread of the Covid-19. For this, the article reveals the competence of the Ministry of Health, the National Health Service of Ukraine, departments for civil protection of the population, health care of regional state administrations. One of the tasks to achieve the goal of the study is to determine the competences of regional commissions on technogenic and environmental safety and emergency situations under regional state administrations, headquarters for the elimination of the consequences of a medical and biological emergency.

Methods. The methodological significance of the study lies in the analysis of the conceptual foundations of public administration and the prerequisites for determining the general and basic categories of competence of executive authorities to eliminate the consequences of Covid-19. In particular, the essence, form, tasks, content and goals of the executive authorities are defined as basic categories. The provision of services, the competence of the subjects of the service are analyzed as general categories. Basic principles, patterns and laws are summarized as categories of laws. The article uses the method of analyzing the regulatory framework and summarizes the definitions of the competencies of the subjects of executive power to eliminate the consequences of Covid-19. The structural-functional method was applied to the characteristics of the subjects of executive power and their officials on the elimination of the consequences of Covid-19.

Results. The basis of the regulatory framework, which is guided by the executive authorities of Ukraine in the field of health and national security on the elimination of the consequences of a medical and biological emergency associated with the spread of the disease Covid-19 are:

- Code of Civil Protection of Ukraine;
- The Law of Ukraine "On Local State Administrations";
- Resolution of the Cabinet of Ministers of Ukraine dated 01.09.2014 No. 11 "On Approval of the Regulations on the Unified State System of Civil Protection";
- Order of the Cabinet of Ministers of Ukraine dated March 25, 2020 No. 338-r "On the transfer of the unified state civil protection system to an emergency mode";
- Resolution of the Cabinet of Ministers of Ukraine dated June 17, 2015 No. 409 "Standart Regulations on Regional and Local Commissions on Technogenic and Environmental Safety and Emergencies";
- Order of the Ministry of Internal Affairs of Ukraine dated December 26, 2014 No. 1406 "On Approval of the Regulations on the Headquarters for Elimination of the Consequences of an Emergency Situation and the Types of Operational-Technical and Reporting Documentation of the Headquarters for Elimination of the Consequences of an Emergency Situation" (registered with the Ministry of Justice of Ukraine on January 16, 2015, No. 47 / 26492);
- the order of the head of work on the elimination of the consequences of a medical and biological emergency of a natural nature of the state level associated with the spread of the coronavirus disease COVID-19 dated April 23, 2020 "On the creation of a headquarters for the elimination of the consequences of an emergency."

The Ministry of Health is the main institution in the system of central executive institution that ensures the formation and implements of state policy in the field of health care, as well as protection of the population from infectious diseases, prevention and prevention of infectious diseases, ensures the formation and implementation of state policy. The main activity on this issue takes place in the following areas:

epidemiological surveillance (observation), immunization, promotion of a healthy lifestyle and prevention of risk factors, food safety, regulation of environmental factors of the population, hygienic regulation of hazardous factors, biological safety and biological protection, combating resistance to antimicrobial drugs, responding to health hazards and emergency situations in the field of health care, as well as ensuring the formation of state policy in the areas of sanitary and epidemic well-being of the population;

development of medical services, introduction of an electronic health care system, provision of state financial guarantees for medical services to the population;

providing the population with high-quality, effective and safe medicines, creation, production, quality control and sale of medicines, medical immunobiological preparations;

development of human resources of the health care system, higher medical, pharmaceutical education and science [6].

The main tasks of the Ministry of Health are to ensure the formation and implementation of state policy in the field of health care, as well as to protect the population from infectious diseases and other socially dangerous diseases, to prevent and prevent non-communicable diseases, to ensure the formation and implementation of state policy in the areas of:

- epidemiological surveillance (observation), immunization, promotion of a healthy lifestyle and prevention of risk factors, food safety, regulation of environmental factors of the population, hygienic regulation of hazardous factors, biological safety and biological protection, combating resistance to antimicrobial drugs, responding to dangers for health and health emergencies, as well as ensuring the formation of state policy in the areas of sanitary and epidemic well-being of the population;

- development of medical services, introduction of an electronic health care system, provision of state financial guarantees for medical services to the population;

- providing the population with high-quality, effective and safe medicines, creation, production, quality control and sale of medicines, medical immunobiological preparations;

- development of human resources for the health care system, higher medical, pharmaceutical education and science.

The National Health Service of Ukraine (NHSU) is the central executive body, the activities of which are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Health, who implements state policy in the field of state financial guarantees of medical care for the population. The main tasks of the NHSU are:

1) implementation of state policy in the field of state financial guarantees of medical care for the population under the program of state guarantees for medical care for the population (program of medical guarantees);

2) performing the functions of a customer of medical services and medicines under the medical guarantees program;

3) submission to the Minister of Health for consideration of proposals on ensuring the formation of state policy in the field of state financial guarantees of medical services to the population.

The NHSU ensures, within the powers provided for by law, the fulfillment of tasks in the field of civil protection, labor protection, fire and man-made safety, the implementation of measures to protect the population and territories in emergency situations, and control over their implementation in the staff of the NHSU [8].

A separate problem in the scientific and practical aspect is the issue of identifying the object in relation to which the state policy is formed and implemented on the elimination of the consequences of a medical and biological emergency. The

NHSU is in charge of concluding agreements on medical services for the population under the medical guarantees program for the provision of medical care to patients with acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus. That is, at the national level, a management object has been formed in terms of the provision of medical services, namely:

- inpatient care for patients with acute respiratory COVID-19 caused by the SARS-CoV-2 coronavirus;
- emergency medical care for patients with suspected or established disease of acute respiratory COVID-19 caused by the SARS-CoV-2 coronavirus;
- medical assistance, which is provided by mobile medical teams created to respond to the acute respiratory illness COVID-19 caused by the SARS-CoV-2 coronavirus;
- inpatient medical care for patients with acute respiratory disease COVID-19 caused by the SARS-CoV-2 coronavirus, which is provided by individual health care institutions during April 2020 [9].

The experience of some countries is important, in the context of the ongoing COVID-19 pandemic, they strengthen the role of private institutions, integrating them into the health care system during the crisis, arguing that the private sector can strengthen the fight against the COVID-19 pandemic, complementing the efforts of the public health system. Analyzing additional workable alternatives for private sector participation in health emergencies, the International Organization of Employers has initiated discussions with multilateral organizations and the business community about the challenges and opportunities in public-private collaboration [10].

In response to the COVID-19 crisis, public policy should be implemented through the channeling of additional budget funds into the health care system. In states where medical care is provided privately and where services are usually not part of social health programs, such integration actions were taken as part of the anti-crisis response. In countries where the financial burden of health care is borne by households or covered by voluntary private insurance, governments are forced to expand public health measures. Social dialogue is essential to building resilient health systems, which are therefore critical to crisis response and increased emergency preparedness.

The privatization of medical and pharmaceutical organizations was one of the areas of health care reform, which was initially declared in almost all European countries. The privatization of medical services in transition economies was carried out more rapidly in the pharmaceutical and dental areas [11]. Large-scale privatization of hospitals and polyclinics in Eastern Europe did not take place, primarily because it contradicted the interests of the bulk of medical workers, who were afraid of losing state funding.

Organizational and legal forms of cooperation within the framework of public-private partnership in world practice are quite diverse. In some countries, the forms of cooperation are reduced exclusively to concession agreements, in others they use the form of outsourcing, the creation of joint ventures. In total, for the effective use of public-private partnership, it is advisable to take into account the interests of all participants on an equal footing, balance the risks and responsibilities of the parties [12].

At the regional level, the executive branch implements policy through the Department for Civil Protection of the Population, Health Department of Regional State Administrations. Regional commissions on technogenic and environmental safety and emergencies at the Regional State Administration have a separate competence.

Basically, the chief of staff for the elimination of the consequences of a biomedical emergency is appointed by the head of the health department, and this appointment is carried out by the head of the emergency response at the regional level.

The undisputed legal status of the head of work on the elimination of the consequences of a medical and biological emergency of a natural nature associated with the spread of the coronavirus COVID-19 has the most effective meaning in the context of the activities, development and functioning of an employee with this status. Disclosure of the status of a work manager from the standpoint of administrative law presupposes the presence of such elements as rights, obligations, restrictions, guarantees, incentives, and responsibility. Thanks to these elements, the activity of the work manager, his functioning in the field of health care, professional and personal development, disclosure of professional, creative and personal potential is ensured. And besides the legal status, taking into account the practice of public administration and the theoretical developments of scientists, it can also be argued that there are other aspects of this concept that determine the place and role of the work manager both in his professional activity and in interaction with other subjects of the implementation of state policy in the field of health. The most significant aspects from the standpoint of disclosing the content of the concept of a work manager's competence are the main aspects of the status of a public servant as: legal, organizational, functional, competence-based, social, constitutional (as a kind of legal), material, public, etc. [13].

Organizational and institutional support of the competence of the head of work on the elimination of the consequences of a medical and biological emergency of a natural nature associated with the spread of the coronavirus COVID-19 in the district is in the part of its purpose, because the appointment is made by the head of the district state administration with the aim of directly managing emergency rescue and urgent work in the event of an emergency.

The competence of the head of work on the elimination of the consequences of a medical and biological emergency of a natural nature associated with the spread of the coronavirus COVID-19 is the exclusive right to the formation and liquidation of the district headquarters for the elimination of the consequences of the emergency, as well as to approve its personnel. During the elimination of the consequences of an emergency, all emergency services involved in the elimination of such consequences are transferred to the subordination of the head of the work on the elimination of the consequences of an emergency.

The competence of the head of work on liquidation of the consequences of an emergency is determined by his rights, obligations, guarantees and responsibility. The main responsibilities of the head of work on the elimination of the consequences of a medical and biological emergency of a natural nature associated with the spread of the coronavirus COVID-19:

- to directly supervise rescue and other urgent work;

- depending on the prevailing circumstances in the emergency zone, independently make decisions on: implementation of evacuation measures; stopping the activities of business entities located in an emergency zone and restricting public access to such a zone; engaging in the prescribed manner necessary vehicles, other property of business entities located in the emergency zone, emergency rescue services, as well as citizens with their consent to carry out emergency rescue and other urgent work; stopping rescue and other urgent work, if there is an increased threat to the life or health of rescuers and other persons participating in the elimination of the consequences of an emergency.

The head of work has the right:

- supervise all emergency services and formations involved in emergency response;

- to provide, within the limits of their competence, instructions to all entities involved in the elimination of an emergency, as well as to citizens and organizations that are in the emergency zone.

The implementation of the state policy in relation to work on liquidation of the consequences of emergencies at the local level occurs due to the decision of the head of work, and is formalized by an order. The order of the head of work on liquidation of the consequences of an emergency situation is mandatory for all entities involved in the elimination of the consequences of an emergency situation, as well as citizens and business entities located in the emergency zone. The head of work on liquidation of the consequences of an emergency is personally responsible for the management of rescue and other urgent work to eliminate the consequences of an emergency.

The area of competence of the head can be defined as the subjects of reference to which the managerial influence seeks to achieve the corresponding result. After analyzing the order of the heads of emergency response, which are located on the

official web portals of local state administrations, we can summarize some of them that organizationally determine the competence of the head through the order:

- on the establishment of a local emergency response headquarters;
- on the appointment of a person in charge to ensure the accommodation and stay of persons associated with a potential risk of infection with acute respiratory COVID-19;
- on ensuring the implementation of anti-epidemic measures;
- on the survey of observation sites;
- on the establishment of a tent for receiving patients with coronavirus COVID-19;
- on the strengthening of restrictive measures for the period of establishing a certain (author) level of epidemic danger;
- on restrictive measures for visiting state, municipal and other institutions located in the premises of administrative buildings of local governments;
- on additional anti-epidemic restrictions in connection with the establishment of an appropriate level of epidemic danger of the spread of COVID-19 and other orders regarding restrictive measures, disinfection measures, etc. [14].

Discussion. Taking into account the experience of the development of various states, one of the features of functions can be identified the direction of activity of all public institutions (state - they decide the functions of the state; local authorities - ensure the performance of the functions of a community, enterprise, institution, organization - within the limits of the vested functions of the public service). The distribution of the functions of the public service should be carried out exclusively within the competence of the institution performing this function. It is advisable to consider in this context the peculiarities of the status of a public institution, which enshrines at the legislative level the performance of these functions and approves the mechanism for their implementation. As part of the definition of functions, you can use the following approach to delineating functions by subjects of implementation:

- functions of the civil service and their officials;
- the functions of local government and their officials;
- the functions of state enterprises, institutions and organizations and their officials;
- the functions of other institutions, organizations, enterprises authorized to perform the functions of the public service and their officials.

Conclusions. A generalization of analytical, regulatory and other materials on the competence of the executive authorities of Ukraine in the field of health and national security on the elimination of the consequences of a biomedical emergency associated with the spread of the Covid-19 made it possible to highlight the following main problematic issues of this study:

1) in the regulatory field:

- the presence of a stable regulatory framework and methodological support to ensure the competence of the executive authorities of Ukraine in the field of health care and national security on the elimination of the consequences of a medical and biological emergency associated with the spread of the Covid-19;

- lack of strategies and tactical measures to overcome the consequences;

- the existence of the possibility of making permanent changes;

2) in the organizational field:

- lack of specialized protocols and requirements for the activities of executive bodies;

- lack of benefits for the implementation of public-private partnership projects;

- carrying out activities requires methodological and legal regulation;

- potential untimely actions to eliminate the consequences of a medical and biological emergency;

- non-compliance of resource provision with established standards / requirements and others.

Further scientific research regarding the object of this study can be aimed at studying and analyzing competencies, namely the powers, rights, responsibilities, guarantees of the executive authorities of Ukraine in the field of health and national security on the elimination of the consequences of a medical and biological emergency associated with the spread of Covid-19.

Separate methodological attention should be paid to the criteria for the effectiveness of the activities of the executive authorities of Ukraine in the field of health care, as well as public authorities, because only their coordinating action will contribute to effective work to eliminate the consequences of a medical and biological emergency. Undoubtedly, important research will be scientific work on the prevention of the spread of the disease, preventive measures, the direct operational fight against the medico-biological situation, from the standpoint of information, organizational, resource, methodological, personnel and other types of support.

Author contributions. The authors contributed equally.

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CHAPTER 2
LEGAL RELATIONS: FROM THEORY TO PRACTICE

DEVELOPMENT OF LEGAL TOOLS OF STATE MANAGEMENT IN THE FIELD OF ENSURING BIOLOGICAL SAFETY IN UKRAINE

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Abstract. *The paper is dedicated to issues on improving legal tools of state management in the field of providing biological safety in Ukraine. It is emphasized that establishing of measures of relevant legal liability has to be considered as effective means for providing appropriate state of biological safety and stimulation of lawful conduct of all subjects. Issues of lawful conduct in the field of providing biological safety have exclusively applied nature and often stipulate activities of researchers in the field of biological technologies, and entrepreneurs who are involved into the relevant direction of commercial use of biological technologies. It is outlined, that liability is an effective tool for legal influence on social relationship aimed to providing of biological safety. In our opinion, functions of legal liability in the field of providing biological safety have to include the next ones, namely: preventive (protective, of a warning character) which boils down to preventing new offenses, precautions; penalty (punitive) which boils down to punishing the guilty person, the meaning of which is imposing measures of negative consequences of a personal, property or organizational nature (material fines, prohibitions on conducting research or carrying out production) to them; restorative (compensatory) which aims to restore illegally violated property or personal rights, compensation for material or moral damage, losses (in case of socially negative consequences). It is indicated, that improving the mechanism of legal liability for biological safety involves updating the legislation on largely all types of liability known in modern legal theory. These types of liability are as follows: civil (in the case of compensation for material and moral damage); criminal (in the case of application of measures of influence of criminal and legal character; it can be applicable to both legal entities and individuals); administrative (in the case of less social harm of the offense); disciplinary (in case of violations of labour duties).*

Keywords*: biological safety, legal liability, punishment, biological technologies, laboratory safety.*

JEL Classification: H11, H76, F72

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

Introduction. Establishing adequate legal liability should be seen as an effective means of ensuring the proper state of biological safety and encouraging the lawful conduct of all actors involved. Issues of lawful conduct in the field of biological safety are exclusively of applied nature, they often determine activities of developers and researchers in the field of biological technologies, of entrepreneurs engaged in the relevant field of commercial use of biological technologies.

Determining the grounds for prosecution and imposition of various penalties should be made taking into account a special level of public danger and the likelihood of serious consequences in cases of violation of biological safety requirements. At the same time, it is the preventive impact of the possibility of applying various sanctions to violators that stimulates compliance with the requirements of biological safety in

the process of scientific, experimental and industrial activities.

Literature review. Individual legal aspects of ensuring the biological safety of Ukraine were studied in the national science of public administration by G.I. Balyuk, S.I. Bugera, I.V. Gyrenko, A.D. Dukhnevych, V. Zavgorodnya, V.M. Yermolenko, G.Yu. Gulevska, S.M. Sergeeva. However, the works of these scientists are mainly aimed at describing the legal field, which determines the legal basis for the organization of biological safety and biological protection. At the same time, the problem of strengthening legal liability in the field of biological safety remains underresearched.

Aims. The objective of the study is to substantiate areas of improvement of regulation for legal liability as a tool for public administration in the field of biological safety of Ukraine.

Methods.

Results. The importance of the problem of lawful conduct is explained with the fact that the practical achievement of the ultimate goal of legal regulation, i.e. implementation of legal requirements is exercised through such behaviour. This issue is becoming especially relevant in the period of social transformations, which periodically happen to our society, lead to creation of institutional and legal patterns of behaviour, emergence of new priorities, goals of law enforcement participants, new values, needs, ways and means to achieve these goals recognized that are legally and morally acceptable in the society. This results in creation of new rules of legal interaction, which determine the legitimacy and vice versa the illegality of certain behavioural patterns.

Today a problem arises that is about a necessity to continue research on the impact of lawful behaviour on the sphere of public relations that suffers from marginalism, legal nihilism and outright personal indifference. Thus, it is a question of detailing and concretization of scientific and theoretical understanding of modern realities of lawful behaviour in the field of biological safety and practical application of possible recommendations in everyday human life.

It is well known that human behaviour is of a willed nature. Entering into various social and legal relations, citizens act based on their needs, motives, goals set by them and the ways to reach these goals they have on their mind. Such needs and desires are quite often selfish in nature; they are explained with a significant degree of individual and collective risk.

However, the need to take into account requirements of law by the structure of the personal psyche of conscious human behaviour, in the presence of other social regulators of influence creates a certain advantage over them, more essential prerequisites for their manifestation in socially active behaviour. It is the means of legal liability that traditionally establish motivation to behave properly in the social environment.

Social and legal activity is characterized by a combination of extrinsic and intrinsic features. The intrinsic ones are needs, motives. Value and legal key points, beliefs, legal attitudes of the individual. As a result of influence of the intrinsic social and psychological mechanism of behaviour regulation, such a degree of

understanding, awareness of legal requirements is achieved by a person, which allows defining their behaviour "externally" as active, proactive, positive, appropriate, legal, aimed at achieving objectives of legal regulation.

