Scientific Center of Innovative Researches OÜ

PUBLIC ADMINISTRATION AND LAW REVIEW (PALR)

Issue 3 (7)

2021

e-ISSN 2674-5216 print-ISSN 2733-211X
DOI: 10.36690/2674-5216-2021-3

International databases and directories indexing publications:

- CrossRef (DOI: 10.36690);
- ISSN International Centre;
- Google Scholar;
- National Library of Estonia;
- The ESTER e-catalog;
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- Eurasian Scientific Journal Index;
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- OpenAIRE;
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Public Administration and Law Review. DOI: 10.36690/2674-5216-2021-3

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

Publication frequency: quarterly (March, June, September, December)

Languages of edition: English

EDITORIAL TEAM

CONTENTS

CHAPTER 1
MODERN TRENDS IN PUBLIC ADMINISTRATION

MECHANISMS OF PUBLIC SERVICES DELIVERY: THE EUROPEAN EXPERIENCE FOR UKRAINE

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Abstract. *The academic paper presents a review of the conditions and methods of using the European experience of providing public services by state authorities in Ukraine. The development and implementation of effective mechanisms for the provision of services at various levels of administration and the state management is an urgent issue for modern Ukraine. Primarily, it is an analysis and adaptation of the European experience of administration to the conditions and features of the Ukrainian statehood development. The purpose of the research is to highlight foreign experience in public services delivery and algorithms for its adaptation to the realities of public administration in Ukraine. The research methodology contemplates an integrated approach; methods of analysis and synthesis, as well as methods of interdisciplinary research have been also used. As a result, it has been established that the general experience of European countries, which should be taken into account by Ukraine, is the direction towards a transparent, effective policy of organizing the provision of public services, reforming the legislative framework, and partnership. In practice, this makes it possible to implement the citizens' rights and freedoms, to meet the needs of the society as a whole, to direct the work of the authorities towards achieving results in public administration. The further perspective of the research in the administration sphere lies in determining the ways of implementing the best foreign experience in the provision of public services and their adaptation to the realities of public administration and legislation in Ukraine.*

Key words: *state-administrative reforms, decentralization, development of the state strategic planning, innovative reform technologies, public-private partnership, government, business, public sphere.*

JEL Classification: K14, K24, K33

Formulas: 0; fig.: 1; tabl.: 1; bibl.: 12

Introduction. Active studying and involvement of the European experience for Ukraine is an effective tool for developing mechanisms for public services delivery at the state level and solution to social and managerial problems that the state sometimes cannot effectively deal with in its current state. Such reforming is gaining relevance in the context of the global economic crisis, when the rethinking of the global capitalism functioning is taking place. On the expanses of managing the world economy, the issue of excessive government consumption also comes to the fore. Consequently, it is important nowadays to consider ways of improving the

mechanisms for providing public services by state authorities and other governing bodies.

Mechanisms for providing such services in one form or another are actively implemented in the practice of European countries; they are distinguished with rich practical experience. However, this form of interaction between administrations and the society in Ukraine is still in the process of formation. The lack of comprehensive scientific investigations in Ukraine towards determining the content, understanding the specifics and the need to improve and introduce innovations in the legislation of Ukraine complicate the rapid implementation of modern forms of public services in full play. Public services are considered from the standpoint of implementation of European experience in the field of legislation [5], problems of local self-government and state governance [1], public-private partnership and ways to implement it in Ukrainian realities [4].

In the Ukrainian state, at the end of the 1990s, the regulation of administrative services was legislatively started. To start with, this is *the Concept of Administrative Reform*, approved by the Decree of the President of Ukraine as of 1998; then in 2006, *the Concept for the development of the system of providing administrative services* by executive authorities was approved, containing a modern definition of the concept of "administrative services" as important components of state and municipal services. During 2009-2011, the Register of Administrative Services was formed. For all time, the issue of the urgent necessity to form a legislative framework based on European experience, dedicated specifically to the problem of public services, has been raised in the scientific literature [10, 11]. In 2013, the Model Regulations for the Center for the Provision of Administrative Services was approved by the Resolution of the Cabinet of Ministers of Ukraine. This document presents a mechanism for regulating the core issues in the provision of public services: requirements for the premises of such centers have been formulated; information and technological cards of administrative services; operating procedure of information department of such center; fundamentals and rules of queue management; application mechanism, etc. In 2021, *the Law of Ukraine "On Administrative Services"* was adopted. Based on the Law, it can be argued that an administrative service is the result of the exercise of authoritative powers by the subject of administrative services at the request of a natural person or a legal entity, aimed at acquiring, changing or terminating the rights and / or obligations of such a person or an entity. The process of providing public services in Ukraine is regulated by the Law "On Peculiarities of Providing Public Services" [3].

Literature Review. In modern scientific works on the theory of management, the problems and prospects of reforming the state in modern Ukraine are considered [6], where the main approaches to public administration reforms are presented, and the necessity for mutually agreed reforming of public administration and local self-government is emphasized. The essence of public-private partnership has been analyzed and its role in the system of public services has been determined through specific examples of application in a number of European countries [4]; the problems of introduction of the institute of public-private partnership in Ukraine have been

covered [9]. Transformations of public administration in the aspect of exercising control have been studied [5; 8]. The principal positions on the reformation of the administrative services sector have been highlighted, namely: social consent, further implementation of decentralization and government's openness, development of a comprehensive reform strategy, effective and technological support, development of state strategic planning [11]. Directions for future investigations should be aimed at exploring a comprehensive approach to the introduction of European experience in providing public services into the administrative institutions of Ukraine.

Aim. Based on a comprehensive analysis of existing regulatory sources, mechanisms for the introduction of public services in the European experience, the purpose of the research is to highlight the prospects of their implementation in the provision of public services in Ukraine. In order to achieve the purpose outlined, the following objectives have been set, namely: 1) to establish the feasibility of implementing European experience in the provision of public services in Ukraine; 2) to identify areas for improvement of mechanisms for the provision of public services, taking into account foreign experience.

Methods. The comprehensive approach towards determining the research methodology has been used in the research. This means the application of a system of general and special scientific methods of theory and practice of managerial activities (dialectical, analytical (analysis and synthesis), descriptive, comparative and legislative, system - structural).

Results. European and North American countries in the late 1980s came to the need to modernize and ensure the effectiveness of forms and mechanisms for providing public services. For instance, in Canada, a reform of the mechanisms for the provision of administrative services was launched in 1995; the so-called "Service Delivery Model" was created, which was part of the Action Program to modernize the work of public bodies in general. Along with this, a mechanism was developed, the main goal of which was to satisfy the consumer, the wishes of citizens were taken into account - the client's need turned into an organizational principle around which ideas about public interest are formed and a mechanism for providing services is created.

World experience shows an orientation towards a citizen and his interests. For this very reason, it can be determined that such positions as the quality of service provision need to be improved, which should meet such criteria as efficiency, courtesy, timeliness, etc. The organization of the availability of services is also important. This means that the task is to make communication as easy as possible; one can easily find information about an institution of interest, get information about addresses, a website, keep in touch; accessibility of the public service provider (convenient location, accessibility for inclusive citizens, the ability to schedule time, in particular). Figure 1 reflects the interaction of the necessary conditions for the functioning of effective mechanisms for administrative services delivery.