In other words, human behaviour in the society is a complex anthropological and social phenomenon [8], which is determined by a number of internal and external factors. The most important means of social regulation of human behaviour is social norms, through which the society puts the requirements before an individual that he must be guided with in their behaviour, which guide, regulate, control and evaluate human behaviour. Normal social existence of a person is possible when they are guided by these generally accepted rules, which are based on social values, ideals of society when choosing a pattern of behaviour [7]. In general, lawful behaviour is a socially useful act aimed at satisfying the state and legal, public and personal interests, values and goals [1]. Legitimate behaviour can be discussed only to the extent it meets requirements of the law, which act as a normative regulator of an individual human or collective behaviour. In general, lawful behaviour implies such actions of individuals, officials, state and public organizations that comply with legal requirements; in other words, it is the conduct of legal subjects that is in line with legal rules. Therefore, a criterion against which the legitimacy is determined is the degree real acts, actions of people comply with a behavioural model laid down in norms of law [2].

It should be noted that if an individual does not comply with existing social norms of the society or fulfils them improperly in the way people behave, it will lead to social liability for such individuals. It is a negative reaction of the society to this type of behaviour. In such a situation, the person is obliged to be punished for non-compliance with the requirements of social norms. At the same time, in the context of ensuring biological safety, we can talk about both manifestations of legal liability including positive and retrospective ones.

Positive (perspective) legal liability presupposes a conscientious attitude to one's duties, lawful behaviour both now and in the future in order to create the need for a certain lawful fulfilment of one's duty for the society, state, etc. In other words, in a positive sense legal liability is an obligation to perform the assigned and taken over functions related to work, service, position in the best way possible, to optimally exercise one’s competence, using all the opportunities and means allowed by law" [6]. First of all, the embodiment of positive liability in the field of biological safety is the observance of various recommendations and moral rules by medical workers, scientists, employees of research laboratories, employees of enterprises.

In fact, a positive (perspective) legal liability means social liability, which is realized in the lawful behaviour of a person. But such positive liability is nothing else but a characteristic of lawful behaviour. Therefore, attempts to merge such diverse categories as positive liability and negative liability (legal) into one concept of social liability are hardly legitimate and justified from a scientific and practical point of view. After all, with this approach, we have that everyone is responsible, both those who knowingly and conscientiously perform their duties, and those who commit legal offenses and violations. The legislation of Ukraine also stipulates that in exercising

one's subjective rights, a person must adhere to the moral principles of the society. In practical terms, at first glance, it is difficult to determine a list of modern "values" that form the basis of the moral sphere of the society. And so the logical question is where to look for these values?

The answer, in our opinion, can be found in the Christian ethics prevailing in our society. Our modern morality in relation to biological research in terms of positive liability should be fundamentally based on religious Christian teachings. Addressing canonical norms makes it possible to determine moral criteria for evaluating activities of a creative personality. The said moral requirements are common in modern Europe.

The Holy Congregation for Doctrine and Faith (Catholic) has developed the Instruction "Gift of Life" concerning the content of scientific research, especially in the biomedical field. In particular, the second part (science and technology in the service of the human) states: "God created mankind in his own image and likeness: 'male and female he created them' (Gen. 1.27), entrusting the duty to rule over the earth" (Gen. 1.28). Basic scientific and applied research is a clear proof of this dominance of man. Science and technology are useful tools for man when they serve them and promote holistic development for the common good. *But they cannot be the meaning of existence and human progress by themselves.* These means, intended for man, which one creates and develops, acquire the delineation of their purpose and their limits from the person and the person's moral values. On the one hand, it would be misleading to say that research and its applications are morally neutral. On the other hand, one cannot define guiding criteria purely from technical efficiency, from a possible benefit of experiments for some at the expense of others, or, which is worse, from dominant ideologies. Therefore, science and technology need unconditional respect for fundamental criteria of moral law for the sake of their own intrinsic significance. *In other words, they must serve the human, one's inalienable rights, one's true and holistic benefit in accordance with God's plan and will.* The rapid development of technological inventions makes the need to respect the above criteria even more relevant as science "without conscience and due care" can lead to death of the human." And our age, more than previous centuries, requires just such very wisdom that new human inventions become more humane. Because if wiser people do not come, the future of the world will be in danger."

A practical way of ensuring compliance with moral requirements (positive liability) is provided also through acquisition of relevant qualities of responsible attitude to exercising one's duties during training, through mastering requirements of bioethics (Van Ransler Potter, commonly called as "father of bioethics", proposed to understand bioethics as a science of survival , which should be not just a science, but a new wisdom that would combine the most important and essential elements, i.e. biological knowledge and universal values) [3].

At the same time, positive legal liability alone cannot ensure strict compliance with requirements of biological safety. In this sense, the classic (retrospective) liability comes into play, which should include a relevant arsenal of legal means of influencing law-breakers. First of all, it should create confidence about inevitability

of negative consequences for the perpetrators in the event of violations in the field of biological safety.

The legal literature proposes the following definition of the purposes of legal liability: "The purposes of legal liability can be considered as definition, formulation of such social effect or results which the society aspires to and which is legally defined on behalf of the latter by the state (through legislation and by law application and law enforcement activity) in cases if an offense has been committed by the guilty person" [5].

At the same time, from our point of view, functions of legal liability in the field of biological safety should be as follows: preventive (protective, of a warning character) which boils down to preventing new offenses, precautions; penalty (punitive) which boils down to punishing the guilty person, the meaning of which is imposing measures of negative consequences of a personal, property or organizational nature (material fines, prohibitions on conducting research or carrying out production) to them; restorative (compensatory) which aims to restore illegally violated property or personal rights, compensation for material or moral damage, losses (in case of socially negative consequences).

In order to achieve results of these functions of legal liability, it should cover almost all types of liability known in the modern legal theory. In the case of compensation for material and moral damage, it is a question of civil liability; when applying measures of influence of criminal and legal character it is criminal liability (at the same time it can concern both legal entities and physical persons); in the case of less social harm of the offense it is administrative liability, and in the case of violations of labour duties it is disciplinary liability (Table 1).

We suggest taking a closer look at each type of liability stated above. The Civil Code of Ukraine deals with the principles of civil liability of the owner of the source of increased danger (according to part 1 of Article 1187 of the Civil Code of Ukraine such activities include use, storage or maintenance of vehicles, machinery and equipment, use, storage of chemical , radioactive, explosive, flammable and other substances, keeping wild animals, service dogs and dogs of fighting breeds, etc., which creates an increased danger for the person who carries out this activity and other persons). In order to avoid disputes over the interpretation of the meaning of the concept of a source of increased danger, liability for which causes liability without fault, we consider it necessary to propose a supplement to the disposition of this legal norm in the context of biological safety.

We find it necessary to define a source of increased danger using such wording: "1. A source of increased danger is the activity associated with the use, storage or maintenance of vehicles, machinery and equipment, use, storage of chemical, pa*thogenic and opportunistic agents (microorganisms), genetically modified*, radioactive, explosive, flammable and other substances, keeping wild animals, service dogs and dogs of fighting breeds, etc., which creates an increased danger for the person who carries out this activity and other persons." It is also desirable to supplement the provisions of Art. 1187 of the Civil Code of Ukraine with the Note of such content.

Table 1. Improving the sphere of regulation of legal liability

Type of liability	Suggestion for improvement
Civil liability	To state the definition of the source of increased danger in the Civil Code of Ukraine in the following form: «1. A source of increased danger is the activity associated with the use, storage or maintenance of vehicles, machinery and equipment, use, storage of chemical, *pathogenic and opportunistic agents (microorganisms), genetically modified*, radioactive, explosive and flammable and other substances, keeping wild animals, service dogs and dogs of fighting breeds, etc., which creates an increased danger for the person who carries out this activity and other persons." To supplement the provisions of Art. 1187 of the Civil Code of Ukraine with such a Note: "Pathogenic biological agents (pathogens) are microorganisms, viruses, protein-like infectious parts (prions), of biological origin (toxins) and other biological agents, including those created as a result of genetic manipulation, use of synthetic biology and other artificial activities that can cause pathological process in humans, animals or plants, as well as biological materials that may contain processed pathogens"
Criminal liability	To put the wording of part 1 of Art. 130 of the Criminal Code of Ukraine in the way as follows: "Conscious putting another person at risk of virus infectioning with human immunodeficiency virus or other incurable infectious disease or *other particularly dangerous infectious disease* that is dangerous to human life." Also, it is necessary to supplement the provisions of Art. 130 of the Criminal Code of Ukraine with part 5 (especially qualified composition) with such wording: "Part. 5 *The actions provided for in part 1 of this Article, which have led to the pandemic spread of an incurable infectious disease or other particularly dangerous infectious disease.*" To state the disposition of part 1 of Art. 142 of the Criminal Code of Ukraine in the following wording: "1. illegal conduct of medical and biological, *research and therapeutic experiments on humans*, psychological or other experiments on humans, if it endangered the life or health of the participant of the experiment *or other persons.*" To make changes and supplements to the structure of part 1 of Art. 362 of the Criminal Code of Ukraine (violation of the rules of handling microbiological or other biological agents or toxins), using the wording as follows: "1. Violation of the rules of storage, use, accounting, transportation of microbiological or other *pathogenic and opportunistic agents (microorganisms), genetically modified* organisms and substances or toxins, other rules of handling with them, if it has created a threat of death or other serious consequences or harmed the health of the victim." To clarify the body of the crime specified in Art. 258 of the Criminal Code of Ukraine (Terrorist act) in part "… *other actions that endangered human life or health…*", adding also *the spread of infectious diseases* to the interpretation of such 'other actions'.
Administrative liability	Changes and supplements to the provisions of Art. 90 of the Code of Administrative Offenses, putting the wording of parts 1 and 2 respectively as follows: "Failure to comply with rules and regulations in the process of creating new strains of microorganisms, biologically active substances, *pathogenic and opportunistic agents, genetically modified organisms* and other products of biotechnology…" and "Failure to comply with rules and norms of ecological safety in the process of production, storage, transportation, use, neutralization, liquidation, disposal of microorganisms, biologically active substances, *pathogenic and opportunistic agents, genetically modified* organisms and other products of biotechnology".
Disciplinary liability	Provisions on disciplinary liability should be an integral part of employment contracts, contracts concluded in the course of biohazardous activities (often related to compliance with laboratory safety requirements)

Sourse: The author's development

When it comes to the Note to Art. 1187 of the Civil Code of Ukraine we can offer the definition as follows: "pathogenic biological agents (pathogens) are microorganisms, viruses, protein-like infectious parts (prions) of biological origin (toxins) and other biological agents, including those created as a result of genetic manipulation, application of synthetic biology and other artificial activities that can cause a pathological process in humans, animals or plants, as well as biological materials that may contain processed pathogens."

When it comes to improvement of the criminal law, first of all, the provisions of Art. 130 of the Criminal Code of Ukraine "Infecting with human immunodeficiency virus or other incurable infectious disease" are worth attention. Disposition of part 1 of Art. 130 of the Criminal Code of Ukraine provides for the imposing liability for "Conscious putting another person at risk of infecting the human with an immunodeficiency virus or other incurable infectious disease that is dangerous to human life." We find it necessary to supplement the provisions of this article with a reference to "another particularly dangerous infectious disease". This is why we suggest stating the title of the article in the following way: "Infecting with a human immunodeficiency virus or other incurable infectious disease or other particularly dangerous infectious disease." Based on the above it makes sense to word part 1 of Art. 130 as follows: "Consciously putting another person at risk of virus infectioning with a human immunodeficiency virus or another incurable infectious disease or *other particularly dangerous infectious disease* that is life-threatening." Also, it is necessary to supplement the provisions of Art. 130 of the Criminal Code of Ukraine with part 5 (especially qualified composition) with such wording: "part 5 *The actions provided for in part 1 of this Article, which have led to the pandemic spread of an incurable infectious disease or other particularly dangerous infectious disease*.

We also emphasize that the ideology of counteracting the spread of the negative impact of the results of biologically dangerous activities requires a revision of certain dispositions of norms that provided for incurrence of criminal liability in case of individual harm in the context of the likelihood of collective negative consequences.

In particular, we are talking about the structure of the disposition of Art. 142 "Illegal conduct of experiments on the human", which provided for liability for illegal conduct of medical, biological, psychological or other experiments on the human, if it endangered their life or health (of this particular person). At the same time, certain medical and biological studies may pose a threat not only to a specific participant in such a research but also to other persons (including the personnel conducting it). The Bases of the legislation of Ukraine about health care, Art. 45 is devoted to conducting medical and biological experiments on humans. According to it, medical and biological experiments on humans are allowed for socially useful purposes provided that their scientific validity and prevalence of possible success over the risk of serious consequences for health or life (extreme necessity), publicity of the experiment, full awareness and voluntary consent of the subject of such an experiment. The same article incorporates an important element of the legal regime of medical and biological experiments which is the ban to conduct it on sick people, prisoners or prisoners of war, as well as therapeutic experiments on people whose disease is not directly related to the purpose of the experiment. At the same time, along with the mentioned concept the legislator uses the terms "research experiment on humans" and "therapeutic experiment on humans" in the clauses on carrying out medical and biological experiments. The Bases of the legislation of Ukraine about health care, along with the provisions on the conduct of medical and experimental activities on humans, also incorporates clauses on using new methods of prevention, diagnosis, treatment and drugs (Article 44 of the Fundamentals) in medical practice. According

to the logic of the legislator, such activities are considered within a different legal regime or dimension as compared to medical and biological experimental activities.

Ensuring both individual and collective interests enables us to propose the disposition of part 1 of Art. 142 of the Criminal Code of Ukraine with the following wording: "1. illegal conduct of medical and biological, *research and therapeutic experiments on humans*, psychological or other experiments on the human, if it endangered the experiment participant's life or health or that of other persons."

Discussion. As a result, it is necessary to make changes and supplements to the part 1 of Art. 362 of the Criminal Code of Ukraine (violation of the rules of handling microbiological or other biological agents or toxins), should be revised as follows: "1. Violation of the rules of storage, use, accounting, transportation of microbiological or other *pathogenic and opportunistic agents (microorganisms), genetically modified* organisms and substances or toxins, other rules of dealing with them, if it has created a threat of death or other serious consequences or harmed the health of the victim."

It is also necessary to clarify the body of the crime specified in Art. 258 of the Criminal Code of Ukraine (Terrorist act) in terms of "… *other actions that endangered human life or health…*", adding also *the spread of infectious diseases* to the interpretation of such 'other actions'.

In terms of improving the provisions of administrative tort law the need to change and supplement the provisions of Art. 90 of the Code of Administrative Offenses (failure to comply with rules and regulations in the process of creation, production, storage, transportation, use, disposal, neutralization, disposal of microorganisms, biologically active substances and other products of biotechnology) draws attention. We suggest the wording of parts 1 and 2 respectively be as follows: "Failure to comply with the rules and norms in the process of creating new strains of microorganisms, biologically active substances, *pathogenic and opportunistic agents, genetically modified organisms* and other products of biotechnology…" and "Failure to comply with the rules and norms of ecological safety in the production, storage, transportation, use, disposal, neutralization, disposal of microorganisms, biologically active substances, *pathogenic and opportunistic agents, genetically modified* organisms and other products of biotechnology."

In the context of improving disciplinary liability in the field of work related to biohazardous substances and materials, it is necessary to develop unified safety rules for these types of work and empower the relevant bodies of state control and supervision over labour protection to implement such measures in relation to scientific research, laboratory and production entities whose activities are connected with potentially dangerous biological activities.

Conclusions. Summarizing the issue of improving the regulation of legal liability as a tool for public administration in the field of biological security of Ukraine, we have to draw attention to the following important statements.

1. Legal liability is an important means of ensuring biological safety. Liability is an effective tool for legal influence on public relations to ensure biological safety.

2. From our point of view, the functions of legal liability in the field of ensuring biological safety should be as follows: preventive which boils down to preventing

new offenses, precautions; penalty which boils down to punishing the guilty person through imposing measures of negative consequences of a personal, property or organizational nature (material fines, prohibitions on conducting research or carrying out production) to him; restorative, which aims to restore illegally violated property or personal rights, compensation for material or moral damage, losses (in case of socially negative consequences).

3. Improving the mechanism of legal liability for biological safety involves updating the legislation on largely all types of liability known in modern legal theory: in the case of compensation for material and moral damage, it is a question of civil liability; when applying measures of influence of criminal and legal character it is criminal liability (it can concern both legal entities and physical persons at the same time); in the case of less social harm of the offense it is administrative liability, and in the case of violations of labour duties it is disciplinary liability.

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THE IMPORTANCE OF NON-TARIFF BARRIERS IN REGULATING INTERNATIONAL TRADE RELATIONS

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Abstract. *Non-tariff trade barriers in international legal regulation are an integral part of a system of non-tariff restrictions, the approach to which in science and practice remains ambiguous. The aim of this article is to determine the importance of non-tariff trade barriers for international trade relations and prospect of their further implementation under the circumstances of development of international trade. The information resources used in the research contain data about the number of non-tariff barriers and data on their use regarding import and export of certain goods (152 countries-members of WTO in 2009-2016), data about the ratio in using non-tariff barriers with other protectionist measures in international trade (the USA, China and EU countries in 2012-2016) and others. Methods of comparison, analysis and synthesis; statistical and sociological methods were used in the research. The use of non-tariff barriers in regulating international trade relations cannot be assessed explicitly. Among negative results of their use are setting up obstacles in the economy of some countries; use of the non-tariff restrictions as means of discrimination; negative impact on the importation in some countries; volatility and uncertainty; negative influence on world economy. Positive impact of using non-tariff barriers comprises promotion of safety of product and security of manufacturing process; competitiveness of particular kinds of products; improvement of the standard of national security; provision of life and health protection of people, animals, flora and environment; harmonization between national trade and international system of trading standards. Development of the Strategy of realization of non-tariff regulating international trade relations at WTO is a solid approach in international activity. This will set up opportunity to unify and harmonize norms of international trade in the sphere of implementation of non-tariff barriers.*

Keywords: *non-tariff barriers, technical barriers, international trade relations, non-tariff international standards, technical regulation, non-tariff import and export restrictions.*

JEL Classification: F18, F59, H21, K33

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Introduction. Non-tariff trade barriers in international legislative regulation are an integral part of a system of non-tariff restrictions, used in this sphere. Non-tariff regulation of international trade relations is an important element of restricted/prohibited measures aimed to set up some barriers for importing particular products to domestic market and enable implementation of export domestic capacity of the country, and the importance of non-tariff regulation is constantly increasing (Lupan R, 2018). All non-tariff measures of regulation of world trade constitute some quantitative restrictions and that results in domestic public impact on stated sphere of regulation (McEwen J).

Non-tariff barriers, determined at the international level, indicate about problematic aspects at the international market, and the barriers at the domestic market reveal trade and economic problems, that exist inside of the country. As a rule, so-called technical barriers are used, that consist of a big amount of typical measures of regulation of trade relations. It is stated that these technical barriers comprise a rather big quantity of measures in the sphere of trade regulation, to which

belong technical standards, particular systems to determine conformation to quality, safety standards, packing and labelling rules (Non-Tariff Barriers, 2012).

The importance of international and domestic regulating of using such measures has been proved by availability of separate legislation and regulation towards them – Agreement on technical barriers to trade since April 15, 1994 (Agreement on Technical Barriers to Trade).

It is stated that the agreement considers both products themselves (industrial and agricultural) and the process of their production (Agreement on Technical Barriers to Trade). But the attitude towards the existence of such barriers in science and practice is ambiguous, that creates both active discussions regarding this issue and necessity of conducting the empirical research as for the role of non-tariff barriers in implementation of international trade policy (Kinzius L, Sandkamp A., Yalcin E., 2019).

Literature review. The use of non-tariff barriers, technical as well, in implementation of international trade activity is a discussion matter that conditions the existence of contradicting opinions regarding the importance of their use. So, it is stated that the use of non-tariff barriers in international trade negatively results on export-import relations (Kinzius L, Sandkamp A., Yalcin E., 2019); they restrict foreign investments, domestic policy of state purchases, foreign exchange control and grants (Is a trade barrier, 2019), complicate import and export of goods and/or make them expensive (Non-Tariff Barriers, 2012). At the same time non-tariff barriers are considered to create some restrictions which facilitate the correction of price disoffer and expand trade that will improve world wealth, especially regarding markets with poor amount of trade operations and fast-spoiling products (Gallagher P, 1998). It is stated that non-tariff barriers may improve billing balance of the country to protect young branches of industry (Examples, 2016). Some non-tariff barriers, specifically foodstuff standards help to protect consumers and save the environment (Summary USAID, 2013).

Existence of above-mentioned opinions regarding the use of non-tariff barriers conditions to carrying out various studies, directed to determine the importance and types of non-tariff barriers together with specific quantitative and qualitative indicators that reveal results of the use of such restrictions.

For instance, particular tariff barriers and their influence on different branches of international trade have been studied (Beghin J, 2006); the role of temporary non-tariff barriers in international trade has been investigated (Bown C, Crowley M, 2016); samples of non-tariff barriers have been given with their characteristic and kind of impact upon international trade (Essays UK, 2018). Throughout this issue, different studies of specific types of non-tariff barriers, their importance and significance of their influence, conducted by Agency of the USA in international development may be given (Nontariff barriers to trade, 2013).

Separately particular studies regarding data that allow to assess type and depth of impact of a specific non-tariff barrier in international trade on import-export relations and on economy at both international and national have been done (Deardorff A, Stern R, 1997; Benz S, Jaax A, 2019). For instance, on the basis of

data of heritage foundation and UNO regarding free trade and general economic regulation in countries, the impact of the government regulation upon GDP per capita is determined (Lawson C., Dietrich C., Murray T., 2019). Moreover, particular studies combine data, regarding licensing and trade restrictions, into one transparent structure (Borchert I., Gootiiz B., Magdeleine J., Marchetti J., Mattoo A., 2019).

Investigation of non-tariff barriers of particular products is also relevant. So, influence of tariff and non-tariff restrictions upon international wine trade has been analyzed (Dal Bianco A., Boatto V., Caracciolo F., Santeramo F., 2016); using advanced technologies non-tariff barriers that exist in world trade there have been studied (Cohen R, 2019); the data regarding the influence of non-tariff restrictions upon particular product (strawberry) from South Korea have been analyzed (Lee B., 2017); the nature of influence of food standards in different sectors and countries that act as barriers for trade on the example of seafood export has been determined (Medin H., 2019; Shepotylo O., 2016). Moreover, the influence of non-tariff restrictions in particular countries has been analyzed: influence of non-tariff restrictions (protectionism) on importing international relations of the USA (Grundke R., 2019); importance of non-tariff restrictions on getting African biofuel to EU (Schuenemann F., Kerr W., 2019); the influence on import of gradual elimination of non-tariff barriers in the People's Republic of China (Imbruno M., 2016); impact of non-tariff barriers on export according to the data from three countries (Krishnan V., 2016).

Despite of a big variety of studies by their volume and direction in the sphere of investigation of different aspects of impact of non-tariff barriers on international trade and national import-export policy, it hasn't been clearly stated yet what influence their implementation has.

Aims. In charge with above-mentioned information, the aim of this research is to determine the importance of the use of non-tariff barriers for international trade relations and prospect of their further use under the conditions of international trade development. To achieve this aim it will be important to determine positive and negative aspects in the use of particular non-tariff barriers regarding effectiveness and importance, using statistical data and results of previous studies in this sphere.

Methods. As the reference resources, the results of the research of the role (effectiveness) of non-tariff barriers in the sphere of international trade, their use, comparison with other methods of regulation in this very area have been used.

At first, data regarding quantitative indicators in the use of non-tariff barriers in the area of trade-economic relations on the basis of the quantitative research, conducted in 152 countries-members of WTO in 2009-2016 have been studied. In the result, it was figured out that even in the case of reducing the quantity of non-tariff restrictions in particular countries or regions their general number is constantly rising (Table 1 – created by the author on the basis of data research (Yalcin E., Felbermayr G., Kinzius L., 2017)).

Table 1. The number of non-tariff restrictions in world economic relations (2009-2016)

The year of report	Number of non-tariff barriers
2009	389
2010	728
2011	1041
2012	1328
2013	1649
2014	1953
2015	2212
2016	2016

The data, that non-tariff restrictions were implemented towards 177 products of export-import turnover among 152 countries, were used. It is stated that at least one non-tariff barrier has been used to 2,45% of analyzed products. Moreover, it is indicated that the use of non-tariff barriers during the investigated period reduced international trade by 16 %, which is impressive (Yalcin E, Felbermayr G, Kinzius L, 2017).

Also, here are given data as per non-tariff barriers, used in particular countries and by other countries towards them (see Table 2) (Yalcin E, Felbermayr G, Kinzius L, 2017).

Table 2. The number of non-tariff barriers, used in particular countries, regarding import and export of particular types of products.

Country	Non-tariff barriers used regarding imported products from other countries (number)	Non-tariff barriers used by other countries regarding exported products by this country (number)*
Australia	16	1269
Austria	48	1427
Canada	44	1853
China	112	1909
Finland	44	1161
Germany	131	2002
Greece	43	866
Japan	96	1569
Jordan	0	228
Mexico	19	1201
Oman	1	522
Qatar	0	210
Turkey	24	1336
United States of America	796	1747
Yemen	0	127

* meaning the number of non-tariff restrictions, which at least once were used during 2009-2017 by other countries regarding products from a stated country

The data of empirical analysis of the use of non-tariff barriers in economic import-export policy of the countries in comparison with the use of other regulating methods were studied. Thus, data depicted gradual growth of non-tariff restrictions

(protectionist interventions) and showed the benefit of their use in comparison with tariff methods and protection of the trade in such countries as the USA, China and countries of EU in 2012-1016. Comparison of stated indicators is presented in the table, made by the author on the basis of the data (Kinzius L, Sandkamp A, Yalcin E, 2019) (table 3).

Table 3. Ratio of non-tariff barriers with other protectionist measures in international trade

	Non-tariff barriers (number)	Tariff changes (number)	Trade protection (number)
2012	414	151	194
2013	433	166	194
2014	432	135	157
2015	391	153	142
2016	361	91	140

Data, presented in Table 3, show that the use of non-tariff measures is on average 55% bigger than the use of tariff ones and 25% bigger than protective measures in the sphere of trade. This proves the relevance of this research over again.

Non-tariff regulating methods dominate regarding particular types of products on the example of Asian-Pacific region - Bangladesh, China, India, Nepal, Pakistan, Republic of Korea, Japan and others (in total 50 countries). Research has shown that although non-tariff restrictions have decreasing trend in this very region, they remain very important in restricting methods in international trade-economic relations. Relating statistic data are presented in Tab 4 (created by the author, based on data) (Trade And Non-Tariff Measures, 2015) (Table 4).

Table 4. Number of non-tariff barriers in particular areas of economy of countries of Asian-Pacific region (2008-2013)

Types of products of non-tariff regulation	Number of non-tariff restrictions
Electrical equipment	460
Chemical raw material	211
Metals	135
Foodstuff	120
Mineral raw material	52
Vegetables	75
Animal products	50
Textile	47

Data, got by gravitational method appeared to be very interesting. This method is based on the law of physics (gravitation) and determines the most predictable collective behavior in specific area. Its implementation lies in calculation the data according to a particular formula. This formula is based on B.Reili's law to analyze competitiveness in retail trade. As the result there was made a conclusion that despite of the negative impact of restrictions on stimulating the import, they must be saved in order to be able to choose the most suitable export-import relations for particular countries (Grübler J, 2016). This method was used to determine whether non-tariff

barriers facilitated further development of trade-economic relation in 2002-2011 in 103 countries-members of WTO on the basis of comparing data on GDP. Moreover this method enables further prediction of development of these countries.

Methods used in this research include method of comparison, statistical method, method of analysis and synthesis, sociological method; and the necessity of using all these methods was already proved by the existing studies in this sphere (The Invisible Barriers to Trade, 2015). These methods were used to comply and analyze data, received from different resources regarding the use of non-tariff barriers in different countries during a couple of last years. On the basis of the results, received by means of systematic and logical use of mentioned methodology, the aim of the research, settled earlier, was successfully achieved.

Results. Non-tariff barriers as a part of trade policy may be set at both international and state levels. Thus, areas of influence, on which restrictions on different products spread, are multilevel. This provokes a big variety of non-tariff technical barriers, which vary both by nature and manifestation in the sphere of international trade relations.

Non-tariff barriers in the international trade are a kind of standards, which have regulatory nature. These standards are special requirements, set for the products, that have on their aim to provide security of life and health of people, flora and fauna rather than to regulate trade relations. Several groups of commonly used standards in outer trade make up a system of pointed barriers. These standards include sanitary, phytosanitary and veterinary restrictions. This means that restrictions concern not only the turnover itself, but providing particular level of economic and household activity both at international and state levels.

Including specific nature of the use of non-tariff restrictions, their system is multilevel as barriers are used at international, national and regional levels. The system of non-tariff barriers is made of several particular groups of regulatory standards: technical regulating in international trade (technical barriers); non-tariff mechanisms of direct restriction of export and import (of protectionist nature as well).

Technical barriers in the international trade form technical regulation. This is legislative regulation of international trade relations regarding determination, practical implementation and fulfillment of the commonly used requirements towards particular types of products and process of their production, regarding providing the services and carrying out all necessary verifications together with making market supervision. By their nature, these technical barriers make up a system, which includes activity regarding certification and inspection of the quality of products, setting up the requirements concerning technical and ecological safety, determination of sanitary standards, control over meeting all the requirements of packing and labelling the products. It means that technical barriers in the area of international trade are based on such activity as metrology, accreditation of institutions, responsible for quality control of products and services, standardization, market supervision. These technical barriers are depicted in Table (see Tab 5) (made by the author on the basis of data) (Classification of non-tariff measures, 2012)).

Table 5. Technical barriers in international trade

Goals of technical restrictions:	At international level	At national level
-protection of life and health of people, animals and plants; -protection of environment and natural resources; -energy efficiency; -national security and protection of property; - countering unfair entrepreneur	- creating and ensuring conditions for the participation of entrepreneurial in international economic relations; - scientific and technological cooperation and international trade	-motivation in IT creation; -improvement of competitiveness of produced products; -reduction of production costs

It is worth mentioning that the use of the system of these measures of technical regulating in the international trade may cause some trade conflicts, thus all above-described technical measures of regulation must be used very carefully – they must be clearly set up and mustn't include any discrimination measures by any features. First, it concerns World Trade Organization, as exactly it, in the majority of cases, work out the system of non-tariff barriers at international level due to the needs that arise. It is important to put attention on above-mentioned observations considering prior trends of regulating foreign economic activities of countries-members of WTO as it differs by rather severe legal demands. Dominant trends of WTO activity regarding implementation of technical barriers are depicted in Table (see Tab 6).

Table 6. The system of technical regulation of WTO international trade

№	Type of technical restriction (barrier)
1	Protection by means of technical regulation of life, health, human property, plants, animals, environment, national security, fraud prevention
2	Preferential treatment
3	National treatment to importers
4	Regulation of mandatory requirements solely in technical regulations
5	The use of international standards upon the products and procedures of conformity assessment
6	Transparency and prevision in the use of TTB by WTO members
7	Scientific explanation in proportion with risks of TTB implementation
8	Proportion and economic appropriateness of implementation of technical barriers against existing problems from the side of the production and service
9	Accessibility to national regulatory database, timely awareness about measures that can influence the trade
10	Promoting of making bilateral and multilateral agreements regarding quality compliance assessment
11	Participation of foreign quality compliance institutions in national procedures
12	Volunteer use of standards

The second group of non-tariff trade barriers include specific measures of restricting nature regarding import and export. As a rule, these barriers are mainly used at national rather than international level. They intend to restrict, partially or totally prohibit imported delivery or some particular type of products or products

from specific source or particular producer (selectively or all) that are regulated by juridically determined bans, licensing, quoting, import restrictions etc.

Non-tariff barriers in export and import are compulsory measures that can be taken at both national level – due to the decision of the country-importer, and at the level of international regulating (at the international organizations level). In particular, bans upon particular products (embargo) are mostly connected with: risks of making harm on life and health of population, environment, flora and fauna; urgent necessity of making economic harm upon domestic market; production by the country-exporter products of bad quality with deviation from sanitary standards, requirements and demands; different seasonal phenomena (reduction of demand, overloading of domestic market with analogical products of the national origin). All these measures undoubtedly have negative economic results for both parties. However, the most negative impact is caused not by economic bans, but by barriers of political origin, which negatively result on national and world economy.

Sample of the use of technical barriers in different countries are given in a table (see Tab 7) (formed by the author on the basis of data) (I-TIP Goods, 2018)).

Non-tariff barriers of protectionist origin have much negative influence despite they have to protect national economy and trade, their long-term use causes ruining impact on the economy: competitiveness of national products drops much, different monopolies are created, prices start growing rapidly, international trade relations are lost etc.

Considering information above, non-tariff technical barriers may have the following negative results: decrease in import volume; price growth on imported goods that in the future influences economic activity of other sectors of economy; the change in demand upon imported goods; volatility of technical barriers; uncertainty of technical barriers; decrease of the society wealth; expenditure on extra resources regarding realization of new technical barriers. However, this concerns only unfounded domestic national technical barriers, of political origin as well. The use of technical barriers in international trade may have positive impact, especially, if such barriers have been created due to necessity, regulation and legislation at the international level.

Positive aspects of the use of non-tariff barriers and, simultaneously, proof of the necessity of their implementation comprise: setting more severe requirements regarding the quality of the production; enhancing the obedience in the area of ecological standards, sanitary and veterinary norms, safety rules, technical security of manufactures; improvement of the level of international collaboration regarding control upon the use of hazardous materials, wastes and provision of the ecological safety in general; regular use of international standards, norms and rules; development and implementation of requirements regarding technologies at national manufactures.

Considering risks and positive aspects in the use of non-tariff barriers, it is important at the level of WTO to work out a Strategy that will contain a plan with measures regarding realization of important steps in non-tariff regulation at the level of international legislative trade standards. The aim of the Strategy will be

globalization of trade-economic relations and creation of a new system of technical regulation in this area which will perform as the warranty of safety and quality of products, effectiveness of regulation of international trade, gradual refusal from non-tariff barriers that are unfounded and will have negative impact on both: economy of particular countries and international trade relations.

Table 7. Technical barriers that act in particular countries-members of WTO

Country	Restricting measures towards other countries	Restricting measures towards this country
Brazil	Requirement for the production of chicken, duck, guinea hen (all countries since 01.09.2003 p.)	EU – regarding asbestos (since 1.07.1998)
	Requirements for fish products, clams, crab-like (all countries since 12.01.2006)	Ecuador – regarding processed foodstuff for human consumption (since 14.06.2017)
Countries of European Union	Requirements for labelling, implemented towards all types of foodstuff (for all countries since 13.03.2011)	Argentina – requirements for olive oil (since 23.06.2004)
	Requirements for fresh fruit and vegetables (for all countries since 27.10.2013)	Argentina – regarding graphic products (ink) (since 13.06.2012)
	Requirements for honey, that contains pollen from genetically modified corn (Argentina, Brazil, Canada, Mexico, USA, Uruguay since 6.03.2013)	
Mexico	Requirements for perfume and cosmetics products (all countries since 18.01.2012)	Brazil – regarding labelling products of personal hygiene, cosmetics, perfumes (since 10.11.2016)
	Requirements for alcoholic drinks (Chile, USA, EU since 5.11.2014)	Ecuador – alcoholic drinks (since 15.06.2016 p.)
	Requirements for pelts, leather goods, footware (EU since 23.03.2014)	
Turkey	Requirements for vegetable oil production (all countries since 1.01.2016)	Brazil – regarding tobacco products (since 3.06.2012)
	Requirements for alcoholic and tobacco products (USA since 1.11.2007)	Columbia – regarding simple and deformed metal wire (19.03.2014)
	Requirements for pharmaceutical products (USA, EU, Switzerland since 6.03.2013)	EU – regarding hazardous chemicals (since 15.06.2011)
Japan	Requirements for poisoning and hazardous substances (all countries since 1.08.2010)	India – regarding steel and steel goods (since 30.10.2013)
	Requirements for rice, products of rice and products, that contain rice as an ingredient (all countries since 15.02.2009)	Republic of Korea – regarding tyres for cars (since 27.11.2012)
	Requirements for electric goods and materials (all countries since 15.10.2013)	EU – regarding виробів, that contain organic compounds (since 5.11.2009)
	Requirements for pharmacy and medical equipment (all countries since 25.11.2014)	

For realization of this aim the Strategy must contain the following aspects of the international trade-economic collaboration: adjustment of the state legislation to international standards of technical regulation; provision of compliance of the national system of technical regulation with international non-tariff restriction; creation of unified international requirements for the quality of production which is the subject of international trade and unified international rules of assessment of product compliance; improvement of existing system of compliance control of products with international requirements; establishment of collaboration between national and international organizations regarding accreditation, standardization, metrology, market supervision, determination of compliance; integration of national and international information resources in the area of trade-economic relations. That is to say, prior task in the nearest time is creation of international model which will comply with modern tendencies of international trade development in the area of implementation of non-tariff restrictions and adjustment of national legislation and regulation, that act in this sphere, with it. This will in the future improve integration processes in the area of creating unified methods and standards in regulating international trade-economic relations.

Discussion. Considering all mentioned above, it is necessary to submit that it is impossible to assess explicitly the impact of non-tariff barriers in the area of legislative regulating international trade. As they may have (and do have) both negative and positive consequences.