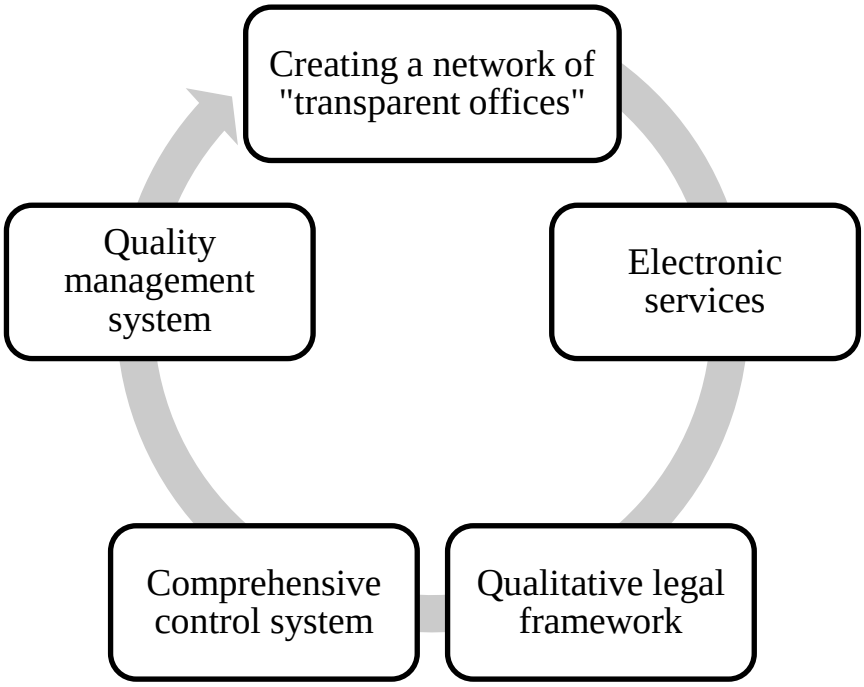

Figure 1. Conditions for functioning of mechanisms for the provision of administrative services (European experience).

Therefore, it should be noted that effective mechanisms for providing public services can work under certain conditions, which is also confirmed by the practical experience of numerous European countries:

1. Creation and continuous improvement of the network of public service centers ("transparent offices") in order to meet the needs of citizens and communities. Such centers are a platform for the activities of various government agencies aimed at providing the necessary administrative services.

2. Electronic services as part of the mechanism of providing public services, namely: providing interactivity, efficiency, fast feedback, involvement of social networks.

3. The comprehensive control system ensures the operation of the mechanism through the development and support of standards for the provision of administrative services, involving not only from state authorities in control activities but also from public organizations, auditors, citizens.

4. Quality management system: evaluation of results, feedback mechanisms with service consumers, constant comparison with the world's best public service programs.

5. High-quality legislative framework provides for the creation and continuous improvement of a package of normative documents regulating and ensuring the smooth operation of centers for the provision of public services.

The experience of Great Britain is indicative, forasmuch as the quality of public services provided by the state is constantly monitored there. The Department of Transport annually creates and publishes a report on the services actually provided and compliance with their standards. In the 1970-80s, in order to optimize administration costs, the institution of public-private partnership (PPP) was created

against the backdrop of the economic crisis in Europe. This is the way the problems of finding additional financial sources in countering stagflation were solved. The involvement of the private sector allowed M. Thatcher's government to weaken the trade union movement through privatization and deregulation, providing opportunities for the private sector. She was able to turn the non-profit public sector into a source of savings. This is the privatization of parts of infrastructure, telecommunications, etc. The public sector, open to partnership with business, has also been able to reform the public service delivery system.

Empowerment of the private sector in the provision of social services has significantly affected the corporate power. The society and business have proved to be an effective part of what only the state used to care for. Significant reformatting of the entire structure of public administration lies behind these changes in social policy; it involves the direct possibility of including business and individual citizens in the system and the implementation of the principles of modern administration.

Bulgaria also has experience of continuous monitoring the quality of public service delivery and reforming those delivery mechanisms. This concerns increasing the transparency of the administration system, permanent work on efficiency and focus on the urgent needs of the society. The legislation of Bulgaria provides conducting inspections of various industries and the satisfaction level with life in the country, allowing citizens and organizations to obtain administrative regulations and act in accordance with them [5, p. 41]. Such a legislative decision has provided an opportunity for citizens to make a choice; it does not contradict the social order, defining democratic states where the freedom of citizens' choice is a priority. In such conditions, public opinion is an evaluation tool of the mechanisms' effectiveness for the public services delivery, as well as the ability of state bodies to quickly change, be manageable and act effectively. An important criterion for the effective operation of such a structure is the motivation of civil servants to implement the necessary improvement programs.

Thus, one may talk about various aspects of the formation of mechanisms for providing public services that adapt world experience (Table 1).

Table 1. Mechanisms for providing public services

MECHANISMS FOR PROVIDING PUBLIC SERVICES			
Administrative regulations, procedures, acts, functions, technological and information maps	***Institutional*** bodies of public services delivery, infrastructure, involvement of private business	***Integration*** improving quality, simplification, shortening deadlines, improving services and processes	***Service*** identification, modeling and implementation of interests of communities and citizens, development of communication technologies and network forms

The experience in Germany's sphere of public services is an additional and rather ambiguous position towards the administrative aspect. German experience of positive public administration is determined by strict regulation, where imperative and dispositive methods of legal regulation are combined. A mechanism has been created where each type of public governance is characterized by a relevant administrative act; these are permissive regulations in the field of public services.

Discussion. In a number of investigations [4, 6; 8], devoted to the consideration and analysis of foreign experience in the public services delivery, the ways of implementing the best European countries towards the legislation of Ukraine have been determined. In the course of analyzing the legislation of Great Britain, France, and Greece on the mechanisms of providing public services by state administration bodies, the general tendency of development of the European countries has been established, namely: ensuring the implementation of the rights and freedoms of citizens, the activities of government bodies towards achieving the result - meeting the needs of the society. The academic paper presents various aspects of the formation of mechanisms for providing public services to the population in Europe and Canada. Along with this, it has been determined that the basic guidelines for the formation of a high-quality and effective administration system is the focus on ensuring quality, efficiency, accessibility at all levels of the implementation of rights, freedoms and interests of citizens, defining the urgent needs and expectations of the society as a whole, permanent orientation towards achieving results, on ensuring effective and high-quality implementation of the rights, freedoms and interests of citizens, meeting the needs of society.

Conclusions. Therefore, based on the above, the conclusion can be made that the experience of European countries in creating and reforming mechanisms for public services is very valuable and can be borrowed for Ukraine. The necessity for constant monitoring of accessibility, transparency and quality of administration is necessary under the conditions of Ukraine's development. After all, Great Britain, Bulgaria, Romania, and Poland have rich experience in this field.

Efficiency and creation of good communication channels are also important in the modern space of public services delivery. In modern conditions of Ukraine's public life, clear standards for the public services delivery to citizens have not been developed yet; consequently, there are insufficient mechanisms for the implementation of interaction between the population and the authorities and self-government. An analysis of the experience of creating and regulating public services has shown that it is important to divide public administration into negative and positive. Such differentiation is accepted by most European countries. Negative state governance refers to restrictions and interference in the entities' behavior, while positive public administration involves the public services delivery. The dispositive method of legal regulation by positive public administration encourages the democratization of the society, openness and transparency of the government's actions.

It is also necessary to develop the institution of public-private partnership. Considerable experience of the UK in this aspect will improve the administration

system and optimize expenditures. The experience of involving the private sector in Ukrainian administration systems on a parity basis will make it possible to continue reforming the entire system of public administration, as well as mechanisms for providing public services by administrations at all levels.

Author contributions. The authors contributed equally.

Disclosure statement. The authors do not have any conflict of interest.