Still, the use of non-tariff barriers in international trade cannot be assessed explicitly, a big many researchers think that non-tariff barriers have only negative results and it is necessary to refuse from them. So, in particular, it is stated that it is necessary to refuse from non-tariff barriers as they negatively influence on economies of some countries that may be seen in unfounded restriction of product turnover (John McEwen). As these barriers comprise quotes, silent treatments, licenses, standards and severe rules, requirements for local management, restrictions on foreign investments, domestic policy of state purchases, foreign exchange control and grants, they are sometimes called bureaucratic (Is a trade barrier, 2019). Also, non-tariff restrictions are considered to be discriminational regarding foreign products and/or producers (Lupan R, 2018), and are a source of non-effectiveness and lobbying (Carrere C, De Melo J, 2019). Moreover, there is an opinion that reduction of the number of non-tariff barriers and total refusal from them in the future will result in rapid growth of the economy (Deardorff A, Stern R, 1997); simplification of trade facilitation (The Invisible Barriers, 2015). With decrease or total refusal from non-tariff barriers, trade growth is predicted (Vakulchuk R, Knobel A, 2018). Moreover, deregulated national economy has higher level of economic prosperity, better GDP per capita than regulated analogs (Lawson C, Dietrich C, Murray T, 2019).

It is rather difficult to agree with such a trenchant opinion in full amount, as not always and not all non-tariff barriers have negative influence upon national and world economy. Moreover, despite the negative attitude towards non-tariff measures that restrict international trade, some of the rules are considered to have sense, for instance those, directed towards protection of public health and environment (Is a

trade barrier, 2019). Also, non-tariff barriers are stated to become more actual measures, especially such as standards of licensing and restriction (Borchert I, Gootiiz B, Magdeleine J, Marchetti J, Mattoo A, 2019).

Another group of authors tends to think that non-tariff barriers have their positive side. This is conditioned by the studies of the impact of non-tariff barriers on international trade at the time of which it was revealed that they might have positive influence from the economic side. They might be realized, for instance, within a plan, directed on decrease of import, with final improvement of the billing balance of the country, on protection of young branches of industry (although temporary restricting measures are applied) (Examples of Non-Tariff Barriers, 2018). Moreover, non-tariff barriers are considered to facilitate uncertainty in trade that significantly improve world economy (Gallagher P, 1998).

In particular, they came to conclusion that harmonization of technical and security standards of food products in some counties is the result of the use of non-tariff barriers. It is stated that 1% increase in the number of refusals from exported production on average leads to 0,12% decrease of the cost of this very export, which is beneficial for the country-importer (on the example of trade relations between the USA and India) (Krishnan V, 2016), that is interesting and valuable experience.

Thus, the position, which states that it is impossible to assess explicitly the impact of non-tariff barriers in international trade as just positive or just negative, is worth agreeing. On one hand, the use of restrictions might lead to direct increase of demand as they may cause improvement in quality or decrease customers' uncertainly regarding the quality and safety of products. On the other hand, restrictions may spoil trade and enhance competitive advantages of those countries, which possess a higher potential in following them (Medin H, 2019).

Although, as proved above, there are risks in the use of non-tariff restrictions, as their importance is often underestimated.

In particular, their positive impact was revealed in different years, when there was an urgent necessity to restrict import of particular products as they didn't meet sanity standards (poultry, beef, pork etc.) (WTO, 2012).

Conclusion. Recent study let us make the conclusion regarding importance of non-tariff barriers and prospective of their further use in the area of international trade regulation.

The use of non-tariff barriers in regulating international trade relations cannot be assessed explicitly. Among negative consequences of their use are: non-tariff barriers are consciously used in the international trade to make obstacles, meaning that they restrict the access to the market of particular countries; the use of non-tariff restrictions is some kind of discrimination regarding particular countries; non-tariff barriers have negative impact on import in particular countries; volatility and uncertainty of technical barriers; negative influence on national and international economy.

Positive impact of the use of non-tariff barriers in regulating international trade relations include the following aspects: implementation of non-tariff barriers in international trade provides safety of products and manufacturing, that secures quality

of goods; provides competitiveness of particular sorts of goods and unifies the structure of the world market; strengthens national security level; promotes fulfilment of obligations by particular countries within international agreements and treaties; warrants protection of life and health of people, flora, fauna and environment; provides harmonization of national trade with international system of trade standards.

As the advantage of positive impact of the use of non-tariff barriers in the area of international trade is obvious, development of the Strategy of realization of non-tariff regulating international trade relations at WTO level is a promising avenue of international activity in this sphere. This document will contribute to further integration of processes in the area of making unified methods and standards in regulating international trade-economic relations as this will enable to harmonize norms of international trade in the sphere of the use of non-tariff barriers.

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ESTABLISHMENT OF STATE POLICY ON ENSURING THE RIGHTS AND FREEDOMS OF PERSONS WITH DISABILITIES: HISTORICAL AND LEGAL REVIEW

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Abstract. *The article is devoted to the study of the problems of state policy on ensuring the rights and freedoms of persons with disabilities in the context of historical and legal review. The relevance of the study lies in the expediency of studying the historical and legal origins of the formation of national legislation on the protection of the rights of persons with disabilities in modern Ukraine. For the purpose of complex theoretical study, the monuments of legal thought of the X-XX centuries are taken into consideration. The purpose of the article is to study the historical retrospective of the formation of modern state policy on the protection of the rights and freedoms of persons with disabilities and to describe the main trends in this area during certain periods of Ukrainian statehood. The study presents some historical stages, within which the issue of care for people with disabilities from the state and society is acute and accordingly develops the legislative aspect of regulating these processes as a result of strengthening the role of the state in them. In addition, the formation of state policy on persons with disabilities was influenced by external factors, namely the social system and legislation of those countries that included the ethnic lands of Ukraine. The scientific and practical value of the article lies in the ability to trace the preconditions for the formation of fundamental provisions for the protection of the rights of persons with disabilities and their evolution depending on the transformation of global legal trends.*

Key words: *persons with disabilities, persons with disabilities, social policy, state support, historical and legal review.*

JEL Classification: I14, I18, K36, Z18

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Introduction. For a long time, it was believed that restrictions on the exercise of the rights and freedoms of persons with disabilities are closely linked to their physical disabilities and mental disorders and, in fact, are their inevitable consequence. It is now recognized that the adverse factors they face, and the fact that they are often left out of their normal way of life, are not caused by their individual shortcomings, but rather by society's response to their shortcomings. State legislation and social policy are part of this response. Disability issues are increasingly seen as human rights issues. The basic idea of human rights law, based on the concept of respect for human dignity, is that all people have equal rights, especially the right to a full and dignified life. This reflects a simple and at the same time extremely important notion that each individual is a human being. With regard to individual rights, states have a duty to protect, respect and implement human rights. This reassessment involves significant changes in international law and national law. The UN Convention on the Rights of Persons with Disabilities, adopted in December 2006, reflects these changes. It is now widely recognized that the rights of people with disabilities need to be protected and promoted through general, as well as specially designed laws, measures and programs. Our study demonstrates current issues of development of legislative support for the rights and legitimate interests of persons with disabilities in Ukraine on the basis of historical and legal review.

Literature review. The issue of protection of the rights of persons with disabilities was considered by Ukrainian researchers such as T.O. Likhina, R.O. Pavlyukov, VS Tarasenko, O.Yu. Шинкарьова, M.B. Chichkan and others.

Aims. The aim of the article is a historical retrospective of the formation of national legislation on the protection of the rights and freedoms of persons with disabilities and its periodization in modern Ukraine during the X-XX centuries.

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

Results. Considering the historical experience of formation and development of social policy of any state, it should be noted that its main aspect is the social protection of the population, its most vulnerable groups and categories depending on specific socio-economic circumstances, the level of society and the state. Today, scientists, politicians, and high-ranking officials are increasingly discussing the problems of social protection that have arisen against the background of the economic crisis and demographic processes and are accompanied by an increase in the proportion of older people, a decrease in the number of able-bodied people. solving these problems. With this in mind, it is important to consider the history of the development of social protection in Ukraine in close connection with the socio-economic and cultural environment.

Over the years, the state social policy on persons with disabilities has gone through several stages of its formation. The precondition for the formation of legislation on the protection of the rights and freedoms of persons with disabilities is primarily the actual need to recognize persons with disabilities as a socially vulnerable category of the population and, accordingly, its consolidation by the state. It should be noted that the attitude to people with disabilities during the historical development has changed polarly, and their provision and protection by the state and society depended on this direction [3].

Therefore, the formation of legislative support for the rights of persons with disabilities in Ukraine can be divided into several periods.

In the ancient world, the attitude towards people with disabilities was biased, primarily because of their social isolation, their inability to fully participate in public and political life. However, among the population there was a dual position on people with disabilities: some believed that their disease was of demonic origin, others believed that God gave a gift to a person with disabilities and he has a high purpose while on Earth [3, p. 19].

Attitudes towards persons with disabilities at the initial stage of statehood were negative, and as for financial assistance, only one category of persons could claim maintenance from the state - soldiers who were injured as a result of hostilities [4].

However, it should be noted that the financial support and support of people with disabilities relied entirely on their families. A person with a physical disability was also restricted in terms of property rights. According to Article 4 of the Saxon Mirror as a source of law in the first half of the thirteenth century, it is stated that

freaks and dwarfs do not inherit, as do crippled children. The heirs and their closest relatives must take care of them [7, p. 205].

Thus, the status of a person with a disability at the beginning of the formation of the state reflected the then negative attitude of society to this category of persons, in which the task of recognizing their rights and freedoms was not declared by the state at all.

Significant influence on the formation of legislative consolidation of assistance to the needy was due to the adoption of Christianity. Thus, the formation of the basic postulates of morality in Russia resulted in the creation of the first charitable institutions to support orphans, cripples and beggars on the basis of churches. In fact, it was the churches that mediated the prince's will to care for and provide the necessary "beggars, the lame, the blind and the sick." The first normative reinforcements of such social policy of the prince found their expression, in particular, in the Statute of Vladimir in 996, in which he delegated authority to the clergy and church institutions to care for and supervise hospitals, baths, shelters for singles, and established a "tithe" for charities. [3, p. 8].

Some scholars believe that the first major Slavic document, which enshrined the principles of social policy in Russia was the "Russian Truth" of Prince Yaroslav [10].

It should be noted that at the first stage the social protection of the rights of persons with disabilities was mostly charitable in nature, rather than the established state policy. During this period, the system of church and charitable institutions that provided assistance to people with disabilities is actively expanding. However, the financial support of such persons still relies on the family and relatives of persons with disabilities.

By the end of the XVI century. In Russia, three main areas of charity and social assistance to the needy have historically developed and developed: state, zemstvo-church-parish, and private (personal). Throughout the next socio-historical period, until 1917, charity and care in the Russian Empire developed within these three main areas, changing only the forms and methods of providing assistance to the needy depending on the specific socio-economic conditions and features of socio-economic development states.

With the transition of Ukrainian territories to the Russian Empire in the seventeenth - eighteenth centuries. a new stage of state policy on the protection of the rights of persons with disabilities begins, which is characterized by the formation of more favorable living conditions for this category of persons. During this stage, the charity did not lose its position, but the formation of state support for the disabled began, which led to the adoption of regulations that enshrined the rights of these persons.

In n law of the seventeenth century. in a number of legislative acts certain features of the legal status of the persons who on a state of health and other signs were not able to be on "state service" are fixed.

Thus, Articles 17–18 of Section 7 of the Soborny Ulozhenie of 1649 regulate in sufficient detail the procedure for retirement of servicemen in old age, due to injury or illness [11, p. 276].

Similar provisions are also contained in the "Military Article" of 1715 in Chapter 9, which regulated the procedure for dismissal due to illness or injury [2, p. 340].

Before the reign of Peter I, social activity in Russia actually existed in the form of assistance to the needy by individuals and the church. Due to the meager wealth, homogeneity and underdevelopment of the needs of the people of that time, the forms of assistance to the needy were simple. The system of state protection of persons with disabilities was widely developed during the reign of Peter I, who first recognized the duty of the state to care for the sick, crippled and other categories of the needy. The issue of state care for persons with disabilities is reflected directly in the legislative enshrinement in the relevant decrees of Peter I.

For example, the Decree of 1712 required the organization of a network of hospitals "for the crippled themselves" in all provinces. And in 1720, Peter I issued an order to place former soldiers with injuries and illnesses in monasteries and almshouses to stay and care for them, providing them with lifelong maintenance on "garrison salaries". The decree of 1724 ordered to conduct a census within the empire of all beggars, orphans, the sick and the crippled, "who can not feed themselves with work" [3, p. 21].

Significant additions to this system were made during the reign of Catherine II. In 1763, with her participation, the first orphanage in Russia was opened, a specialized institution for the care and upbringing of children. Special state guardianship bodies (Orders) were established in each of the Russian provinces. They were tasked with performing a wide range of tasks - caring for public education, providing medical care, charity, moral education and overcoming defects. They were engaged in the arrangement of public schools, orphanages, hospitals, shelters for the terminally ill, almshouses, nursing homes, cared for the unemployed.

Under Catherine II, for the first time, specialized types of charitable institutions were created, which practically did not exist before the establishment of orders. Before, hospitals often served as almshouses, and homes for the terminally ill, and hospitals at the same time. And only in the last quarter of the XVIII century in our country the so-called pure types of charitable institutions were formed: orphanages and orphanages, almshouses and homes for the terminally ill, hospitals; working, noisy and crazy houses.

At the beginning of the twentieth century, a new milestone in the formation of state social policy for the protection of persons with disabilities begins. The formation of a state of the USSR, ideologically, politically, culturally different, necessitated an active search for ways to solve problems, which could contribute to the harmonious inclusion of the disabled in public space.

We will note that in the USSR the paternalistic social policy in exchange for loyalty of citizens was carried out. In modern economically developed countries, the government allocates significant funds for social needs in order to gain the support of the population. In the conditions of the industrial revolution, which marked the beginning of capitalism and marked the transition to new forms of labor, social assistance is based mainly on the principles of public care of a philanthropic nature.

By 1917, there were thousands of public and private charities in Russia. Not everywhere did these institutions function equally well. But the system worked, in these houses, shelters, hospitals and chapels, poor people found help, a piece of bread, a roof over their heads, a good attitude.

The further historical fate of the social protection of the rights of persons with disabilities was connected with the socialist revolution and marked by the adoption of provisions on the provision of persons with disabilities. Adopted in October 1918, the provision on social security for workers provided for the provision of state assistance to persons in the event of permanent loss of livelihood due to incapacity for work. Thus, since the early 1920's. social security for people with disabilities depends on the extent to which they have lost their ability to work, and the meaning of the term "disabled person" has been associated with disability.

Gradually, a certain level of guarantees was introduced and formed in this area, which led to the beginning of a new stage in ensuring the rights of persons with disabilities, when their rights were recognized as fundamental, enshrined in the constitution, and their protection became the responsibility of the state.

For the first time, the Constitution of the Union of Soviet Socialist Republics of 1936 in Article 120 enshrined the right of citizens of the USSR to material security in case of illness and disability [5, p. 360]. Subsequently, in 1937, such a rule was enshrined in the Constitution of the Ukrainian Soviet Socialist Republic [6, p. 379].

It should be noted that the period of the twentieth century. established itself in history as a period of great upheaval due to wars, revolutions and certain crises. In particular, all this has left its mark on ensuring the rights of people with disabilities.

Let us emphasize the period of the Great Patriotic War, when the provision of the disabled did not correspond to a sufficient level of the welfare state. As an objective result of the hostilities, poverty, hunger, high mortality and low living standards prevailed in the country, which failed to properly address the legal issues related to the realization and protection of the rights of persons with disabilities.

In addition, in 1918 the Ukrainian Red Cross Society was organized in Kyiv, which played a significant role in organizing assistance to refugees, the disabled, orphans, prisoners of war, as well as creating hospitals, food centers, and providing health education [1]. .

In turn, the Second World War significantly changed the vector of society's attitude and as a consequence of the state to protect the rights of persons with disabilities. International law in this area is actively developing, first of all, progressive provisions on the rehabilitation of persons with disabilities are being implemented. In 1950, the Geneva Conference was held with the participation of the UN Secretariat, the ILO, WHO, UNESCO, the International Organization for Refugees and UNICEF. It was dedicated to the coordination of specialized institutions in the field of rehabilitation of people with special needs and the establishment of international standards in the field of treatment, education and employment, which marked the beginning of an active exchange of experience between states in the field of rehabilitation [9].

Discussion. The analysis gives grounds to note that there are ongoing attempts to consolidate the institution of lobbying in the current legislation of Ukraine. At the same time, the mechanisms of legislative regulation differ, some lawyers propose to register lobbyists in special registers, others suggest registering them only in the Verkhovna Rada of Ukraine.

Conclusions. Summarizing the above, we can identify as a result of our study some historical stages, within which the issue of care for people with disabilities from the state and society is acute and accordingly develops the legislative aspect of regulating these processes as a result of strengthening the role of the state. Accordingly, the first stage is characterized by the lack of an active role of the state in protecting the rights of persons with disabilities, and the family is fully responsible for care. Further spread of Christianity led to increased assistance from the church and charities. The spread of charity in modern Ukraine is becoming one of the fundamental areas in the care of people with disabilities, which is already supported by financial support from the state. With the development of state law, first of all, we mean the constitutional enshrinement of the rights of persons with disabilities, we emphasize the recognition and protection of the rights and freedoms of this category of persons as a mandatory element of social policy. Guaranteeing rights, as well as regulating these aspects in the framework of state policy, financial and moral support is necessary for people with disabilities who could feel like full members of society and fully exercise their rights and freedoms.

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FORMS AND DIRECTIONS OF THE LAW ENFORCEMENT FUNCTION OF THE STATE STRUCTURAL UNITS OF THE MINISTRY OF JUSTICE UKRAINE

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Abstarct. *The implementation of the internal functions of the state is not an integral part of the state mechanism. In turn, the scope and content of the functions assigned by society to the state determines the structure and scope of powers of state bodies in the implementation of state functions. The topic chosen by the author acquires its relevance in the implementation of the law enforcement function of the state by structural units of the Ministry of Justice of Ukraine. As the Ministry of Justice of Ukraine is the central body in the field of execution of criminal punishments and probation, organization of enforcement of decisions of courts and other bodies, ensures the formation and implementation of state legal policy. This indicates that the structure of the Ministry of Justice of Ukraine includes units whose activities are aimed at carrying out the law enforcement function of the state. The author analyzes the forms and directions of implementation of the law enforcement function of the state inherent only in the structural units of the Ministry of Justice of Ukraine. The author investigates the forms and directions of implementation of the law enforcement function of the state by structural subdivisions of the Ministry of Justice of Ukraine. The object of the study are public relations that arise during the implementation of the law enforcement function of the state by structural units of the Ministry of Justice of Ukraine, in their own unique forms and directions. During the writing of the article, the author used a systematic method of scientific research, as well as the method of analysis and synthesis.*

Keywords: *function; law enforcement function; form; ministry; Ministry of Justice of Ukraine; directions.*

JEL Classification: K390

Formulas: 0; fig.:0; tabl.:0; bibl.: 6

Introduction. The functioning of the state in modern political and social processes in order to implement the law enforcement function includes areas and a set of unique forms in which the law enforcement function finds its expression.

In a multilingual dictionary of legal terms, the definition of "form" should be understood as the appearance, the outline of something [1; C. 140].

Literature review. On the question of defining the concept of state functions and forms of their implementation devoted their work: O.M. Bandurka; E.V. Belozerov; O.O. Tykhomyrova; P.A. Rudik; A.A. Writing; Y.Bohomol; R.Ya. Shai; U. Kuzmenko; O. Yaremenko.

Aims. The aim of the article is to study the forms and directions of implementation of the law enforcement function of the state by structural units of the Ministry of Justice of Ukraine.

Methods. System method of scientific research, as well as method of analysis and synthesis.

According to a group of authors O.O. Tihomirova, M. M. Mikulin and Yu. A. Ivanov who formed the general concept of "forms of state functions" as a set of certain features of the state, which occupies a special place in the implementation of all functions [2; p. 72-73].

Another group of authors is inclined to believe that the concept of forms of state functions should be divided into two definitions: first, the activities of the basic systems of the mechanism of the state; second, the systematic activity of state bodies through which the functions of the state are realized [3; p. 62 - 63].

In the legal literature, the idea of classifying the forms of state functions into "legal" and "non-legal (organizational)" forms has been formed.

Legal forms of state functions are designed to ensure law and order, respect for human rights and freedoms.

Based on the tasks set before the Ministry of Justice of Ukraine in accordance with the Resolution of the Cabinet of Ministers of Ukraine of July 2, 2014 № 228 "On approval of the Regulations on the Ministry of Justice of Ukraine" [4].

Results. The legal form is the activity of structural subdivisions of the Ministry of Justice of Ukraine regulated by normative legal acts, which is aimed at creating legal consequences. The legal form of implementation of the law enforcement function of the state by structural units of the Ministry of Justice of Ukraine has its manifestation in the following types of their activities: 1) *rule-making activity* - aimed at developing, adopting, repealing bylaws and drafting laws. In particular, bills submitted by the Cabinet of Ministers for consideration by the Cabinet of Ministers for consideration by the Verkhovna Rada are prepared by the Ministry of Justice of Ukraine; 2) *control and supervision activities* consist of the system of measures developed by the authorized entities to verify compliance with the law during the exercise of their powers and observance of the rights and freedoms of citizens; 3) *executive activity* - is the activity of structural subdivisions of the Ministry of Justice of Ukraine aimed at fulfilling within their powers the provisions of the law, court decisions, orders of the Cabinet of Ministers of Ukraine and senior officials; 4) *representative activity* - aimed at ensuring the implementation of the relevant departments of the Ministry of Justice of Ukraine representation of Ukraine as a state, the President of Ukraine, the Cabinet of Ministers of Ukraine, ministries and other agencies in dispute resolution, as well as Ukraine's representation in the European Court of Human Rights; 5) *contractual activity* - has its manifestation in the implementation of structural units of the Ministry of Justice of Ukraine powers on issues of bilateral cooperation, foreign business trips of officials and employees of the Ministry, etc.

Non-legal (organizational) forms are the activity of structural subdivisions of the Ministry of Justice of Ukraine regulated by normative legal acts and orders of the Cabinet of Ministers of Ukraine and the Ministry of Justice of Ukraine, which does not entail the creation of legal consequences. For example, advising the Minister, ensuring communication with officials of other public authorities, organizing meetings and public relations, the media, is carried out by the Patronage Service of the Ministry of Justice of Ukraine [5].

Powers to determine (specify) areas where hostilities are taking place and safe areas suitable for the accommodation of convicts and detainees, as well as to determine the institutions for pre-trial detention and execution of sentences from

which and to which evacuation will be carried out entrusted to the Chief Specialist for Territorial Defense, etc. [6].

The Ministry of Justice of Ukraine implements the law enforcement function of the state in the following areas [4]:

- stimulation and development in the field of legal education, legal awareness, informing the population, development of a network of access of citizens to sources of legal information;
- development of the system in the field of free primary legal aid and free secondary legal aid;
- creation of conditions for timely, full and impartial execution of court decisions in the order established by the legislation, execution of criminal punishments and probation, control over observance of human and civil rights and requirements of the legislation concerning execution and serving of criminal punishments;
- ensuring the formation and implementation of state policy in the field of state registration of civil status acts, state registration of real rights to immovable property and their encumbrances, state registration of encumbrances on movable property, state registration of legal entities;
- ensuring self-representation of the Ministry of Justice as a body of state power;
- prevention and counteraction to legalization (laundering) of proceeds from crime, financing of terrorism and financing of proliferation of weapons of mass destruction (for law firms, bar associations and lawyers who practice law individually; notaries; business entities providing legal services persons who provide services for the establishment, operation or management of legal entities);
- implementation of international legal cooperation, ensuring compliance with and fulfillment of obligations under international agreements of Ukraine on legal issues.

Disscussion. Thus, the implementation of one of the most important functions of the state in the field of protection of rights, freedoms and legitimate interests of man and citizen will be carried out in the following main areas. *The first direction*: delimitation of the competence of bodies and institutions subordinated to the Ministry of Justice of Ukraine, elimination of duplication of their powers. *The second direction:* to adopt new and amend existing laws and other regulations; to create a regulatory framework that would meet international, especially European, norms and standards. *The third direction:* Control over the activities of law enforcement agencies subordinated to the Ministry of Justice will be carried out at two levels, which can be divided into state and public control.

Conclusions. Based on the research, the author formulated the following definitions: forms of law enforcement function - a legislative activity of structural units of the Ministry of Justice of Ukraine, which, depending on the tasks aimed at creating, changing and terminating legal relations.

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PROCEDURAL FEATURES OF COMMENCE ADMINISTRATIVE PROCEEDINGS IN THE FIELD OF COMMUNAL PROPERTY MANAGEMENT IN UKRAINE

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Abstract. *The article is devoted to the issue of determining the administrative-procedural characteristics of the stage of opening proceedings in an administrative case in the field of communal property management, which is considered in the procedure of administrative proceedings. In connection with the reforms of procedural legislation and local self-government in Ukraine, these issues have become especially relevant. The author explored the main positions of domestic scholars on the stages of consideration of public law disputes in administrative proceedings. He also determined the place of the stage of opening proceedings in the structure of the stages of the administrative trial. Attention is focused on the peculiarities of the adoption of an administrative lawsuit in public law disputes in the field of communal property management and problematic issues that arise in judicial practice. For example, the procedural requirements of the administrative-procedural law to the relevant claims are studied. The special public-law character of this category of disputes is noted, the author emphasized the importance of ensuring access to justice in this category of disputes. The author also believes that the right to appeal against acts or decisions of local governments in the field of communal property management should not be limited. In addition, the author investigated the procedural consequences of non-compliance by the plaintiff with the relevant requirements for both the statement of claim and the place and time of its submission. The author considers the stage of opening proceedings in the case to be the initial stage of resolving a public-law dispute in the field of communal property management in essence.*

Keywords: *management of communal property, stage of administrative process, public law dispute, administrative proceedings, commence of proceedings*

JEL Classification : K-41

Formulas: 0; fig.:0; tabl.:0; bibl.: 16

Introduction. In line with European integration processes in connection with the adoption by the Verkhovna Rada of Ukraine in 2015 of the Law of Ukraine "On Voluntary Association of Territorial Communities" № 157-VIII, local self-government reform was launched, as a result of which united territorial communities had more opportunities to address local issues. At the same time, their responsibility for the decisions made, in particular, in the field of communal property management as one of the areas of their activity, is also increasing. Management of communal property is one of the activities of local governments as a representative body of the territorial community, which has a public character and whose purpose is to realize the interests of the inhabitants of a particular territorial community. Therefore, in the process of communal property management, disputes may arise that are of a public law nature and that are resolved through administrative proceedings.

At the same time, in 2016-2017 the domestic legislator also made significant changes in procedural legislation (Code of Administrative Procedure of Ukraine (hereinafter - CAS of Ukraine), Commercial Procedure Code of Ukraine, Civil Procedure Code of Ukraine, Criminal Procedure Code of Ukraine), which require additional analysis and in-depth study.

In this regard, there is a need to investigate the features of such disputes, to determine their characteristics, taking into account these legislative changes. The stage of initiating proceedings is an important step in resolving such disputes by an administrative court, as this stage determines the substantive jurisdiction of administrative courts and the specific court empowered to hear the dispute, the parties and the nature of the proceedings (general or simplified). Therefore, taking into account the public law features of communal property management, it is advisable to investigate this stage as an integral part of the consideration of public law disputes in this area in administrative proceedings.

Literature review. As you know, the main task of administrative proceedings is to resolve a public law dispute. Therefore, the process of resolving the dispute by the court must be regulated in some way and aimed at achieving this goal. At the same time, the court must have the procedural opportunity to quickly, fully and comprehensively clarify all the circumstances of the case, to ensure that the parties to the case can fully exercise their procedural rights to prove their rightness.

In accordance with paragraph 5 of Part 1 of Art. 4, h.h. 1 st. 12 CAS of Ukraine administrative proceedings - the activities of administrative courts to consider and resolve administrative cases, which is carried out by way of claim proceedings - general or simplified. According to p.p. 1, 3 h. 1 st. 4 CAS of Ukraine to the competence of the administrative court includes the consideration and resolution of administrative cases - transferred to the administrative court of public law disputes.

Administrative proceedings, as a certain legal process (activity), are characterized by the presence of appropriate stages, during which the intermediate issues necessary to resolve the main goal - resolving the dispute on the merits.

The stage of administrative proceedings is defined as the order and conditions of relatively independent and logically related procedural actions regulated by the norms of administrative procedural law, aimed at solving and solving the tasks of a certain part of a particular administrative proceeding. We also add that the stages are general, not individual, ie their sequence and number do not change in any order, and they depend only on the nature or type of proceedings.

In administrative-procedural legal science there are different approaches to the content, number, characteristics of stages of court decision-making, which are differentiated depending on the understanding of the essence of administrative proceedings - as proceedings in the court of first instance or in all instances. Here are the most common.

For example, O. V. Kuzmenko and T. O. Gurzhiy distinguish the following stages of consideration of the administrative case by the court of first instance: preparatory consideration of the claim; preliminary consideration of the case; final consideration of the case (Kuzmenko & Hurzhii, 2007, p. 325).

E.F. Demsky believes that the procedural stages of administrative proceedings and the administrative process include: resolving the issue of opening a case; clarification of the facts of the case; consideration of the case and decision-making in the case; review of the decision in the case; execution of the decision in the case (Demskyi, 2008, pp. 127-128).

S.V. Bakulina, investigating the proceedings in public law disputes related to the use and disposal of state and communal lands, identifies the following stages: initiation of proceedings; consideration of the case by the court of first instance; review of court decisions. It also distinguishes such stages of the stage of litigation as: the formation of claims and filing a lawsuit; opening proceedings; preparation of the case for trial; trial on the merits; 5) making a court decision in the case. At the same time, it should be noted that the stage of formation of claims is substantive rather than procedural in nature, as these actions are carried out by the plaintiff outside the court proceedings, and therefore the inclusion of these actions in the proceedings requires additional justification. Examining the proceedings in public law disputes related to the use and disposal of state and communal lands, identifies the following stages: initiation of proceedings; consideration of the case by the court of first instance; review of court decisions. It also distinguishes such stages of the stage of litigation as: the formation of claims and filing a lawsuit; opening proceedings; preparation of the case for trial; trial on the merits; 5) making a court decision in the case (Bakulina, 2018, pp. 99, 101). At the same time, it should be noted that the stage of formation of claims is substantive rather than procedural in nature, as these actions are carried out by the plaintiff outside the court proceedings, and therefore the inclusion of these actions in the proceedings requires additional justification.

In turn R.V. Mironyuk notes that the main stage of the administrative process is the consideration of cases in the court of first instance, which includes such stages as filing an administrative claim, its registration and the opening of proceedings in an administrative case; preparatory proceedings; court consideration of the case and adoption of a court decision (Myroniuk R.V., 2012, p. 131).

R.O.Kuybida, V.I.Shishkin consider that the proceedings in the court of first instance include the following stages: filing an administrative lawsuit and opening proceedings in an administrative case; preparatory proceedings; court proceedings; adjudication (Kuibida & Shyshkin, 2006, p. 311). A similar opinion is held by the authors of the textbook "Administrative Process of Ukraine", ed. A.T. Komzyuk (Komziuk, 2007, p. 425).

Analyzing these positions of domestic scholars on the stages of administrative proceedings, we can conclude that they do not contradict each other, but differ only in name, level of detail and approaches to understanding the boundaries of administrative proceedings. The object of research in this work is the stage of opening proceedings in an administrative case during the consideration of public law disputes in the field of communal property management.

Aims. The purpose is to study the peculiarities of the acceptance of administrative lawsuits in the field of communal property management and the solution of problematic issues related to the determination of substantive, instance, territorial jurisdiction of administrative courts in this category of disputes.

Methods. In this work, general, philosophical, general scientific, specific scientific and special methods were used.

1) general methods of analysis, synthesis, comparison, modeling.

Methods of analysis and synthesis were used to determine the characteristics of the concepts studied in this work. The method of comparison was used to compare different opinions of scientists regarding the understanding of certain legal phenomena. The modeling method was used to identify potential problems in the legal regulation of public law disputes in the field of communal property management.

2) philosophical methods (dialectical, hermeneutic).

The dialectical method was used in the study of administrative proceedings as a legal phenomenon formed by various factors. The hermeneutic method was used in the interpretation of regulations governing the consideration of public law disputes in the field of communal property management.

3) general scientific methods (structural, historical).

The structural method was used to characterize the phasing of the administrative process. The historical method was used to clarify the development of legal regulation of certain aspects of this category of disputes in previous versions of the Constitution and laws of Ukraine.

4) specific scientific methods (statistical).

The statistical method was used to determine the workload of administrative courts with disputes involving local government.

5) special methods (formal and legal).

The formal-legal method is used to clarify the essence of the legal regulation of the administration of justice in administrative courts in the consideration of public-law disputes in the field of communal property management.

Results. In accordance with Part 1 of Art. 168 CAS of Ukraine, the claim is filed by filing a statement of claim in the court of first instance, where it is registered and not later than the next day handed over to the judge. In fact, after filing a lawsuit in court, an administrative case begins - a public law dispute.

According to the general rule established by part 1 of Art. 22 CAS of Ukraine, local administrative courts (local general courts as administrative courts and district administrative courts) decide administrative cases as courts of first instance. At the same time, the Administrative Courts of Appeal as courts of first instance have jurisdiction, in particular, over claims for compulsory alienation of land, other real estate located on it (Part 3 of Article 22 of the Criminal Procedure Code of Ukraine).

It should be noted that since 2017, public law disputes in the field of communal property management are considered only by administrative district (or appellate) courts as courts of first instance. At the same time, the previous version of the CAS of Ukraine provided for a broader list of administrative cases subject to local general courts as administrative courts. In particular, local general courts could consider disputes in which one of the parties is a local government body, except those that are subject to district administrative courts (in particular, if the party to such a dispute is the regional council, Kyiv, Sevastopol city councils).

In 2016, in district administrative courts, the receipt of cases and materials decreased from 177,530 (2015) to 125,457 appeals (2016), and in local general courts as administrative courts increased from 77,215 (2015) to 89,882 appeals year)

(Analytical review of the state of administrative proceedings in 2016, 2016). In the first half of 2017 in the district administrative courts the receipt of cases and materials increased from 56,983 (first half of 2016) to 58,492 units (first half of 2017), and in local general courts as administrative courts - from 34,510 (first half of 2016) year) to 51,021 appeals (first half of 2017). Such dynamic changes took place mainly due to cases of recalculation and payment of old-age pensions to educators, recalculation of pensions for prosecutors, civil servants, and resumption of pensions to working pensioners (Analytical review of the state of administrative proceedings in the first half of 2017, 2017). That is, the number of lawsuits filed with local general courts as administrative courts in 2015-2017 increased due to cases not related to the activities of local governments.

It should be noted that district administrative courts are usually located in regional centers (Decree of the President of Ukraine, 2004), which can cause certain organizational and transport inconveniences for the parties to the process. Researcher O. Ovcharenko points out that the territorial proximity of courts to the participants in the process is a component of the principle of access to justice (Ovcharenko, 2008, p. 61). Given the judicial statistics, it can be argued that local general courts are an important element of the system of administrative courts due to their location, which helps some participants to avoid the mentioned organizational and transport inconveniences.

The judicial system must be diversified to provide every person with a real opportunity to reach a judicial institution (Ovcharenko, 2008, p. 76). Therefore, in cases of lawsuits against local governments in the field of communal property management, the delimitation of subject jurisdiction provided by the previous version of the CAS of Ukraine is quite justified. At the same time, we will note that this question taking into account changes in the administrative-territorial structure of Ukraine which occurred in 2020, and also provided by Art. 195 CAS of Ukraine the possibility of participating in the court hearing by videoconference is still in a state of dynamic development and requires a separate study.

After the judge has transferred the claim, he should decide on the opening of proceedings.

According to h.h. 1, 2, 9 st. 171 CAS of Ukraine, the judge after receiving the statement of claim finds out whether:

1) the statement of claim is filed by a person who has administrative procedural capacity;

2) the representative has the appropriate authority (if the statement of claim is filed by a representative);

3) the statement of claim meets the requirements established by Articles 160, 161, 172 of this Code;

4) the statement of claim shall be considered according to the rules of administrative proceedings and whether the statement of claim shall be filed in compliance with the rules of jurisdiction;

5) the claim is filed within the term established by law (if the claim is filed with the omission of the term of appeal to the court established by law, whether there are

sufficient grounds for recognizing the reasons for missing the term of appeal to the court valid);

6) there are no other grounds for leaving the statement of claim without motion, return of the statement of claim or refusal to initiate proceedings in an administrative case, established by this Code.

The judge opens proceedings in an administrative case on the basis of a statement of claim, if there are no grounds for leaving the statement of claim without motion, its return or refusal to open proceedings in the case. The court shall issue a relevant ruling on the acceptance of the statement of claim for consideration and the opening of proceedings in the case.

As you know, a claim (statement of claim) is a document that contains the substantive claims of one person (plaintiff) to another (defendant). Requirements for the content and execution of an administrative claim are set out in Art. 160-161 CAS of Ukraine, the consequence of their non-compliance is to leave the claim without action, and further - the return of the statement of claim (Article 169 CAS of Ukraine).

At the same time, we note that these rules contain as purely formal requirements for the claim, such as complete information about the parties (which is necessary for their summonses / notifications to the court, sending a copy of the court decision), the presence of a copy and copies attached thereto materials for all other participants in the case, payment of court fees, etc., and content - specificity and clarity of claims, justification of violation of the contested decisions, actions or inaction of the rights, freedoms, interests of the plaintiff, information on the application of the contested legal act to the plaintiff the plaintiff to the subjects of legal relations in which this act is applied or will be applied.

It is necessary to dwell separately on the substantiation of the violation of the contested individual decisions, actions or omissions of the rights, freedoms, interests of the plaintiff. As you know, the court protects and restores the violated rights of the plaintiff, and therefore during the case should establish the fact of violation of his rights and legitimate interests. According to the first part of Article 55 of the Constitution of Ukraine, paragraph 2 of the motivating part of the Decision of the Constitutional Court of Ukraine № 9-зп of December 25, 1997 (case on appeals of Zhovti Vody residents) any person has the right to go to court if his rights are violated, obstacles to their implementation have been created or are being created or other violations of rights and freedoms are taking place (Decision of the Constitutional Court of Ukraine, 1997).