References:

1. Bukhanevich, O.M. (2016). *Theoretical, legal and praxeological principles of providing administrative services in Ukraine.* Unpublished manuscript, Kyiv, Ukraine, 42 p.
2. Europe 2020. (2010). *A strategy for smart, sustainable and inclusive growth.* Brussels: European Commission, 34 p. Retrieved from URL: http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=
3. *Law on the peculiarities of the provision of public services* (2021). Retrieved from URL: On the peculiarities of providing publ ... | as of 15.07.2021 № 1689-IX (rada.gov.ua)
4. Zaidel, M. (2012). Public-private partnership: European experience and Ukrainian realities. *Bulletin of V.N. Karazin KhNU, series "Issues of Political Science"*, № 1007, 152-157
5. Ivanov, A.A. (2007). *Administrative law of foreign countries.* M.: Spark, 60 p.
6. Kovbasiuk, Yu., Kravchenko, S. (2014). Problems and prospects of public administration reforms in Ukraine at the present stage. *NAPA Bulletin*, 4, 5-16
7. Kolodii, A. (2016). The problem of choosing the form of state governance in Ukraine (in the context of constitutional reform). *Scientific notes of the Institute of Political and Ethnonational Studies named after I.F. Kuras NAS of Ukraine*, 3-4 (83-84), 187-211.
8. Manzhula, A. (2017) Implementation of foreign experience in providing public services in the domestic legislation of Ukraine as one of the areas of education reform. *Journal "ScienceRise: Juridical Science",* 2(2), 45-49. doi: 10.15587/2523-4153.2017.118829
9. Malynovskyi, V. Ya. (2008). Current state and prospects of public administration reform in Ukraine. *NAPA Bulletin*, 1, 15–22.
10. Regulski, J. (2003). *Local government reform in Poland: an insider's story.* Budapest: OSI/LGI, 263. Retrieved from URL: http://lgi.osi.hu/publications_datasheet.php?id=245
11. Tyshchenkova, I.O. (2015). Classification of electronic services provided by public administration bodies. *Scientific Bulletin of Uzhhorod National University. "Law" Series*, 3, 32, 70–74.
12. Filipova, N.V. (2015). Changing the relationship between the concepts of "state administration", "public administration", "public governance" in the system of social-political transformation. *State administration: improvement and development*, 6. Retrieved from URL: http://www.dy.nayka.com.ua/?op=1&z=865

Received: August 22, 2021
Approved: September24, 2021

FEATURES OF INTRODUCTION OF THE SYSTEM APPROCH TO THE STATE POLICY

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Abstract*. Public policy analysis began to be actively addressed in the middle of the twentieth century. The main motives for the introduction of public policy in these times were considered "public interest", "public good". The content of these concepts is interpreted as follows: "a public good is what is produced by the state, not by the market" and other globalization movements. Researchers record the growth of conflict between the state and society. Therefore, scientists should interpret the concept of "public policy" as a systemic phenomenon in order to develop a single clear theoretical and methodological base, which will theoretically approve a universal statement of the foundations of public policy. The relevance of the topic of this study is indicated by the following facts: the lack of a procedure for implementing public policy, ineffective legal regulation of relations between society and the state, monopoly concentration of most powers in the hands of certain state institutions, unilateral adoption of most power and managerial decisions.*

Keywords*: systematic approach, public policy, subject of public policy, field of public policy.*

JEL Classification: D78, F68, G18, G28, I28, J18

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 21

Introduction. The purpose of this article is to analyze the concept of "political politics" using a systematic approach. The object of the research is the sphere of public policy implementation. The subject of the research is the components of public policy as a systemic concept: the object and subject of political policy, connections between them, methods of implementing public policy. Research objectives: using the system-element approach to determine the main elements of the phenomenon of "public policy"; to characterize the process of public policy, its functions and its main components; determine the environment in which public policy is implemented; consider the subjects of public policy from the standpoint of the division into state and public [2, 3, 4].

Literature Review. A lot of domestic and foreign scientists and practitioners turned to the study of the problems of the formation and organization of public policy. W. Parsons, G. Kolbech, Adam Smith, James Mill, Torrance, William Dunn, Leslie Pal, Paul Brown, Louis Gunn, Thomas Dye, John Bryson and others have made a great contribution to the development of public policy. V. Averyanov, I. Kozyura, I. Gritsyak, N. Nizhnik, E. Afonin, A. Obolensky, G. Sitnik, S. Virovy, O. are taking civil society into account world experience and modern practice.

The formation and organization of public authority from the standpoint of the functioning of civil society requires more and more attention of researchers. The

issue of the origin, formation and organization of public policy is the object of active scientific discussions. Therefore, the research concerns the analysis of the concept of "public policy" from the standpoint of a systemic approach, which will allow to study this process as a systemic phenomenon, structure it, and form a new model of relations between society and government.

Aims. The novelty of the research lies in the use of a systematic approach to the concept of "public policy". In particular, it is proposed to consider the phenomenon of "public policy" as a systemic phenomenon, with the presence of structural units - elements of the system. Taking into account the systemic and elementary aspect of the systemic approach, it is indicated that the main elements of public policy are the subject, object and subject of public policy, connections between them, methods of policy implementation. It is indicated that the subject of public policy is public interest, and the subjects of public policy should be considered state (state institutions, enterprises) and public entities (public formations, political parties, business organizations).

The author characterizes the concept of "public policy" and the concept of "public field", its indicators. The methodological and general scientific meaning of the presented material makes it possible to move from an abstract understanding of the phenomenon of "public policy" to the knowledge of its specific components. Analysis of public policy as a systemic phenomenon is also essential. using the following basic approaches as system-element, system-functional, system-structural.

Methods. Using the method of analysis, a study was carried out on the phenomenon of political politics. With the help of a systematic approach, the concept of public policy is defined as a systemic object, and a study of its content elements is carried out. Determine the main elements of the "public policy" phenomenon using the systemic-elementary approach.The political environment as an external system of influencing politics is studied using abstract methods and systemic methods.

It is proposed to consider the phenomenon of "public policy" as a systemic phenomenon, with the presence of structural units - elements of the system. Taking into account the systemic and elementary aspect of the systemic approach, it is indicated that the main elements of public policy are the subject, object and subject of public policy, the connections between them, and methods of policy implementation.

Results. The study of the public sphere goes back to ancient times. It is known that the ancient Romans introduced the concept of public and private, which are still being studied by political scientists, economists, and lawyers. After all, there is no clear division between the public and the private. Therefore, at the junction of these concepts, a conflict of interests arises: public and private, state and public. Practice shows that the penetration of public policy takes place in almost all spheres of society, including those that were once considered private, for example, education, health care, social security, and the like.

Already in the post-war era, liberal ideas about the goals of developing and implementing public policy were asserted on the basis that the role of the state should be to manage the "public" and its problems in order to solve those problems of public life that are beyond the power of the market. Research in the field of relations

between society and the state in the twentieth century more and more scientists and practitioners began to study. The science "Public Policy Analysis" is quite developed in the West; the subject of study is the processes of formation and implementation of public policy [5].

There are many concepts, their formulations, processes, indicate the unrestrained process of entering the public in the development of policy. For example, the definition of politics in the classical form of the struggle for power operates with the concepts of public interest, social needs: "politics is the sphere of relations between various social groups and individuals regarding the use of public authorities to realize their socially significant interests and needs" [6]. "Public" means those aspects of human activity that require government or public regulation, intervention, or at least joint action [7].

A complete phenomenon in the process of the origin of public policy is public power, the main components of which are state and self-governing. In solving many issues, these components act in a comprehensive manner, taking into account their capabilities (powers). It is very difficult to single out one of them and carry out its reforms, because they are often linked by common tasks, certain funding, etc. Therefore, public authorities should also be considered only taking into account consistency, as its basic characteristics. The main features of public power, as well as public politics, are: the possibility of expressing the will of the people (taking into account public opinion, developing a mechanism for such accounting), serving the government to the people, interaction between the government and the people on an equal footing. "... The public, - according to the definition of the world famous German social philosopher J. Habermas, is an environment in which a polyphonic process of creating opinions takes place, where strength is replaced by mutual understanding" [8].

Consequently, the concept of "public policy" should be interpreted as a systemic phenomenon, where each element is characterized by the characteristic features of pidsystemicity, feedbacks, causal relationships, etc. logical ordering of the entire set of concepts / categories using a systematic approach [9].

The main objectives of the systems approach in the context of this study are as follows:

- to define and study individual categories as structural parts of the concept of "public policy" (systemic and elementary aspect);
- to identify causal relationships between the components of the phenomenon of public policy (systemic and structural aspect).

Since the systematic approach can be used, moving in the study from the abstract to the concrete, let us turn to the form of systematization proposed by the scientist A. Deineko [10], according to which the phenomenon of public policy should be considered as a set of such concepts as - object, subject, subject, connections between them , methods. Let's carry out the definitions of each of these elements.

The main objectives of the systems approach in the context of this study are as follows:

- to define and study individual categories as structural parts of the concept of "public policy" (systemic and elementary aspect);

- to identify causal relationships between the components of the phenomenon of public policy (systemic and structural aspect).