Therefore, during the consideration of the case, the court must establish the fact or circumstances that would indicate a violation of the rights, freedoms or interests of the plaintiff by the defendant.

At the same time, the Supreme Court takes the position that the right to appeal an individual act of a subject of power is granted to the person in respect of whom the act is adopted or the rights, freedoms and interests of which it directly affects (for example, the Grand Chamber of the Supreme Court from 09.04.2019 year № 9901/611/18 (Resolution of the Grand Chamber of the Supreme Court, 2019), in the

case № 9901/283/19 (Resolution of the Grand Chamber of the Supreme Court, 2019). However, it is impossible to unambiguously agree with this position in view of the following.

A feature of public-law relations related to the management of communal property is the presence of public (municipal) interest. That is, the actions or inaction of the subject of power of individual character in relation to another specific person (not the plaintiff) in the sphere of communal property management challenged by the plaintiff may violate his rights as a resident of a certain territorial community, which in turn is the owner of such property. Providing an opportunity to appeal against an illegal individual act of a subject of power over the property belonging to the territorial community only to the person to whom such an act applies, deprives the residents of the territorial community of the opportunity to exercise their rights under Art. 21, 23, 55, 140, 142, 143 of the Constitution of Ukraine on equal and direct participation in the management of communal property.

Therefore, when considering public-law disputes in the field of communal property management concerning the appeal of individual acts, the plaintiff may be a relevant resident of the territorial community, whose rights as a member of the territorial community could be violated by such an act.

Thus, the Grand Chamber of the Supreme Court in the decision of 12.02.2020 in the case № 1340/5441/18 noted that addressing this claim to the court, the plaintiff pointed to the violation by the defendant Lviv Regional Council of a number of regulations in making the contested decision , as well as to violate the interests of the local community in general and the plaintiff in particular. Thus, the court pointed out that the decision of the regional council to terminate the municipal facilities "Lviv Regional Health Center" "Lviv Regional Medical Information and Analytical Center" of the Lviv Regional Council was adopted to perform on behalf of the local community management of health facilities, and such The decision affects not only the rights and interests of the plaintiff as a member of the territorial community, but also the interests of the territorial community as a whole, so the plaintiff exercised her right under Article 59 of the Law of Ukraine "On Local Self-Government in Ukraine" to appeal in administrative proceedings (Resolution of the Grand Chamber of the Supreme Court, 2020).

We also believe that in resolving the issue of opening proceedings in a case in the field of communal property management should also take into account the requirements of Art. 19, 20, 25-27, 122 CAS of Ukraine. For example, the inconsistency of the claim of Art. 19 CAS of Ukraine (subject jurisdiction) is the basis for refusal to initiate proceedings (paragraph 1, part 1 of Article 170 of the CAS of Ukraine). As we have already noted, the issue of substantive jurisdiction of this category of disputes remains open, and therefore requires additional attention of scholars in the field of administrative procedure law.

Also, the inconsistency of the claim of Art. 20 CAS of Ukraine (delimitation of substantive jurisdiction between administrative courts) is the basis for the transfer of materials of the claim for delimitation of substantive jurisdiction to another relevant administrative court (local general as administrative or administrative). However, we

note that Art. 29 CAS of Ukraine does not contain such grounds for transferring the case to another court. This gap is solved by applying the analogy of the law to the violation of territorial jurisdiction. Thus, the Zolochiv City District Court of the Kharkiv Region decided to apply the analogy of the law provided for in Part 6 of Art. 7 CAS of Ukraine, having established that in such a situation by analogy with the law should apply paragraph 2 of Part 1 of Art. 29 CAS of Ukraine, according to which, the court transfers the administrative case to another administrative court, if at the opening of the proceedings the court finds that the case belongs to the territorial jurisdiction (jurisdiction) of another court (Decision of the Zolochiv City District Court of the Kharkiv Region, 2018).

Territorial jurisdiction (jurisdiction) is the order of division of cases between courts of the same level depending on the territory to which their jurisdiction extends. CAS of Ukraine provides for such types of jurisdiction as general (Article 26 of the CAS of Ukraine), alternative (Article 25 of the CAS of Ukraine), special (Part 5 of Article 276, Part 1 of Article 281, Part 2 of Article 267 of the CAS of Ukraine) , exclusive (Article 27 of the CAS of Ukraine). Territorial jurisdiction of administrative courts over public law disputes in the field of communal property management is characterized by the following types:

1) general - claims against an individual are filed in court at the place of residence or stay registered in the manner prescribed by law. Claims against legal entities are filed in court at their location in accordance with the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Associations (Article 26 of the Criminal Procedure Code of Ukraine);

2) alternative - at the choice of the plaintiff. Thus, administrative cases concerning appeals against individual acts, subjects of power, which are adopted (committed, admitted) in relation to a specific natural or legal person (their associations), are decided at the choice of the plaintiff by the administrative court at the place of residence registered by law. (stay, location) of this person-plaintiff or by the administrative court at the location of the defendant. If such a person does not have a place of residence (stay) in Ukraine, then the case is decided by the administrative court at the location of the defendant. If the case on related claims is territorially subject to different local administrative courts, it is considered by one of these courts at the choice of the plaintiff (Article 25 of the Criminal Procedure Code of Ukraine);

3) special - administrative cases on compulsory alienation of land, other immovable property located on it, for reasons of public necessity are considered at the location of immovable property subject to compulsory alienation (Part 2 of Article 267 of the Criminal Procedure Code of Ukraine).

It should be noted that the procedural document (decision) on the opening of proceedings in the case is the procedural basis for the participation of subjects of public law disputes in the field of communal property management in the case by the court. This document contains information about the parties to the case, the essence of the dispute, the procedure for its consideration (in general or simplified litigation), date, time, place of consideration of the dispute, etc.

At the same time, the CAS of Ukraine provides an opportunity for the court in case of non-compliance of the claim with the above requirements after the opening of the proceedings to leave it without motion, without consideration or close the proceedings (paragraph 3 of Part 1 of Article 29, Part 3, 4 Article 123, Part 13 Article 171, paragraph 1 Part 1 Article 238, Article 240 CAS of Ukraine).

In addition, in accordance with Part 1-3 of Art. 12 CAS of Ukraine administrative proceedings are carried out in the order of claim proceedings - general or simplified. Simplified claim proceedings are intended for consideration of cases of insignificant complexity and other cases for which the priority is to resolve the case quickly, and general claim proceedings - for consideration of cases that due to complexity or other circumstances should not be considered in a simplified manner. There are no preparatory proceedings in the summary proceedings.

According to Art. 257, 260 CAS of Ukraine the question of consideration of case according to rules of the simplified claim proceedings the court decides in the decision on opening of proceedings in case. Under the rules of summary proceedings, cases of insignificant complexity are considered. In resolving the issue of consideration of the case under the rules of simplified or general claim proceedings, the court shall take into account:

1) the significance of the case for the parties;

2) the method of protection chosen by the plaintiff;

3) category and complexity of the case;

4) the amount and nature of evidence in the case, including whether it is necessary to appoint an expert in the case, call witnesses, etc .;

5) the number of parties and other participants in the case;

6) whether the consideration of the case is of significant public interest;

7) the opinion of the parties on the need to consider the case under the rules of summary proceedings.

In addition, the rules of summary proceedings may not be considered in disputes:

1) on appeals against regulations;

2) to appeal against decisions, actions and omissions of the subject of power, if the plaintiff also filed a claim for damages caused by such decisions, actions or omissions in the amount exceeding five hundred times the subsistence level for able-bodied persons;

3) on compulsory alienation of a land plot, other real estate objects located on it, on the grounds of public necessity;

4) to appeal against the decision of the subject of power, on the basis of which he may file a claim for recovery of funds in the amount exceeding five hundred living wage for able-bodied persons.

The question of the form in which the court hears the case is important both for the proper clarification of all the circumstances of the case and for determining the possibility of further appeal against the court's decision. Thus, court decisions rendered in a case considered in the simplified claim procedure are not subject to cassation appeal. However, the rules of Art. 12, 257, 260 CAS of Ukraine do not

establish more or less specific qualitative criteria by which the court could determine the forms of administrative proceedings in which to consider a dispute. In our opinion, the legislator should establish qualitative characteristics (references to a certain category of cases, features of subjects, etc.), and not give the court of first instance a wide enough discretion to resolve this issue. The quantitative criterion available in the CAS of Ukraine is more typical for cases of civil and commercial jurisdiction, and therefore cannot be used as a basis for distinguishing between general and simplified claim proceedings in administrative proceedings.

Discussion. According to the results of this study, we can say that in resolving the issue of opening proceedings in the field of communal property management, the court must establish compliance with a number of criteria. Compliance with these criteria by the plaintiff, established by the court at the initial stage of the dispute, will facilitate the correct and effective resolution of the dispute in accordance with the requirements of procedural law. It should be noted that the importance of the stage of initiating proceedings in any case, the actions taken by the court during it are emphasized by the majority of scholars, who, accordingly, distinguish this stage of the administrative process.

Conclusion. Therefore, the stage of initiating proceedings is an important component of public law disputes in the field of communal property management, during which the issue of the possibility of consideration by the administrative court of a claim is resolved, taking into account the content of claims, lawsuit, correct subject, instance and territorial jurisdictions. administrative proceedings. At the same time, scientific doctrine and practice outline a number of issues related to the definition of the range of subjects of appeal against acts of local self-government in the field of communal property management, which is unreasonably limited. Also, attention should be paid to the practice of national courts, which deny plaintiffs the protection of their public (municipal) interest on the grounds that the plaintiffs are not directly parties to the disputed legal relationship and their rights have not yet been violated.

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CHAPTER 3
PUBLIC ADMINISTRATION AND GOVERNANCE

THEORETICAL PRINCIPLES OF CUSTOMS CONTROL IN UKRAINE

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Abstract*. Globalization processes that rapidly change economic processes require decisive changes in all areas of management, and effective foreign economic activity requires solving existing problems in customs in general and optimizing the process of customs control in particular. Ukraine, in particular, the main tasks for the functions of customs authorities are analyzed. Consideration of the definition of "customs control" in the current legislation and scientists and proposed their own position. The types of customs control depending on the criteria of classification are studied, namely, depending on: the subject it is accepted to distinguish the general and special types of customs; direction of movement of goods; essential characteristics of goods; type and nature of cooperation of customs authorities of countries, etc. The differences between one-time customs control and re-customs control are given, the essence of official control is revealed. In order to increase the efficiency of customs control, ensure the simplification of international trade, improve the business climate, and promote economic growth, problematic areas of customs procedures have been identified in order to harmonize or avoid them.*

According to the results of the study, it is determined that the customs authorities of Ukraine to simplify customs procedures and customs formalities need to intensify the introduction of electronic declaration, which will significantly reduce the cost of customs clearance and clearance time. Further development of the "Electronic Customs" system should be carried out taking into account the experience of implementing electronic systems in other developed countries, including EU member states. It is possible to fulfill the current tasks of customs authorities in the implementation of customs control only if the intensification of scientific research on the successful implementation of current legislation to international standards and the successful introduction of modern tools, which are discussed in this publication.

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

JEL Classification: F52, F68.

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Introduction. The changes that humanity has undergone as a result of globalization processes, including temporary logistical constraints related to the coronavirus pandemic, form new requirements in Ukraine's foreign economic activity in the customs sphere. Customs control when crossing the border by participants in foreign economic activity acts not only as additional revenues to the budget, but also is a guarantee of national security.

Ukraine is at the stage of formation and development of market relations, integration of the economy into the European and world customs system, so the problem of organizing and conducting customs control is extremely important and relevant. This integration into the world space requires adherence to common standards, conditions and procedures related to the movement and control of transit movement of goods in the legal field, innovation and new technologies.

All this requires a thorough study of theoretical and methodological aspects of customs control and appropriate proposals for ways to improve it, taking into account the crisis economic processes caused by the pandemic.

Literature view. An important contribution to the creation of a scientific basis for the implementation of customs control in the context of realization of economic interests of the state made such a science as I. Berezhnyuk, M. Bilukha, O. Godovanets, O. Honcharuk, L. Hrytsyna, O. Desyatnyuk, K. Kondratenko, A. Krysovaty, V. Martyniuk, T. Mykytenko, P. Pashko, S. Tereshchenko, I. Stefanyuk, L. Savchenko and others. The vast majority of research mentioned, as well as other scientists, reveals the general issues of organization, harmonization and identifies problematic aspects of customs control and ways to improve them.

Aims. The purpose of the article is to study the problematic theoretical foundations of customs control and study proposals for ways to optimize its procedures to ensure the effectiveness of Ukraine's foreign economic activity towards integration into the European and world economic space.

Methods. The methodological basis of the article was carried out with the use of general scientific methods: dialectical and historical methods, systematic approach, theoretical generalization and comparison, analysis and synthesis. The information base of this study are regulations, scientific developments of Ukrainian and foreign scientists on selected topics.

Results. One of the forms of function of customs authorities is control activity, which consists monitoring and verifying the compliance of citizens and business entities with the norms of customs legislation. In the process of carrying out control activities, the customs authorities: supervise the actual sale by citizens and persons carrying out operations related to the movement of goods and vehicles across the customs border; prevent possible customs offenses in this area; determine measures aimed at eliminating conditions that complicate the realization of citizens and business entities of their rights and conditions that contribute to the commission of offenses; in case of detection of the fact of a customs offense, measures shall be taken to stop it. The purpose of the customs authorities in relation to control is, on the one hand, creating the most favorable conditions for the implementation of customs legislation in the conduct, activities of citizens and businesses, ensuring the effectiveness of legal regulation of public relations in the customs sphere, and on the other - protection of economic interests of the state , law and order in the customs legal sphere. One of the main functions of customs authorities is the full and timely transfer of customs payments to the State Budget of Ukraine. Therefore, the correctness of accrual of customs payments, completeness and timeliness of their

payment, as well as control by customs authorities over the receipt of taxes and fees from the movement of vehicles to the state treasury are of particular importance [1].

Customs control occupies an important place in the general hierarchy 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 complete payment of customs duties, liability for violation of customs legislation, and also state bodies, which are responsible for implementing the policy in the field of state customs. Y. Dyomin is convinced that customs control is "a system of legally established measures taken by customs authorities to ensure compliance with customs and tax legislation, protection of state and public security, economic interests and also detection and prevention of illegal actions of individuals and legal entities" [2]. M. Bilukha and T. Mykytenko define customs control as a function of management of customs operations of enterprises engaged foreign economic activity in order to ensure compliance with the requirements of regulations on state customs and international treaties of Ukraine [3]. According to I. Ivancha, customs control is an integral part of financial control based on both existing organizational reserves and new, modern forms of organization and providing of financial control: risk management system; electronic declaration; the only automated system for collecting, storing and processing information on foreign trade transactions [4].

The Customs Code of Ukraine (ICU) defines customs control as "... a set of measures taken to ensure compliance with the norms of Customs Code, laws and other regulations on state customs, international treaties of Ukraine concluded in the manner prescribed by law ». According to article 336 of the Customs code of Ukraine, customs control is carried out directly by officials of bodies of incomes and charges by:

1) verification of documents and information provided to the bodies of revenues and fees during the movement of goods, commercial vehicles across the customs border of Ukraine;
2) customs inspection (inspection and re-inspection of goods, commercial vehicles, inspection and re-inspection of hand luggage and luggage, personal inspection of citizens);
3) accounting for goods, commercial vehicles moving across the customs border of Ukraine;
4) oral interview of citizens and officials of enterprises;
5) inspection of territories and apartments of temporary storage warehouses, customs warehouses, free customs zones, duty-free shops and other places where goods, commercial vehicles subject to customs control are located;
6) checks on the accounting of goods moving across the customs border of Ukraine and / or under customs control;
7) conducting documentary inspections of compliance with the requirements of the legislation of Ukraine on state customs matters, including timeliness, reliability, completeness of accrual and payment of customs duties;

8) sending inquiries to other state bodies, institutions and organizations, authorized bodies of foreign states to establish the authenticity of documents submitted by the State Customs Service of Ukraine [5].

The EU Customs Code defines customs control as certain actions of customs authorities to ensure the proper application of customs and other legislation governing the import, export, transit, transfer, storage and finish using of goods moving between the customs territory of the Community and other territories, and the presence and movement within the customs territory of goods not originating in the European Union and goods placed under the regime of release for domestic consumption [6].

The main tasks and functions of customs authorities include ensuring the implementation of policy in the field of state customs and combating offenses in the application of customs legislation; exercising, within the limits of its powers, control over the receipt of taxes and fees, customs and other payments to the budgets and state trust funds; direct implementation of customs affairs, control over observance by all legal entities and individuals of the legislation of Ukraine on customs affairs; taking measures to protect the interests of consumers of goods, preventing the importation into the territory of Ukraine and release for free circulation of substandard goods; creation of favorable conditions for accelerating trade, increasing the volume of cargo flow across the customs border of Ukraine and protecting the intellectual property rights of legal entities and individuals in the process of foreign economic activity; simplification of customs procedures through further use of the "single window", the institution of an authorized economic operator, the development of a risk management system.

There are the following types of customs control according to the classification criteria. Thus, depending on the subject, it is customary to distinguish between general and special types of customs control. General customs control, depending on the specific subject can be divided into customs control of goods and customs control of vehicles.

Depending on the direction of movement of goods, it is customary to distinguish between customs control of imported, export and transit goods. Accordingly, import control is carried out on goods imported into the territory of Ukraine, export - on goods exported from Ukraine, and transit - on goods moving through the customs territory of Ukraine.

Depending on the essential characteristics of goods, which condition the features of customs control, there are subtypes of customs control of goods: customs control of hand luggage and control of luggage, both accompanied and unaccompanied.

Customs control of vehicles is determined by their type. Accordingly, there are customs control of vehicles, aircraft, customs control of railways, customs control of river vessels, customs control of ships, customs control of pipeline transport and power grids.

Depending on the type and nature of cooperation between the customs authorities of the countries there are such types of customs control as:

- unilateral customs control. Such control is carried out by only one party, usually before crossing the customs border. The customs authorities of one party trust the other party and do not carry out repeated customs control. This control system is also called simplified. It is becoming widespread for members of customs unions;

- bilateral customs control, which is carried out independently by the customs of the two countries;

- joint customs control, which is carried out simultaneously by the customs authorities of the two countries.

In addition to this, there are one-time customs control and re-customs control. Such controls are usually carried out on vehicles or goods when the customs authorities have sufficient grounds to do so. One-time customs control is carried out when the customs border is crossed in one direction, and repeated when vehicles cross the customs border twice in a short period.

During the customs control, the customs authorities shall independently determine the form and scope of control sufficient to ensure compliance with the legislation of Ukraine on customs matters and international agreements of Ukraine [7].

An important factor for providing compliance of legal rules and procedures of foreign economic activity is the development of institutional foundations for fulfillment of customs control. In modern conditions, the state of customs control does not provide protection of economic interests of the state, elimination of violations of customs and tax legislation. It is known that all goods and vehicles moving across the customs border of Ukraine are subject for customs control.