The subjects of public policy are state and public political subjects. All entities are characterized by the initiation, development and implementation of policies for specific interests. In this context, "politicism" should be interpreted as a sign of influencing at different social and administrative levels. In more detail, the scope of activities of public entities "objects can be grouped as follows:

- the sphere of civil society - characterized by the activities of a mass subject: mass movements, political parties, public formations, protests, and the like;

- the sphere of business - characterized by the activities of business associations, large industrial groups, lobbies, and the like;

- the sphere of information - characterized by a significant influence on the mass political consciousness.

The activity of state political subjects is determined by the functioning of state authorities, institutions, organizations, enterprises. The main feature of the subjects from the standpoint of building a civil society is their equality in decision-making, professionalism, and the availability of resources for policy implementation.

About "the object of public policy is the development of policy by all sub" objects on an equal footing. An important condition for the implementation of policy is the consideration of all interests. It is necessary to take into account the interests of the whole society or its individual parts (according to various criteria - territorial, age, gender, professional, etc.). So, the result of public policy should be obtaining the consent of all actors. Authors Karl Patton and David Sawicki consider public policy as a way to create and implement complex programs for solving socially significant problems [11]. Consequently, there is a need for an interpretation of the concept of public (public) interest. There is an assumption that the public interest itself is the subject of public policy. After all, taking it into account is a prerequisite for the development of public policy. The main difficulty in forming the definition of public interest is its content, since only taking into account the interests of all subjects of "objects of public policy will form the basis for this. How to take into account the interests of all participants in public policy - state and public institutions? After all, this requires equal positions. Here you should to turn to the concept of “connections.” Connections act as a link between the elements of public policy that ensure its functioning, the decision-making process. There are many options for connections: subject - subject, subject - object, subject - subject, etc. The concept of public policy should be considered not only from the standpoint of its administrative load, but from the standpoint of its administrative function [12]. Links between the elements should be formed [13], taking into account the subordination and coordination forms of building relationships.

One of the principles of building links is to ensure communication between subjects of public policy. It is the communication relations that contribute to the reliable, quick transfer of the prerequisites for making a decision from one subject to

another. The coordination process is inherent not so much a managerial character as an advisory one. Therefore, the main methodological task in this context is the settlement of the issue of equal provision by the methods of the state and public entity, taking into account feedbacks. The main features of connections are: characterized as a connecting link between elements, carries communicative features; purposeful, ensure integrity, functionality, determine the quality state of the elements of public policy [20, 21]. They arise at all levels of public policy, between various elements and components, and theoretically reflect an attempt to link the functions of public policy with its internal properties and qualities. A method is a set of techniques, methods, tools used for policy development. In the context of using a systematic approach, public policy methods should be studied as a system of means for making and transmitting decisions, monitoring their implementation, the possibility of adjustments, the availability of the necessary material, information, human and other resources. Society constantly generates conflicts, for the settlement of which it is necessary to conclude transactions. Therefore, the main instruments for regulating disputes between the state and society should be consultations, negotiations, public hearings, round tables and other processes of agreements with the state that are open to society. "Public administration - as defined by George G. Sebine and Thomas L. Thorson, is primarily a system of institutions, designed to regulate public opinion and debate, and take into account opposite requirements in order to develop an effective policy" [14].

Discussion. The field of public policy can be defined as a field of activity for the implementation of politics, its visible part, transparent, open, in which the activities of all subjects of politics are legalized. For a broader study of this period, you need to turn to sociological sciences [20, 21]. After all, the field of politics can always subordinate the problems of social research to its own political logic. For sociologists, a field is a place and a way to implement a certain social game, and a political field is a set of political positions involved in the struggle for a monopoly of legitimate symbolic violence, the goal is monopoly disposal of state capital [15]. The field of public policy can be defined as a space in which subjects fight for the legitimate symbolic control of people's behavior in their public life by imposing their means of perception, assessment and expression of the socio-political differentiation of society [16]. The main criteria for determining the public field can be considered: the spheres of the implementation of public policy, their legitimacy, the delimitation of the field into state and public and the definition of a common space (public field) for the implementation of public policy [17-19].

Conclusions. Summing up, we can note the main features inherent in public policy:

- a large number of political actors - state and public. Actors are characterized by the initiation, development and implementation of policies for specific interests. Public policy covers public policy, as well as policies that can be implemented by non-governmental organizations, public structures, the private sector;
- interaction between them on the basis of parity, equality. It is through interaction that the connections and methods of policy implementation are manifested;

- alignment of interests, competition, struggle.

As the main result, we highlight the following theses:

- the phenomenon of "public policy" should be considered a systemic phenomenon, with the presence of structural units - elements of the system;
- using the system-element aspect of the systemic approach, it has been established that the main elements of public policy are the subject, object and subject of public policy, connections between them, methods of policy implementation;
- the main characteristics of public policy are determined by a large number of subjects and the coordination of their interests. It is indicated that the subject of public policy is public interest;
- subjects of public policy should be considered state (state institutions, enterprises) and public entities (public formations, political parties, business organizations);
- the public field is designated as a space in which public policy is carried out, its characteristics and indicators for measurement are indicated;
- the source of origin of public policy is public authority, whose activity can be considered a systemic phenomenon of the highest level;
- with the help of the system-functional aspect of the system approach, the main functions that public policy performs in the life of society are determined.

This study can serve as the basis for further scientific developments in the plane of various aspects of the systems approach, as well as push scientists to the possibility of using other elements of philosophical research, such as the method of abstraction, dialectical materialistic method and other methodological approaches to the phenomenon of "public policy".

Author contributions. The authors contributed equally.

Disclosure statement. The authors do not have any conflict of interest.

References:

1. Parsons, V. (2006), *Public policy: An introduction to the theory and practice of policy analysis* / V. Parsons, M: house "Kiev-Mohyla Academy", 2006, 549 p., P.29.
2. Karpa, M. (2017), *Formation of competencies of public authorities: territorially-oriented approach*, Efektyvnist derzh.upravlennia (text): zb.nauk.pr. LRIPA NAPA, Issue 3, pp.213-222.
3. Akimov, O. (2015), *Formation of professional civil service in Ukraine: legal principles Public administration: theory and practice*, 1 (13).
4. Akimov, O. (2018), *The concept of systemogenesis of professional activity of civil servants. Investments: practice and experience* (23). pp. 133-138.
5. Demyanchuk, A.P. (2007), *"State policy" and "public policy": a variant of the transitional period*, Scientific notes, No. 18, p.32.
6. Political science textbook for university students. / Ed. A.V. Babkina, V.P. Humpbacked, Moscow, Publishing Center "Academy", 1998, P.6.
7. Parsons, V. (2006), *Public policy: An introduction to the theory and practice of policy analysis* / V. Parsons, M: house "Kiev-Mohyla Academy", 2006, 549 p., P.23.
8. Habermas J. Democracy, reason, morality. M, 1995, P. 40.
9. Markina, I.A. (2001), *Methodology of modern management: monograph*, Moscow, Higher school, 311 p., P.61.
10. Deineko, A. (1971), *Methodological problems of production management science*, Moscow, Nauka, pp. 200-202.
11. Carl V. Patton, David S. Savicki. (1993), *Basic Methods of Policy Analysis and Planning*. Englewood Cliffs, NJ: Prentice Hall, P.5.
12. Sebine George G., Thorson Thomas L. *History of Political Thought* . Moscow, Osnovy, 1997. pp. 650-651.