To ensure compliance with the legislation of Ukraine on customs matters, customs authorities must conduct a minimum of customs procedures. Note that the forms of customs control, according to Article 336 of the Customs Code of Ukraine, there are:

1) verification of documents and information during the movement of goods and vehicles;
2) customs inspection / re-inspection;
3) inspection of territories and apartments of temporary storage warehouses;
4) accounting for goods and vehicles;
5) verification of accounting of goods and vehicles;
6) oral examination;
7) conducting documentary inspections,
8) sending inquiries to other state bodies, institutions and organizations, authorized bodies of foreign states" [8].

The development of the system of customs clearance and control in Ukraine is carried out in the direction of accelerating the passage of goods and vehicles across the customs border. Increasing the capacity of checkpoints, without reducing the reliability of customs control, makes it possible to humanize and simplify the regime of control over the movement of goods and commercial vehicles. Thus, in order to create favorable conditions for crossing the customs border of Ukraine since 2018, official control measures have been introduced. Measures of official control may be

referred to the constituent parts of customs control, as in Part 1 of Article 319 of the Customs Code of Ukraine explicitly states that when moving through the customs border of Ukraine, goods, in addition to customs control, may be subject to customs. At checkpoints across the state border of Ukraine, the specified types of state control are carried out by customs authorities in the form of a preliminary document.

Thus, the legislator directly opposes customs control to preliminary documentary control, which is a form of other types of state control. In fact, the customs authorities exercise it not within the limits of their powers, but on the basis of the powers delegated to them by other state bodies.

Analysis of current legislation allows to confirm that between customs and preliminary documental control is many common: they are carried out simultaneously, by the same controlling subjects (officials of customs bodies), concerning the same objects. However, these types of control have different purposes. Customs control is aimed at ensuring the rule of law in the field of customs, to prevent violations of customs legislation, and in case of detection - to detect them.

Preliminary documentary control is designed, first of all, to ensure the safety of the people's meeting in Ukraine, to prevent phytocanitary, veterinary and canine measures of other, provided by legislation, characters. There are a number of minor differences between them, they can be distinguished by identifying the main specific features of the preliminary documentary control.

So, first of all, this control, as well as any other kind of state control is a means of maintaining legality, but its application involves ensuring the rule of law not in one but in a number of areas. Secondly, it is documentary, that is, it is carried out mainly in the form of verification of documents submitted by the declarant; at the same time, the legislator has defined a clear list of such documents. Thirdly, during the implementation of this type of control, customs officials check the compliance of goods with veterinary, sanitary, phytosanitary requirements. That is why, there is a situation when the controlling entity is not a specialist in the field being inspected.

The effectiveness of such control became possible only under the conditions of close interaction between the customs authorities and the specialized bodies of the state administration, the last one - documentary control is preliminary.

This feature is manifested in the fact that in case of detection of circumstances that call into question the possibility of a positive ending of the preliminary control, the customs authority is authorized to suspend its implementation and initiate normal control proceedings on phytosanitary, veterinary, state control over compliance with food and feed legislation. , products of animal origin, animal health and welfare.

Improving the efficiency of customs control, facilitating international trade, improving the business climate, promoting economic growth is possible due to the presence of problematic areas of customs procedures, namely:

-implementation of full customs control of goods, without using of appropriate technical equipment and information technology;

- there is duplication of bilateral customs control of two neighboring countries;

- subjects of foreign economic activity submit a significant number of different documents about the movement of goods across the customs border, the forms of these documents differ in different countries;
- insufficient staffing, in terms of material and technical base, and the convenience of the location of places for customs clearance of goods;
- presence of different rates and methods of accrual of customs duties and others.

One of the main tasks of the customs authorities of Ukraine in the near future is the creation of a customs service of European standard, the transition to international principles of customs control. In modern conditions of economic development, customs authorities should focus on cooperation with foreign trade entities, in order to improve customs control, by simplifying and harmonizing the relevant procedures to ensure transparency, consistency, logic and predictability of foreign trade entities [9].

It should be emphasized that the customs authorities of Ukraine to simplify customs procedures and customs formalities, are actively implementing electronic declaration, which significantly reduces the cost of customs clearance and clearance time. Further development of the Electronic Customs system should be carried out taking into account the experience of implementing electronic systems in other developed countries, including EU member states. Informatization of customs is in the interests of both business entities and the interests of the state. The effects of optimizing customs control and customs clearance of vehicles will be as follows:
- optimization of time for customs procedures;
- further automation of customs control and clearance procedures;
- interaction with information systems of various institutions and state organizations of Ukraine and the world;
- development of international customs cooperation in the field of export, import and transit of vehicles;
- increase in customs revenues to the State Budget of Ukraine;
- strengthening of the regulatory function of the customs policy of Ukraine, etc.

Another way of improving customs control procedures, along with electronic declaration, is to simplify the procedures required for customs clearance. Reducing the list of documents required for customs control means the possibility of taking them out of customs clearance. The result of such actions should be the acceleration of customs procedures, in particular, at checkpoints at the customs border, reducing delays in downtime of goods, which will accelerate the process of filling the state budget [10].

Despite the significant success of electronic declaration, it is still not perfect. Many customs processes are still based on paper documents, which does not match the current technical progress and world best practices. Electronic autonomy technology allows you to get several benefits at once:
1. Reducing physical contact between business and government minimizes corruption risks.
2. Automate and simplify business declaration.

3. To form a more comprehensive view of the enterprise from the point of view of the supervisory authority.

According to the World Customs Organization in the European region, the overall percentage of electronic customs declarations exceeds 90%. It is worth noting that in the EU customs clearance takes less than 5 minutes in 63% of cases and exceeds 1 hour in 9% of cases (this can take up to 48 hours). These results cannot be achieved without significant progress in customs automation and risk management. In contradistinction to financial fines in the tax legislation (which are applied to business entities), the responsibility for violation of customs rules is personal - a fine is imposed on an individual. Customs corruption harms doing business in the country as a whole.

Corrupt practices related to customs clearance distort competition, harm the legitimate business activities of honest business, and create risks to the security of the supply chain and the economic security of the state as a whole. That is why measures aimed at preventing corruption and reducing corruption risks are important for creating a favorable business climate in the country. The shadow economy, the illegal movement of goods across the customs border, tax evasion schemes harm the legitimate interests of conscientious companies and distort competition in the market.

That is why business is interested in the state, represented by the customs administration, to actively counteract violations of customs legislation.

Analyzing the complexity of customs procedures, it is advisable to pay attention to measures to simplify them in Ukraine in recent years of reform. First of all, in accordance with the obligations to the International Monetary Fund, our state had to introduce the institution of an authorized economic operator (AEO) in order to simplify customs procedures and implement customs legislation. Although at the legislative level, the concept of AEO has existed since 2012, which is defined by the Customs Code. On September 12, 2020, the Verkhovna Rada adopted a bill in the first reading on the introduction of the institution of an authorized economic operator in Ukraine.

The explanatory note to the bill states that its purpose is to introduce in Ukraine the institution of an authorized economic operator, similar to the one operating in the EU, with the prospect of their further mutual recognition. In particular, the status of the AEO confirms the high level of customs confidence in the company and, as a consequence, gives it the opportunity to enjoy the benefits of customs formalities for their goods. Recognition of the status of national AEOs by the customs authorities of the EU countries will ensure the participation of Ukrainian AEOs in the formation of so-called safe supply chains and increase their competitiveness in foreign and domestic markets.

This document is aimed at expanding the freedom of entrepreneurial activity, increasing the competitiveness of Ukrainian enterprises in foreign and domestic markets, which, in turn, will be the basis for creating new working places in the near future. This bill needs to be adopted and implemented in the current Ukrainian legislation, which will bring Ukraine closer on the path to European integration and facilitate customs procedures when crossing the border.

Discussion. In general, the elements of customs control are: the organization of the customs control, the subsystem of control over the movement of goods across the customs border by citizens and businesses; and the main components of customs control are the process of customs control, its forms, customs examination, customs control zones and special procedures. On the whole, based on theoretical approaches to understanding the essence of customs control, we observe a large number of views and definitions, which indicates the need to study the chosen topic. Considering that customs control is an integral part of the customs system, the study of its essence and features is an extremely important task of modern research for the harmonious integration of Ukraine into the European and world economic space.

Conclusions. Summarizing the theoretical analysis of our study, we can confirm that customs control includes a set of measures taken by customs authorities within their competence to avoid offenses that are possible when crossing the border to ensure national security, economic interests of the state.

In order to convert the customs authorities operating in Ukraine into the European standard format, a process of maximum simplification of customs procedures and customs formalities is needed, which will help save time for customs control participants and financial costs through the introduction of effective e-customs. It will make it possible to carry out most procedural points through electronic declaration and reduction of the list of documents that are duplicated due to their absence in the database. Reducing bureaucratic procedures and simplifying the procedure will have a positive impact on both the cooperation of customs control participants and the image of Ukraine in terms of competitiveness in the economic space. In order to harmonize and improve the customs control process, it is necessary to implement the current legislation to European and world standards, in particular to bring the process of introduction of the authorized economic operator, which will significantly speed up the procedure and ensure safe supply chains and increase their competitiveness in foreign and domestic markets.

Author contributions. The authors contributed equally.

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ORGANIZATIONAL AND LEGAL ASPECTS OF ENSURING INTELLECTUAL AND PERSONNEL SECURITY OF TRADE ENTERPRISES

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Abstract. *The activity of trading enterprises is characterized by a number of significant differences, one of which is the possibility of achieving the set goals solely due to the knowledge, skills, experience and skills of employees. The value of the workforce is determined by the ability to collaborate with suppliers and influence consumers to promote products in a competitive environment. The exceptional role of employees changes the structure of the economic security of a trade enterprise, where financial and personnel become the main functional components. The conducted research is aimed at proving the need to consider intellectual and personnel security, based on the fact that in modern conditions for trade enterprises, it is not the physical capacity of employees that is important, but their intellectual ability to quickly navigate the changing market situation, to closely cooperate with consumers and to use digital marketing tools as efficiently as possible. In order to form the theoretical foundations of ensuring the intellectual and personnel security of a trade enterprise, the following methods were applied: induction and deduction, comparison and systematization, synthesis and analysis, morphological analysis, graphical, abstract-logical. Separate organizational and legal aspects of security activities are considered, which in modern conditions should provide for the organization of remote work and increased competition for employees who are able to creatively approach the solution of atypical problems. The composition of the main external and internal threats was determined, which served as a necessary basis for establishing the directions of professional activity of security subjects in the conditions of trade enterprises.*

Keywords: *personnel security, intellectual and personnel security, trade enterprise, threat, salary, security subject*

JEL Classification: M12, D81

Formulas:0; fig.: 3; tabl.: 0; bibl.: 9

Introduction. For a long time, one of the most difficult problems for Ukrainian enterprises remains: critically high staff turnover, an unsatisfactory level of labor productivity, and the propensity of personnel to commit criminal acts. The activity of trade enterprises is characterized by the specific role of employees, whose intellectual and professional level directly affects the effectiveness of financial and economic activity as a result of direct interaction with suppliers and consumers. COVID-19 has prompted a rethinking of the fundamentals of business-employee interaction, when, due to the need to perform tasks remotely, digital competencies have become especially important for employees, and companies have been forced to quickly organize digital workplaces. Digitization has created conditions for obtaining and analyzing large amounts of information, which contributes to the continuation of active economic activity even under the conditions of quarantine restrictions, but the issue of control over the performance of tasks by each individual employee has become more acute. Digital literacy has become the minimum acceptable criterion for a job applicant, and the ability to learn and apply the acquired knowledge to creatively solve atypical tasks is a condition for career growth. The increase in the

share of the digital economy, which has manifested itself to the greatest extent in the service sector, provokes the emergence of new threats that are directly related to the actions or inaction of the employee. In general, the need to consider the organizational and legal aspects of ensuring the intellectual and personnel security of a trade enterprise, in relation to which the object of security is the employee, is being actualized.

Literature review. Considering the fact that the concept of «intellectual and personnel security» is significantly inferior to the term «personnel security» in terms of the activity of its use in academic circles and among business representatives, we carefully studied the publications of such scientists as T. Ruda, I. Moiseyenko, O. Marchenko, G. Nazarova, Sh. Lopnova, which define the essence, parameters and prove the need to consider intellectual and personnel security. G. Koptev, L. Kalinichenko, O. Shumalo and Yu. Kulimyakin considered the issue of the sphere of activity of security entities in relation to intellectual and personnel security. Despite the significant contribution of these scientists, certain issues of ensuring intellectual and personnel security require further in-depth consideration, in particular in the context of the impact of COVID-19 and military actions outside the territory of our country. The materials of such organizations as the State Statistics Service of Ukraine and the United Nations Department of Economic and Social Affairs, Population Division became the analytical basis of the need to consider trade enterprises of intellectual and personnel security, which ensured integrity in achieving the set objectives.

Aims. The purpose of the study is to clarify the content of intellectual and personnel security, consider certain organizational and legal aspects of its provision with the determination of key internal and external threats and outline the directions of actions of security entities in the conditions of commercial enterprises.

Methods. In order to form the theoretical foundations of ensuring the intellectual and personnel security of a trade enterprise, the following methods were applied: *induction and deduction, comparison and systematization* — in the study of the essential characteristics of the terms «personnel security» and «intellectual and personnel security»; *synthesis and analysis* — during the determination of trends regarding changes in the main indicators of the activity of trading enterprises; *morphological analysis* — to clarify the content of the main internal and external threats and outline the organizational and legal aspects of ensuring the intellectual and personnel security of trade enterprises; *graphic* — for visual presentation of theoretical and methodical material; *abstract-logical* — for theoretical generalizations and research conclusions.

Results. The level of activity in the use of the term «intellectual-personnel security» cannot be considered high, rather unsatisfactory. This is caused by two interrelated circumstances that are relevant for trade enterprises: firstly, ensuring economic security is primarily focused on eliminating threats arising in the financial sphere, in particular regarding payment discipline; secondly, preventive measures are carried out with the aim of reducing losses due to theft by consumers and identifying facts of abuse of their position by company employees. In such conditions, the

aspects of ensuring intellectual and personnel security are on the second plan, which, due to increased competition, provokes the emergence of threats that are realized due to certain financial losses, requiring the use of significantly greater resources for their elimination, compared to the option when they would be determined with a higher level of priority for security subjects. That is, there is a reaction to the consequences, when the root causes remain unnoticed and provoke further instability in the level of economic security. This is based on the role of personnel in the activity of a trade enterprise, when employees directly interact with suppliers and consumers, and their motivation and qualification level determine the results of the enterprise's financial and economic activity. Based on these statements, the process of ensuring economic security should be transformed in the conditions of trade enterprises by first focusing attention on the issues of intellectual and personnel security, and then on financial, power, information and other components. In accordance with the above, in the future we will focus on the consideration of the parameters of the functioning of trade enterprises, the characteristics of existing approaches to the interpretation of intellectual and personnel security with consideration of organizational and legal aspects and the outline of priority tasks of security entities in accordance with key internal and external threats.

In order to prove the necessity of carrying out scientific investigations in the field of formation of theoretical foundations for ensuring the intellectual and personnel security of trade enterprises, we have characterized several key parameters of their activity in accordance with the data of the State Statistics Service of Ukraine. The first such parameter was the dynamics of the number of trade enterprises engaged in such types of economic activity as «wholesale trade, except trade in motor vehicles and motorcycles» and «retail trade, except trade in motor vehicles and motorcycles» (hereinafter «wholesale trade» and «retail trade»), which is graphically presented in fig. 1.

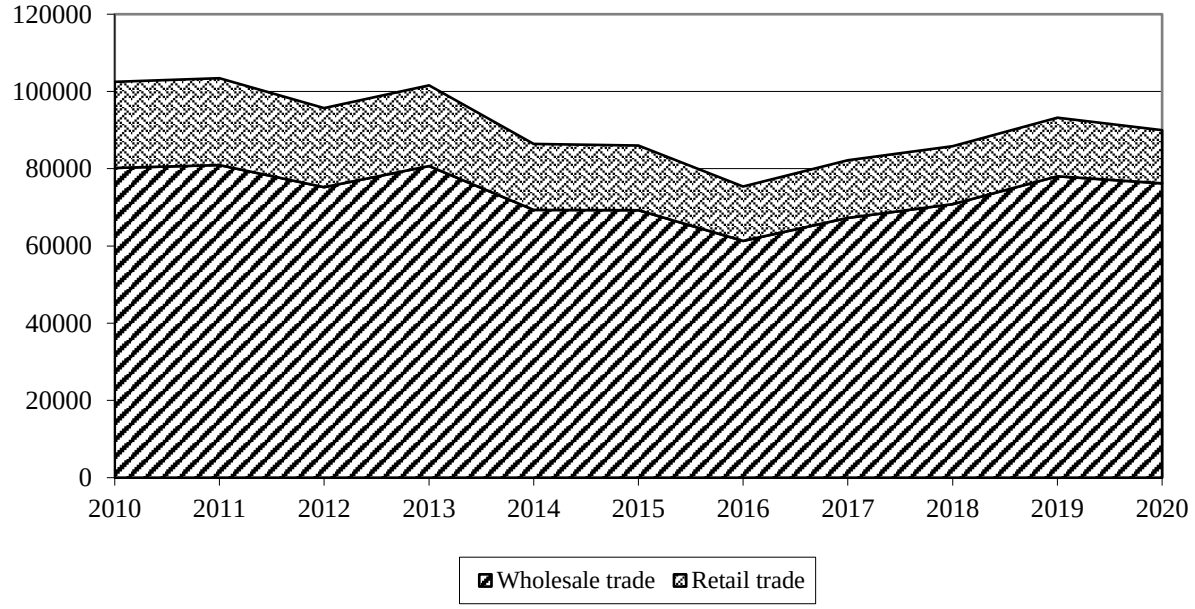

Figure 1. Dynamics of the number of operating trade enterprises

Sources: formed on the basis of [1]

The dynamics of the number of trading enterprises should be considered taking into account the fact that the main subjects in this field of activity are natural persons-entrepreneurs. For example, in 2020, wholesale trade was carried out by a total of 173,906 subjects, of which 97,653 were natural persons-entrepreneurs, whose share was 56,2%. Retail trade, with a total number of subjects of 593 264, was carried out by 579 547 individual entrepreneurs, or 97,7%. Taking into account the above, it is appropriate to note in general the presence of a downward wave within 2013-2016 with further growth until 2019 and another decline in 2020. The above indicates that the beginning of the military aggression of the Russian Federation in 2014 did not have a significant impact on the activity of trade enterprises, and COVID-19 caused a certain imbalance, which is clearly difficult to characterize due to different priorities in satisfying the needs of consumers with goods, the sale of which is the subject of the activity of trade enterprises. enterprises. The demand for food products is characterized by relative stability, when the need to purchase durable goods (furniture, electrical appliances, clothing, etc.) may not be satisfied temporarily at the initiative of the consumer himself.

The change in the number of trade enterprises creates the necessary basis for considering the dynamics of the number of employed workers, which is an important indicator for characterizing the level of intellectual and personnel security (Fig. 2).