13.Belyaeva, N. (2008), S*ubject field of public policy* [Electronic resource], SU-HSE, Moscow,Access mode: http://www.hse.ru.
14.Shmatko, N.A. (2001). *The phenomenon of public policy*, Sociological studies, No. 7, pp. 106-112.
15.Karpa, M. (2017), *Status of the civil servant: functional, organizational and competence aspects*, State building: zb.nauk.pr. DRIPA NAPA, № 1/2017, URL: http://www.kbuapa.kharkov.ua/e-book/db/2017-1/doc/3/03.pdf.
16.Akimov, O. (2016), *Functional factors of systemogenesis of professional activity of civil servants. Investments: practice and experience* (24). pp. 68-74.
17.Giddens, A. (1984), *The constitution of society: outline of the theory of structuration*. Cambridge: Polity Press, 1984. P.74.
18.Karpa, M. (2017), *Subject competence of public authorities*, Actual problems of public administration: collection. science. etc. ORIPA / [head. ed. Izga, M.], Issue 3 (71), Odessa, ORIPA NAPA, pp. 50-56.
19.Akimov, O. (2016), Professional activity of civil servants and officials of local self-government: psychological aspects of personnel management. Public administration and local self-government (3). pp. 106-113.
20.Public administration. English-Ukrainian dictionary of terms: textbook. way. / K.O. Vashchenko, R.G. Shchokin, E.A. Romanenko, L.M. Akimova [ed.]. Kyiv: PJSC "Interregional Academy of Personnel Management", 2020, 232 p. Public administration; issue 4.
21.Public administration. Civil servant's desk book and politics. Conceptual and terminological dictionary / KO Vashchenko, RG Shchokin, EA Romanenko, LM Akimova [ed.]. - Kyiv: PJSC "Interregional Academy of Personnel Management", 2020, 764 p. Public administration; issue 3.
22.Mihus, I., Greben S. (2020). Modern approaches to the essence and forms of public administration. *Public administration in the digital economy*. DOI: https://doi.org/10.36690/PADE.

Received: August 25, 2021
Approved: September26, 2021

CHAPTER 2
LEGAL RELATIONS: FROM THEORY TO PRACTICE

LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER JORDANIAN LEGISLATION AND INTERNATIONAL AGREEMENTS

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Abstract. *Intellectual property (IP) is of great importance in the modern era, particularly with the increase in innovations we are witnessing in various fields, therefore, it has become necessary to find new mechanisms to protect the rights of inventors and their intellectual property from all forms of violation. The constant violation of intellectual property has promoted the policy-makers to give more attention to this area and at the international level, for this reason, several agreements and treaties have been concluded between countries, especially the Paris Agreement and the TRIPS Agreement, which are considered among the most important international agreements that deal closely with trade field. These international conventions have created important substantive provisions for intellectual property, and this research aims to find out the importance of IP and the extent to which it is protected at the international and local level. The comparative method, methods of analysis and synthesis are the basis of the research methodology presented in the article.*

Keywords*: intellectual property rights, legal protection, international agreements and treaties, TRIPS Agreement, Paris Agreement, Jordanian trademark law, Jordanian industrial designs law, Jordanian patent law.*

JEL Classification: K11, K33

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 24

Introduction. The importance of intellectual property emerged significantly after the industrial revolution and the innovations, inventions, and technological advances that have taken place in technology and communication. The diverse expansion in the usage of Internet networks in different facets of life has contributed to a multiplicity of conflicts over intellectual property, therefore, states have resorted to concluding multiple international agreements to provide effective protection of intellectual property. Research on the issue of intellectual property needs a great deal of attention because of its relationship with the development of thinking, knowledge, creativity, innovation, and technology in the modern age. In this research, therefore we will deal with the essence of intellectual property and then with the security of intellectual property in the light of international agreements and Jordanian legislation

Literature Review. To achieve the purpose of the study it is necessary to explore the nature and types of intellectual property.

What is Intellectual Property? Intellectual property rights have become one of the concepts of the modern era, and it is the fruit of the effort that aims to achieve social benefit. and to realize what intellectual property means, it is necessary to define the intellectual property and clarify the significance of protecting intellectual property rights and its divisions.

Most of the legislation did not set a specific definition of intellectual property, except for a few. Many tried to develop different definitions to remove the ambiguity surrounding this concept, as it was recently introduced as a new legal term imposed by the successive developments in the technological sciences, and which have become a fundamental factor in economic and social progress. However, all these definitions have agreed that intellectual property is a property concerning intangible things from the intellectual product, but they differed in their function that is based on the different considerations of their concept and their legal adaptation in different legal systems (Najm, 2009). Intellectual property is defined in Jordanian legislation as a legal term that indicates what the human mind produces in terms of specific ideas that are translated into tangible things includingall the rights resulting from the intellectual activity of the human being in the artistic, literary, scientific, industrial, commercial and other fields(Salah, 2015).The Egyptian legislator also issued the new Intellectual Property Rights Protection Law No. 82 of 2002 AD, which included several sections, each of which was organized into a separate branch of intellectual property aspects. And that is what the Jordanian legislator did.

Some have defined it as those rights of intangible creation of human intellect covering products, copyrights, works of art (literature, paintings, music, etc.), industrial property (patents, trademarks, industrial designs), and geographical indicators(Al-Kiswani, 1998).Others defined it as a legal term that denotes the specific ideas produced by the human mind that are translated into tangible things, so that all the rights resulting from the intellectual activity of the human being in the artistic, literary, scientific, industrial, commercial, and the like fields come within its scope, meaning all the rights arising from any intellectual activity or effort that leads to innovation in the industrial, scientific, literary and artistic fields (Muhammad, 1992).

It also can indicate the returns of intellectual, scientific, and literary creativity in the fields of writing publications, songs, music, invention, innovation, and trademarks(Idris, 2003).In other words, intellectual property is the product of the mind.

The importance of protecting intellectual property rights and its types. The first thing that comes to mind when talking about intellectual property is copyright, as many believe that intellectual property is limited to copyright and is related to publishing and literature. Therefore, this section will be divided into two branches: The first discusses the importance of protecting intellectual property rights and the second branch addresses the types of intellectual property.

1. **The importance of protecting intellectual property.** Protection of intellectual property rights means preventing states from importing commodity products and technology and using those rights without the consent of their owners,

and in particular, patents that protect inventions from being used without the consent of the patentor as inventions have become the basis for the establishment of modern industries that is based on modern and advanced technology.The aim of protecting intellectual property rights is to create a strong and integrated legal system that guarantees protection for innovators over their inventions and for authors over their works and to protect competing projects from the risk of imitation or robbery of the elements of intellectual property generally.Also, it aims to protect the huge effort spent in the implementation of these inventions, the high cost spent on scientific experiments, the production and marketing of goods, and services. For example, one of the threats that patentors of technological knowledge, computer programs and trademark suffers is piracy. Accordingly, the importance of protecting intellectual property rights is represented in the following (Al-Kiswani, 1998):

a) Encouraging legitimate competition.

b) Preventing unfair competition.

c) Combating counterfeiting and forgery.

d) Encouraging innovations, inventions, and developing industry, which leads to attracting capital and increasing investment.

e) Encouraging inventors and thinkers to produce more.

f) Accessing advanced technology and relying on it instead of old technology.

g) The progress of mankind depends on new inventions and culture.

h) Protecting intellectual property rights leads to advancing development and economic progress, providing job opportunities, and the emergence of new industries, which increase the welfare of life.

i) One of the principles upon which the laws and laws have settled is that a person has what he creates, and this is something that common sense and the rules of justice and fairness agree upon, because the fruit of his effort regardless of the nature of this effort, whether physical or mental.

It can be said that the presence of legal protection for intellectual property rights promotes the propagation of technologies and developments that have been made available for the benefit of society.

Types of Intellectual property. The property technically includes two types that are industrial property and literary and artistic property. Industrial property includes patents, industrial designs, trademarks, brands, and others, while literary and artistic property includes copyrights (Najm,2009). The intellectual property contains different and varied terms, but there is a fundamental link that unites them all, which is creativity and innovation, and it should be noted that separating the industrial property from the literary and artistic property is sometimes difficult, as artistic works are increasingly used in the industry. Some see that copyright protects the formulation and expression of the idea and not the idea itself, where the patent protects the idea or invention(Bali, 2001).

A. Literary and artistic property (copyright):

Copyright:

It indicates the author's right to his intellectual production in literature, science, and the arts, and it includes all forms of mental creativity in which the author's personality emerges. Among these forms:

1. Written works: It includes all works that reach the public through writing, and the nature or form of written works does not affect the difference in their content or form.

2. Works received orally, such as lectures and religious sermons.

3. Artistic works indicating the works that address the aesthetic sense of the public(Ben Idriss, 2014).

Related rights (neighboring rights) (Mamoun, 1987)**:**

The term "neighboring rights" in a copyright refers to the rights of persons who put literary and artistic works into practice, and it is called related rights on the basis that they are adjacent to copyright in addition to being not independent rights from copyright but related to it. The main difference is that copyright relates to the rights of the creator of the work while neighboring rights are related to the rights of the performer of the work when converting it into a performance form, as well as sound recordings and broadcasting organizations(Mozari, 2012).Neighboring rights include the rights of performers, producers of phonograms, and the rights of broadcasting organizations in their radio and television programs.

B. Industrial property

They are the rights that protect the basic elements in the industrial or commercial establishments of the manufacturer or trader including the right to patents, industrial designs, trademarks, and trade names (Muhammad, 1971). It is also defined as an exclusive right on industrial or commercial elements that enables its owner to monopolize and exploit them during a certain period under the law. It is also known as the various rights of the creative activity related to commercial and industrial activity(Qailoubi, 1981).The industrial property rights can be divided into several branches that are:

1. Patents and utility models.
2. Marks and commercial data.
3. Industrial designs and models.
4. Layout designs of integrated circuits.
5. Undisclosed information.
6. Plant varieties.
7. Geographical indications (Salah, 2015).

Intellectual property includes many different concepts concerning intellectual production.

Aim. The research aims to find out the importance of IP and the extent to which it is protected at the international and local level.

Methods. The comparative method, methods of analysis and synthesis are the basis of the research methodology presented in the article.

Results. Let's make a comparative analysis of international regulations and laws of Jordan.

International protection of intellectual property rights considering international agreements. Undoubtedly, property rights are related to innovations and inventions, thus, the area of intellectual rights is wide as they include various types of intellectual production, commercial, and copyright. In this section, we will deal with the protection of property rights under the Paris Conventionfor the Protection of Industrial Property of 1881, and the protection of property rights under the Agreement of TRIS.

1) **The protection of property rights under the Paris Convention.** The Paris Convention was established in 1883, and it is the first agreement established to regulate industrial and commercial property rights at the international level, and it is considered one of the pillars on which the system of protection of property rights is based.

This agreement has been amended several times, and the last amendment was in Stockholm, 1967, and the Paris Agreement on industrial and commercial property gained great importance to the extent that it was considered the constitution of industrial property, and the Paris Agreement highlighted the most important provisions of protection, touching on the basic principles of protection and some special categories of industrial property(Ghamdi, 2004).

The basic provisions of the Paris Convention. The Paris Agreement set general rules and basic principles that member states of this convention must abide by(Fathy, 2012), these principles include the following:

(1) Under the national treatment, each Contracting State must grant the same protection to nationals of other Contracting States that it grants to its nationals. Nationals of non-Contracting States are also entitled to national treatment under the Convention if they are domiciled or have a real and effective industrial or commercial establishment in a Contracting State (Douda, 2011).

(2) The Convention provides for the right of priority, Article (4) of the Paris Convention stipulates in the case of patents (and utility models where they exist), marks, and industrial designs. This right means that, based on a regular first application filed in one of the Contracting States, the applicant may, within a certain period (12 months for patents and utility models; 6 months for industrial designs and marks), apply for protection in any of the other Contracting States. These subsequent applications will be regarded as if they had been filed on the same day as the first application. In other words, they will have priority (hence the expression "right of priority") over applications filed by others during the said period for the same invention, utility model, mark, or industrial design. Moreover, these subsequent applications, being based on the first application, will not be affected by any event that takes place in the interval, such as the publication of an invention or the sale of articles bearing a mark or incorporating an industrial design. One of the great practical advantages of this provision is that applicants seeking protection in several countries are not required to present all of their applications at the same time but have 6 or 12 months to decide in which countries they wish to seek protection, and to organize with due care the steps necessary for securing protection(Summary of the Paris Convention for the Protection of Industrial Property (1883) WIPO).This

principle eases the burden on the right holder of submitting multiple requests in the various countries of the Union, in addition to saving time, expenses, and effort (Salah, 2011).

(3) Independence of Patents. Article (4/2) Paragraph (A) stipulates that "Patents applied for in the various countries of the Union by nationals of countries of the Union shall be independent of patents obtained for the same invention in other countries, whether members of the Union or not." Likewise, Article (6) Paragraph (3) stipulates that "A mark duly registered in a country of the Union shall be regarded as independent of marks registered in the other countries of the Union, including the country of origin." This indicates that when multiple applications are submitted to obtain the same patent or registering the same mark, drawing, or industrial model, all these patents will have their legal aspect, meaning that the patent or registration is independent of each other in terms of validity and invalidity even if they are granted as a result of using the right of precedence.Consequently, each right is subject to the local law of the country in which the request was made in terms of the conditions of protection, its duration, nullity, and expiry(Abdel-Rahim, 2012).

(4) Non-conflict with the Union Treaty. Article (19) of the Paris Agreement stipulates that "It is understood that the countries of the Union reserve the right to make separately between themselves special agreements for the protection of industrial property, in so far as these agreements do not contravene the provisions of this Convention." permits the countries of the Union the right to conclude special agreements for the protection of industrial property privately, provided that these agreements do not contradict the provisions of the Paris Convention(Khashroum, 2005), and when examining this rule, it means the principle of equality among the citizens of the countries of the Union, as it paves the way for the achievement of legislative unity among its members but it is not a real unit to benefit from the consequences of implementing the agreement, especially the elements of industrial property(Jalal, 1983).

Based on the basic provisions of the Paris Convention, which aims to protect the rights of industrial property, we see that its provisions are binding on the member states of the Union and the countries organizing them must amend their laws following its content, and it is not permissible to agree to violate the provisions of the agreement. We also see that the provisions of the Paris Convention are self-executing, because the main objective of this convention is the right of every dependent or resident person in one of the countries party to the agreement to protect his invention, drawings, industrial models, trademarks, or any other form of the industrial property mentioned in the agreement, and any country that ratifies the Paris Convention, its provisions become a major part of the national law of that signatory country.

2) **Legal protection of intellectual property under the TRIPs agreement.** Endorsing the legal protection of intellectual property rights will undoubtedly attain successful economic growth, provides social and cultural security, achieves stability in commercial relations between countries, and leads to the provision of a decent living for citizens of member states. In addition to preserving the interests of

intellectual property rights holders and ensuring a suitable place and environment for the innovative activity that returns to benefit society.

The interest in protecting intellectual property within the framework of international relations factually is not new, however, what is new is the inclusion of an independent agreement dealing with intellectual property rights within the multilateral agreements of the World Trade Organization, which has been called The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRPs). TRPs agreement is the best agreement achieved in the international administration to protect property rights. This agreement went through many stages and difficulties resulting from the different levels of protection granted to these rights under the national laws of countries. As the international protection of intellectual property rights before the TRPS agreement was not able to provide the desired level of protection for patentors due to the absence of the texts necessary to ensure their implementation by imposing the penalties and compensation demanded by the owners of intellectual rights.

Therefore, the TRIPs Agreement is considered the most leading agreement at the level of international laws because it links the law with the economy and because of its comprehensiveness and globalization. It also ensured the penalties that secure the commitment of states to their provisions. This Section will be divided into three parts. The first part introduces the basic principles of the TRIPs Agreement The second part illustrates the rights addressed by this agreement, and in the third part, we introduce the provisions for the enforcement of intellectual property rights.