We examined changes in the number of employed workers in two areas. The first is based on the facts that, with a decrease in the number of enterprises in wholesale trade in 2020 compared to 2010 by 4,94%, the number of employed workers decreased by 17,83%. In relation to retail trade, a different situation occurred, i.e., a decrease in the number of enterprises by 38,31% was accompanied by a decrease in the number of employees by 4,58%. Another plane indicates that the average number of employees per enterprise in wholesale trade decreased from 8.08 in 2010 to 6,99 people in 2021, when growth is recorded in relation to retail trade, respectively from 22,88 to 35,39 persons.

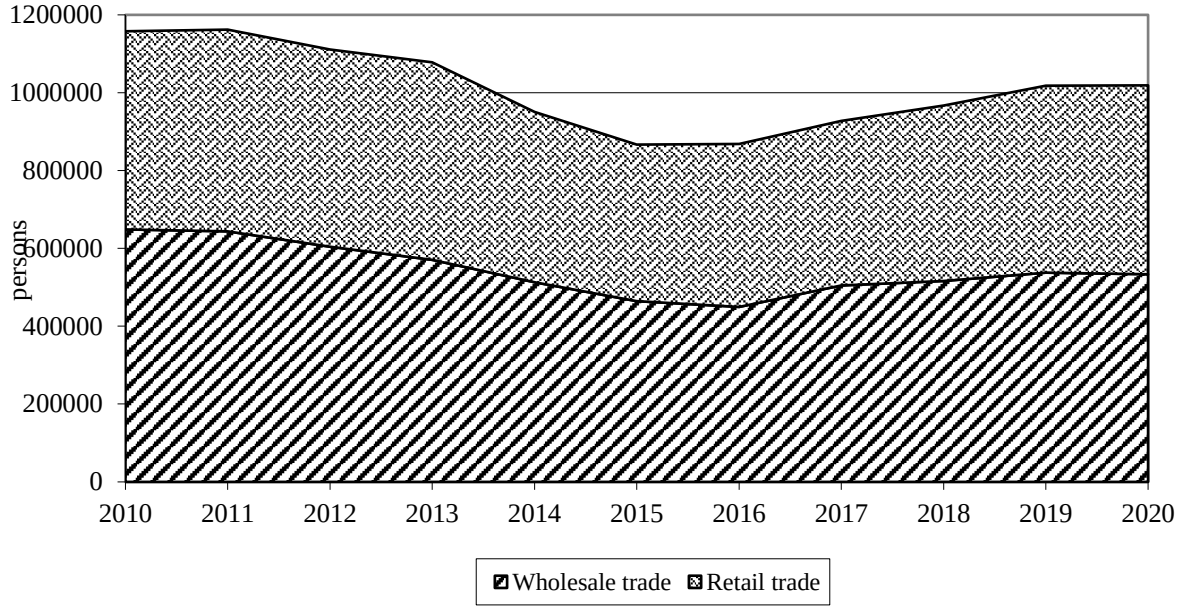

Figure 2. Dynamics of the number of employed workers at trade enterprises
Sources: formed on the basis of [1]

Summarizing, it is appropriate to emphasize that the dynamics of key indicators convincingly proves the need to focus attention on the issue of ensuring the intellectual and personnel security of trade enterprises, since there are industry specifics, the inherent performance of an important role to meet the needs of each person, in particular in food products, and there are signs of increasing threats.

It must be admitted that today, in general, among Ukrainian scientists, the term «personnel security» is more common. Intellectual and human resources are mostly considered in relation to the problems of ensuring the economic security of high-tech industrial production and information and communication technologies. We believe that this is a wrong position, in particular in relation to trade enterprises, the activities of which have been significantly changed within the last few decades due to the increasing share of the digital economy, where the development of the service sector is connected with the need for the constant development of the intellectual abilities of the staff for the ownership and active use of digital technologies. It is a proven fact not only that the share of goods sold through digital platforms is growing, but also that most trade enterprises, in order to maintain a competitive position, prefer a combination of online and offline sales. Therefore, the methodological principles of ensuring intellectual and personnel security are also relevant for trade enterprises.

We have singled out three scientific approaches to the interpretation of the concept of «intellectual-personnel security», which differ in basic principles in the direction of security activities. The first approach, which can still be defined as «transitional», involves expanding the tasks of security subjects in relation to personnel security issues to the sphere of formation and development of the intellectual potential of the enterprise. The above is quite clearly observed in the position of T. Ruda, who justifies the need for structuring and combining personnel and intellectual components, the first of which «...includes all aspects related to work with personnel, increasing effective, sustainable work, planning and personnel management, and the second – is related to all aspects that determine the quality of the company's personnel in modern conditions of a sharp increase in creative and innovative qualities» [2, p. 32]. Positively assessing the selection and delineation of the essence of the intellectual component, we believe that the author did not sufficiently emphasize the security specifics, that is, the attention was not focused on the issues of definition and counteraction/adaptation to the presence and influence of internal and external risks and threats.

Within the framework of the second approach, scientists prove the need to protect employees as the most important resource, the presence and level of efficiency of which ensures the achievement and maintenance of a competitive position. I. Moiseyenko and O. Marchenko take the position that intellectual and personnel security «...reflects the provision of the enterprise with management and industrial and production personnel, the level of turnover of personnel at the enterprise, the adequacy of their educational and qualification level, protection against seduction of employees by competitors» [3, p. 34]. The main aspects of this approach are outlined more concisely by G. Nazarova, who defines the essence of this component of the enterprise's economic security as «... a set of measures aimed at

preventing illegal actions against the enterprise's personnel» [4, p. 232]. Proponents of this approach position personnel as an important resource, while omitting the fact that every employee is a source of threats through their intentional or unintentional actions or inactions. Accordingly, focusing exclusively on the protection of employees limits the range of tasks, and therefore reduces the effectiveness of the actions of security agents.

The third approach involves focusing the attention of security subjects both on the protection of workers and on countering the threats that they may be a source of. These ideas are quite fully reflected in the publication of Sh. Lopnova, who defines intellectual and personnel security as «... the most important component of the economic security of the enterprise, which aims to identify, neutralize, prevent, avert and prevent threats, dangers and risks that are aimed at personnel and his intellectual potential, and those that come directly from him, which should be manifested in the labor resources management system and in the personnel policy of the enterprise» [5, p. 15]. In general, agreeing with the need for a dual positioning of the employee in the system of security activity guidelines, we believe that, in addition to protection and countering threats, interaction with the aim of achieving agreed interests is relevant. Such interaction lies in the plane not only of obtaining an acceptable level of material remuneration, but also of developing the intellectual abilities of employees, which enable them to perform tasks at a qualitatively higher level.

Summarizing, it can be stated that each of the selected approaches is interesting and, in general, they form a holistic view of the principles of ensuring intellectual and personnel security. Our position is to consider the formation of favorable conditions for the effective use of personnel and the development of the intellectual potential of the enterprise, while simultaneously preventing the occurrence of threats, the source of which is the actions or inaction of employees.

We consider the organizational and legal aspects in the context of a critical review of the sectoral structure of tasks of security entities. According to the analytical data presented in the article by G. Koptev, «... the main reasons for losses of trading enterprises are: internal theft – 33,3%, external theft – 32,9%, administrative errors – 26,1%, supplier fraud – 7,6%» [6, p. 4]. If the thefts committed by buyers are in the field of security, that is, they are in the area of responsibility of the security forces, then all other reasons relate to the process of ensuring intellectual and personnel security. Reducing risks and preventing the emergence and materiality of the impact of threats related to personnel was and remains an important sector in the structure of tasks of this component of economic security of the enterprise, but the toolkit needs changes, in particular in terms of more active use of the latest technologies for obtaining and processing data. Another «traditional» sector remains work with personnel, which involves the search, selection and verification of applicants for jobs, training, distribution, adaptation, stimulation for self-improvement and acquisition of new knowledge, and dismissal in order to maintain the professional and qualification level of employees, which allows them to fulfill the tasks set them tasks.

Employee motivation has been the focus of security actors, but in modern conditions it is transformed into a sector of «concerted achievement of interests» that includes owners, management and employees. The contradictions that arise between these groups are the basis for the emergence of threats, the implementation of which is not limited to certain conflict situations, but is realized in the form of losses and damages in relation to other functional components of the economic security of a trading enterprise.

High rates of technological progress create a basis for the formation of such a sector as «intellectualization of personnel», within the limits of which tasks are set regarding the improvement of qualifications and acquisition of new knowledge by each employee. The basis for the selection of this sector is at least the fact that the use of traditional forms of product promotion is significantly lower in efficiency compared to digital ones, the use of which is not limited to digital literacy, but requires the constant development and use of the intellectual abilities of employees.

Digitization in relation to the activities of trade enterprises has probably contributed the most to the departure from the traditional understanding of the workplace to its digital counterpart. Cloud technologies, personal computers and modern means of communication enable group performance of tasks even in conditions when employees are at a considerable distance from each other. In most cases, the main advantages of such a work organization include a reduction in the cost of renting office and retail premises. Considering the fact that the share of online trade is approaching that carried out through personal physical contact between the buyer and the consumer, the savings on rent only improve the final results of the trading enterprises. In contrast to this generally accepted perception of the advantages of a digital workplace, it is necessary to recognize the presence of a number of problems associated with: technical and technological arrangement of each workplace, which in total is higher than similar actions within the same premises; the need to use technologies that make it possible to maintain communication and are sufficiently protected against the possible loss of confidential information; additional involvement of IT specialists for constant maintenance of the entire system. According to the report «The Right Technologies Unlock the Potential of the Digital Workplace» [8], the unlimited time frame for completing tasks and reducing the loss of commuting to the workplace in general create conditions for increasing labor productivity, but the issue of ensuring safety is significantly exacerbated.

Bypassing the acute issues of technical and technological and information security, we consider it expedient to pay attention only to the legal aspects of the use of a digital workplace, which is connected with the problem of creating a system for monitoring the actions or inactions of an employee. Lowering the level of control due to the impossibility of personally observing the actions of employees pushes the business to use special software that requires systematic reporting and responding to the employer's requests without any time limits Today, there are no provisions in the labor legislation regarding the legal regulation of such a situation, because the process of using a digital workplace has not yet been defined at the legislative level. In addition, increased control on the part of business provokes resistance among

employees, which in a situation with a shortage of qualified employees can provoke the emergence of new threats to the intellectual and personnel security of trade enterprises.

The carried out structuring of tasks goes beyond the traditional understanding of personnel security and is a reason to assert that intellectual and personnel security should include not only the recognition and counteraction of key internal and external threats, but also the creation of favorable conditions for the development of the intellectual abilities of each employee for further use in achieving corporate goals. interests, which is determined by modern trends in the activities of trade enterprises due to the growth of the digital economy.

Taking into account the focus of actions of security entities on threats related to employees, we consider it necessary to form a list of key internal and external threats to the intellectual and personnel security of trade enterprises. Internal threats require primary attention, because in relation to them, security entities can mostly carry out measures to identify and eliminate them. Based on a survey of mid-level managers of 50 trade enterprises in the Lviv region, we determined the following list of such threats:

- inconsistency of personal interests of the employee with corporate goals;
- insufficient qualification level of the employee and lack of dynamics regarding his improvement;
- low motivation for productive work and self-improvement;
- personnel turnover, which is accompanied by the loss of intellectual potential;
- inefficient system of search, selection, adaptation, training, career promotion and dismissal;
- actions or inaction of the employee (fraud, use of official position, disclosure of confidential information, incompetence), resulting in losses for the enterprise.

In scientific circles, there is a widespread opinion about the definition of the widest possible range of external threats to intellectual and personnel security. For example, L. Kalinichenko, O. Shumalo, and Ya. Kulimyakiv refer to such threats as «...a decrease in the purchasing power of the population; unstable political situation in the country; increasing the tax burden on taxpayers; inflationary processes, exchange rate changes; raising the minimum wage and deductions for social activities; increasing competition on the market; better conditions for motivating staff at competitors, which promotes the transfer of the best specialists; external pressure on employees and their falling into various dependencies» [7, p. 139]. We consider that it is possible to agree with only certain points of such a position, because a significant part of such threats rather affect the economic security of the enterprise in general and is indirectly related to employees as an object of security. Our position is to highlight the following external threats:

- better working conditions at competitors;
- actions of competitors to attract qualified employees;
- labor migration;
- inflationary processes in the national economy.

If the internal threats are related to the specifics of the activity of a certain trading company, the external ones are mostly of a general nature, and therefore some of them require careful consideration.

First of all, let's focus on the level of wages, but not within the limits of enterprises engaged in trade activities, but in a broader perspective (Fig. 3).

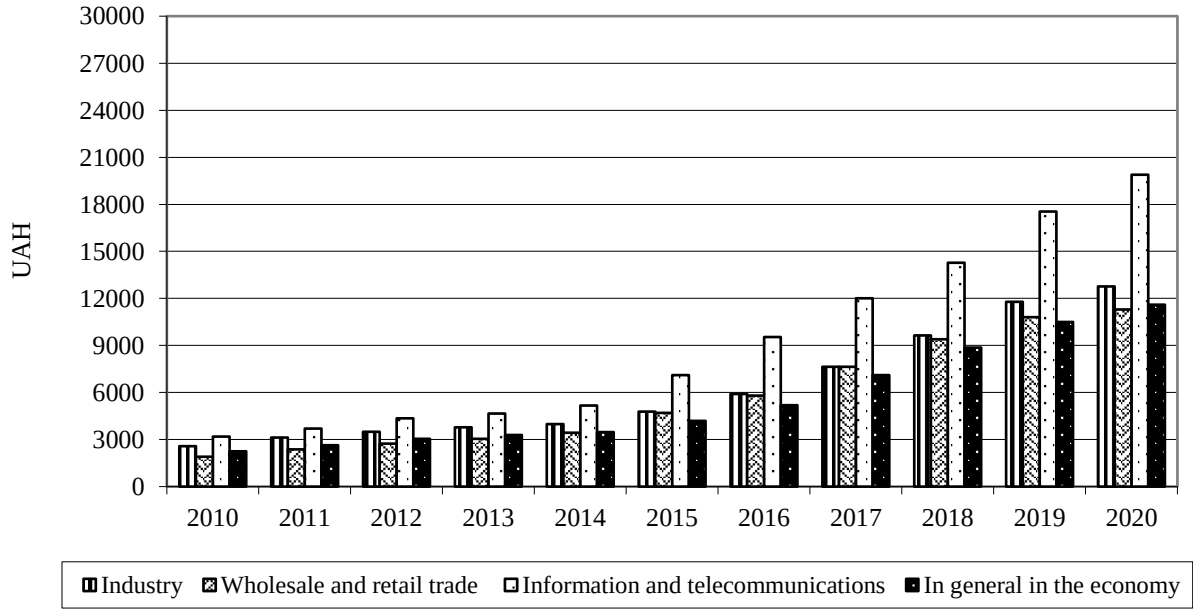

Figure 3. Dynamics of the average monthly salary

Sources: formed on the basis of [1]

From our point of view, the determining factor is not only the dynamics of wages for a certain type of economic activity, but a comparison with the situation in general in the national economy and in relation to its individual sectors. The key thing is not only that the average salary in trade in 2020 was UAH 11 286, while in industry it was UAH 12 759. and in the field of information and telecommunications - UAH 19 888, but it was lower than the average level in the economy. These data actually explain the high turnover of personnel in trade, which directly negatively affects the level of intellectual and personnel security of the respective enterprises. Another external threat is related to the critically high level of labor migration. Today, Ukraine has the status of a donor country, whose labor force, being outside the country, has the opportunity to more effectively use their abilities to meet their needs and financially support other family members. According to the results of analytical data, our country ranks eighth in the world ranking of donor countries [9], and the number of labor migrants ranges from 5 to 5,5 million people. There is no doubt that labor migration is characterized by a number of positive aspects, which are associated with a decrease in unemployment and constant inflows of funds, the amount of which significantly exceeds the volume of foreign investments. At the same time, from the point of view of ensuring intellectual and personnel security, a significant number of labor migrants with a high rate of increase is a threat in the conditions of the demographic crisis and the decrease in the number of the employed population (in 2020 – 15 915,3 thousand people against 19 261,4 thousand people in

2012). The difficulty of finding applicants for jobs is increasing, and the lower level of remuneration does not provide a sufficient level of motivation for the thorough execution of assigned tasks and provokes the realization of threats that are associated with abuse.

Discussion. The nature of the identified internal and external threats, the ranking of which in terms of priority will be different in the conditions of each trading enterprise, determines the nature of security activities. In addition, in our opinion, the attention of security subjects in general should be focused in the following several areas:

- careful selection of personnel, which should include the verification of information regarding the «history of labor activity» with the establishment of possible facts of applicants' belonging to risk groups;
- monitoring of the working environment to identify and prevent internal conflicts;
- creation of a favorable atmosphere for self-improvement, initiative, use of a creative approach, search for previously unused reserves by employees with appropriate material and moral reward for them;
- strengthening of labor discipline and prevention of fraud;
- creation of conditions for the formation and use of intellectual potential due to the development of intellectual abilities of employees
- formation of a motivational field for maintaining an acceptable level of turnover and observing the principle of fair remuneration for quality work with positive dynamics;
- work on the study and application of best practices for performing tasks that have been formed within the enterprise and can be borrowed from competitors.

We consider it appropriate to emphasize that our position is formed by observing the following two basic points: a clear demarcation of tasks within the functional components of the enterprise's economic security and focusing attention on threats and additional opportunities related to personnel. The formed list of directions is not optimal, but within its limits there are guidelines for improving the interaction between the enterprise and personnel based on the development of the employee's intellectual abilities, which contributes to the strengthening of the competitive position of the trading enterprise in the conditions of the growth of the share of the digital economy and the multiplication of the competitive qualities of the employee in the labor market.

Conclusions. The financial and economic activity of trade enterprises is characterized by a number of industry differences, one of which is the dominant role of personnel. Employees make it possible to achieve the set goals, but at the same time they are the main source of threats to the economic security of the enterprise. Technological progress, which promotes an increase in the share of the digital economy, which is most actively promoted in the service sector, creates new challenges for the intellectual and personnel security of trade enterprises. Along with the threats associated with high staff turnover and criminal actions to satisfy one's own interests to the detriment of corporate ones, there are new ones associated with

the insufficient level of awareness of employees with digital technologies and the difficulty of monitoring the results of their actions in the conditions of using a digital workplace places The intellectual abilities of each employee play an increasingly decisive role due to the transfer of the process of selling goods to the virtual space, when physical contact is replaced by the need for effective use of digital tools, and access to the consumer is not determined by time or geographical limitations. Globalization processes cause increased competition for all types of goods and cannot be stopped by any national borders. The above requires consideration of intellectual and personnel security not only as such, which is primarily oriented not only to protection against the influence of internal and external threats caused by or related to employees, but in relation to creating conditions for the development and use of intellectual abilities of personnel in order to preserve and improve competitive positions of enterprises in conditions of high rates of digitization of trade. It is advisable to focus further research on the identification of key threats to the intellectual and personnel security of Ukrainian trade enterprises.

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