A. The basic principles addressed by the TRIPs agreement. The significance of the TRIPs agreement lies in the fact that it is the main agreement that dealt with the commercial aspects of intellectual property rights on one hand and that imposed obligation on its members to ensure that their legislation includes the provisions contained therein on the other hand, which led to a kind of substantive unification of the provisions of national legislation in the field of intellectual property rights(Sherawan, 2010).The TRIPs Agreement consists of 73 articles divided into 7 main parts. It also includes several basic principles concerning intellectual property rights as follows:

1. *Ensuring the principle of national treatment.* The agreement emphasized the principle of national treatment, as the previous agreements did when stipulated that it is impermissible to favor national creators and innovators and to offer them the treatment that exceeds that which the member state grants to foreign intellectual property rights holders, This is the text of Article Three of the Protocols Agreement, which stipulates that each member country is obligated to grant citizens of other countries that are members of the agreement treatment that is no less than the treatment it accords to its ports concerning the protection of intellectual property.The agreement affirmed the principle of national treatment, as in previous agreements, that calls for non-discrimination principles, treating foreign nationals no less favorably than one's own nationals . This is stipulated in the text of Article (3) of the TRIPs Agreement, which stipulates that " Each Member shall accord to the nationals of other Members treatment no less favorable than that it accords to its nationals with

regard to the protection of intellectual property." In a matter of fact, this principle attains a kind of equality between citizens of a member state and citizens of other countries that are members of the agreement. This equality also applies in terms of its scope, duration, enforcement, and how to obtain it, as well as the beneficiaries of it.

2. *The inclusion of the most-favored-nation (MFN) principle is a new principle in intellectual property.* This agreement is the first agreement to adopt the principle of the most-favored-nation (not discriminating among nationals of trading partners), and it is also the only one that adopted this principle in regulating intellectual property rights, which led to its international spread. This principle plays an effective role in imparting national treatment as a complement to it (Abu Delo, 2004). Article (4) of the TRIPs Agreement stated that "With regard to the protection of intellectual property, any advantage, favor, privilege or immunity granted by a Member to the nationals of any other country shall be accorded immediately and unconditionally to the nationals of all other Members."

3. *Establishing the minimum level of protection.* The national law of the member states of the TRIPs Agreement must respond to the requirements of the minimum requirements stipulated in the agreement and not to relinquish or contravene it. It should be noted that the levels included in the TRIPs of intellectual property rights are the minimum levels of protection, meaning that every member state in the agreement has the right to specify a higher level of protection of intellectual property rights in their national laws(Mohamadeen, 2000).It can be said that enhancing the level of protection of intellectual property rights is consistent with the interests of the advanced industrial countries as they are the owners of invention and technology.

B. Rights addressed in the TRIPs Agreement. The TRIPS agreement deals with the protection of the branches of intellectual property rights, their scope, and use in Articles 9 - 40 of the agreement, including copyright and related rights, as well as trademarks, geographical indications, designs, industrial designs, and patents. In addition to the layout designs of integrated circuits and the protection of undisclosed confidential information(Mahmoud, 2014).

C. Provisions for the enforcement of intellectual property rights. The enforcement rules included in the TRIPS Agreement, which came to achieve the requirements and objectives of the industrialized countries, are among the most important enforcement rules that have become in the hands of the World Trade Organization, to implement intellectual property rules from the developed countries viewpoint as the TRIPS Agreement obligated member states to follow a set of strict procedurals rules that have not been known before in any agreement concerned with intellectual property rights (Sherwan, 2010).

Hence, the sections of this agreement dealt with the general protection that states should provide and adhere to by setting the appropriate judicial procedures, and the civil and administrative procedures and penalties. It also dealt with the implementation of temporary measures, the requirements of border measures. Finally, it devoted a section for the enforcement of intellectual property rights in Article 41and I will explain in the following subsections:

1) Establish appropriate judicial procedures. Article (41) stipulates that "1. Members shall ensure that enforcement procedures as specified in this Part are available under their law so as to permit effective action against any act of infringement of intellectual property rights covered by this Agreement, including expeditious remedies to prevent infringements and remedies which constitute a deterrent to further infringements. These procedures shall be applied in such a manner as to avoid the creation of barriers to legitimate trade and to provide for safeguards against their abuse." 2." Procedures concerning the enforcement of intellectual property rights shall be fair and equitable. They shall not be unnecessarily complicated or costly or entail unreasonable time-limits or unwarranted delays." According to this article the member states of the agreement must set in their laws appropriate measures to ensure the enforcement provided for in this part to facilitate effective measures against any infringement of intellectual property, and these measures must be applied in a manner that ensures avoiding the establishment of barriers to legitimate trade and providing guarantees against their misuse, provided that the procedures are fair and not be difficult and costly, and should not involve unfair time limits or unjustified delays, and it is required that the decisions are taken to be written and available to the parties concerned without any delay.

2) Civil and administrative procedures and penalties. The agreement dealt with civil and administrative procedures and penalties, the most important of which are the Fair and Equitable Procedures stipulated in Article 42 "Members shall make available to right holders civil judicial procedures concerning the enforcement of any intellectual property right covered by this Agreement. Defendants shall have the right to written notice, which is timely and contains sufficient detail,…" and in Article 43.This Article explained the civil judicial procedures concerning the enforcement of any intellectual property right covered by this Agreement and that the procedures shall not impose overly burdensome requirements concerning mandatory personal appearances as all parties to such procedures shall be duly entitled to substantiate their claims and to present all relevant evidence as specified in Article 43 "The judicial authorities shall have the authority, where a party has presented reasonably available evidence sufficient to support its claims….".

Articles 43, 44, and 45 addressed the judicial procedures in terms of evidence, judicial warnings orders, and compensation. Articles 46 and 47 stipulated additional penalties regarding the establishment of an effective deterrent to infringement, and Article 47 permitted member countries to grant the judicial authorities the authority, to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the infringing goods or services and of their channels of distribution.

Article 48 regarding indemnification of the defendant granted the judicial authorities the right to order a party at whose request measures were taken and who has abused enforcement procedures to provide to a party wrongfully enjoined or restrained adequate compensation for the injury suffered because of such abuse and to order the applicant to pay the defendant acceptable the expenses and compensation. Article 49 required that the administrative procedures followed be

consistent with any civil remedy can be ordered as a result of administrative procedures on the merits of a case, such procedures shall conform to principles equivalent in substance to those outlined in this Section.

3) Enforcement of provisional measures. Article (50) paragraph 1 of the TRIPS Agreement granted the judicial authorities the authority to order prompt and effective provisional measures to prevent an infringement of any intellectual property right from occurring, and in particular to prevent the entry into the channels of commerce in their jurisdiction of goods, including imported goods immediately after customs clearance to preserve relevant evidence regarding the alleged infringement.

The judicial authorities also have the right to adopt provisional measures inaudita altera parte where appropriate, in particular where any delay is likely to cause irreparable harm to the right holder, or where there is a demonstrable risk of evidence being destroyed. In addition to requiring the applicant to provide any reasonably available evidence to satisfy themselves with a sufficient degree of certainty that the applicant is the right holder and that the applicant's right is being infringed or that such infringement is imminent, and to order the applicant to provide a security or equivalent assurance sufficient to protect the defendant and to prevent abuse.

4) Special requirements related to border measures. Border measures to protect intellectual property is a set of urgent measures taken by the customs authority on its own or at the request of the right holder to seize the imported or exported goods that constitute an infringement of an intellectual property right. The TRPs agreement created a series of border measures for intellectual property rights with the customs law within the country under the agreement(Sherwan, 2010).It should be noted that the competent authorities are allowed to destroy and dispose of infringing goods and they are obligated not to allow the re-export of infringing goods without changing their condition or subjecting them to different customs procedures except in exceptional cases without prejudice to any other right to file a lawsuit by the right holder as stipulated in Article 59 " Competent authorities shall have the authority to order the destruction or disposal of infringing goods in accordance with the principles set out in Article 46. In regard to counterfeit trademark goods, the authorities shall not allow the re-exportation of the infringing goods in an unaltered state or subject them to a different customs procedure, other than in exceptional circumstances."

5) Optional recourse to criminal penalties. Article 61 of the TRIPS Agreement requires its members to provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale. Remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity. In appropriate cases, remedies available shall also include the seizure, forfeiture, and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence. Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, particularly where they are committed willfully and on a commercial scale.

Accordingly, we can realize that the TRIPS agreement set forth protection for intellectual property represented by civil, administrative, and criminal protection according to the provisions of Articles 45, 46, 48, and Article 61, in addition to temporary border measures for the protection of intellectual property.

Legal protection of intellectual property in Jordanian legislation. The Jordanian legislations has taken a great interest to intellectual property as it is referred to in Article (71) in the Jordanian Civil Law No. 43 of 1976 under the term Moral rights, and the Jordanian legislator defined them as rights that subsist over a non-material thing. The Jordanian legislator issued a group of special laws, the most important of which are the Merchandise Marks Law of 1953, the Trade Names Law of 1953, the Jordanian Trade Law of 1966, the Copyright Protection Law of 1992, amended by Law No. 29 of 1999, in addition to the issuance of a set of laws related to invention privileges and fees, the amended Trademark Law of 1999 , the Industrial Fees Law and industrial models for the year 2000 as well as the law of unfair competition and trade secrets for the year 2000 (Salah, 2015).

It should be noted that the Jordanian legislator gave the patent holder legal protection in the case of an infringement of the patent's subject matter, as the legal protection for the patent takes several forms, the protection may be punitive with some conservative measures as stipulated in Article 32, 33 of the Jordanian Patent Law No. 22 of 1999 and the protection may be civil as stipulated in Article 256 of Jordanian Civil Law No. 43 of 1976, but the Jordanian legislator linked the process of registering the patent is in accordance with the legal principles followed in Jordan to obtain the patent and the patent holder's right to claim compensation for the infringement that occurred on his patent, in other words, there are some conditions that must be followed and in the event that the patent is not registered in accordance with the conditions in force in Jordan, it is not permissible for the patent holder if he did not register his patent to claim for protection or any claim for any malfunction or damage. Therefore, the Jordanian legislator has made the right to claim compensation for damages resulting from acts of infringement limited to the holder of the registered patent (Article 32 of Jordanian Patent Law No. 22 of 1999).

As for the protection established for industrial designs and models, they are subject to Industrial Design Law No. 14 of 2000. The industrial design and models law of Jordan for year 2000 defined the meaning of industrial design in article 2 : any composition or arrangement of lines , which gives the product special appearance and appeal , whether by industry or handicraft, including textile designs.

Consequently, when the industrial drawing or model is officially registered, the owner of this drawing or model has the right to legal protection, under Article (10) of the same Law the owner of a protected industrial design shall have the right to prevent third parties not having the owner's consent from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes. However, the Jordanian legislator did not specify in detail the type of criminal punishment for this violation but considered the penalty for these acts as the penalty prescribed for misdemeanors in the Jordanian Penal Code.

As for civil protection, the Jordanian legislator considered it in accordance with the general rules of liability, as it stipulated (Any harm done to another shall render the actor, even though not a person of discretion, liable to make good the harm) indicating that whoever suffers harm in relation to the industrial drawing or model has to institute a civil lawsuit against the actor and compensation is requested in proportion to the size of the damage, but on the condition that the industrial drawing or model is complete with the conditions and elements and has been properly registered, and there are also conservative measures stipulated in Article 16 of the Industrial Designs Law, which relates to preventing infringement and preserving evidence.

It should be noted that there is also legal protection for trademarks that Jordanian Trademarks Law No. 34 of 1999 in Article (2) defines trademark as "Any visually perceptible sign used or to be used by any person for distinguishing his goods or services from those of others." A trademark can be defined as every distinctive symbol or logo taken by the manufacturer, trader, or service provider to distinguish his products, goods, or services from those he manufactures or trades in.

The trademark has also civil protection, penal protection, and preferential measures in Jordanian legislation. Its Civil protection is based on the general rules of liability, that is, in the sense of reparation for damage and its guarantee through material compensation, and everyone who signs his trademark infringement has the right to file a civil lawsuit against the person who caused that damage and his claim by fair compensation, but the Jordanian legislator has set conditions before claiming compensation, as indicated by the text of Article 34 of the Jordanian Trademarks Law, stipulating "No person shall have the right to file a lawsuit to claim damages for any infringement upon a trademark not registered in the Kingdom" so, it is not allowed for any owner who has not registered his trademark in Jordan to file a lawsuit demanding compensation. However, the Jordanian legislator has given the right to every interested party to claim compensation for the damage he suffered as a result of unlawful competition as stipulated in Article 3 in the Unfair Competition and Trade Secrets Law No. 15 of 2000 which states that "Any concerned party may claim compensation for the damages caused to him as a result of any unfair competition." Thus, it can be said that the right to claim compensation is permitted in the event of violation of a trademark used in the Kingdom, regardless of whether it is registered or unregistered, when that use leads to mislead the public.

As for the criminal protection of the trademark, the Jordanian legislator has set the penal sanctions in Article 38 of the Jordanian Trademarks Law amended in 1999 and in Article 3 of the Jordanian Merchandise Marks Law No. 19 of 1953, and those articles included acts that infringe the right to the trademark as well. Putting the penalty prescribed in the law.

Likewise, the Jordanian Trademarks Law allowed the owner of the trademark to request the court to stop the infringement of the trademark and the precautionary seizure of the goods in addition to preserving the tool related to the infringement, and the Jordanian legislator also gave the court the discretion to impose complementary penalties represented in confiscation and destruction.

Discussion. Finally, We may conclude that because of its significance and necessity, the protection of intellectual property has become the subject of international legislation and local legislation , as the Paris Agreement has played a significant role in the development of international protection for industrial and commercial property rights, and the Paris Agreement is considered the first station which has revealed the need for international protection of intellectual property rights. As we have seen, international legislation has paid attention to these rights due to their importance, and to strengthen protection of intellectual property at this stage of recent developments, the international legislations approved the TRIPS Agreement because it established rules that were not included or stipulate in any previous agreement regarding the protection of intellectual property. This agreement included all areas of creativity and many rights related to intellectual property, and it also established many means and procedures related to legal protection in addition to the substantive and formal legal details binding on member states, However, some criticized it for having more interest in the purely commercial element of profit at the cost of moral rights, the advancement of thinking and the fostering of innovation, as it did not discuss concerns related to the use of digital technology. In addition, the Jordanian legislature has taken an interest in the issue of intellectual property and its protection through a range of laws released in this regard, in line with developments in the modern era, with a view to enhancing the economic, social and cultural growth of society, which leads to innovation and knowledge formation.

Conclusion. After discussing the protection of intellectual property at the international level and its importance we addressed the most important international conventions concerning intellectual property protection and showed the legal provisions that guarantee the protection of these rights, hence, we can draw the following conclusions:

1) The Paris Agreement and the TRIPS Agreement have dealt with intellectual property rights issues broadly and comprehensively and included various branches of intellectual property.

2) The TRIPS Agreement is considered part of the World Trade Organization Agreement, which is binding and comprehensive.

3) The TRIPs Agreement is reinforced by national laws issued in a manner compatible with the terms of the embedding agreement and the function of the options available by the interests of the concerned Member States.

4) The TRIPS Agreement obligated member states to implement the substantive provisions contained in previous international agreements.

5) The main objective of the TRIPs Agreement is to establish a general legal framework that regulates the protection of intellectual property rights among the member states in a manner that contributes to encouraging innovation and achieving a common benefit to attain social and economic well-being and a balance between rights and duties.

6) The TRIPs Agreement sets out the procedural rules required for the protection of intellectual property rights by enforcing civil and administrative restrictions and border measures, in addition to the criminal proceedings to be included in the laws of

the Member States.It also extended the scope and the term of protection to become a minimum of 20 full years.

7) The international agreements for the protection of intellectual property have created a unified global system for the protection of rights under binding international provisions to encourage technological innovation and technology transfer in a way that helps achieve the benefit of the producers and users of this technology.

8) The Jordanian legislation provides for the legal protection of intellectual property through several forms such as criminal protection, civil protection, and some conservative measures, taking into account the considerations and conditions that must be met, the most important of which is that it be registered in Jordan.

The researcher recommends the following:

- Promoting the legislative provisions regarding intellectual property rights and linking them to international agreements as well as civil, administrative, and criminal laws and rulings
- Expanding the content of modern agreements to cope with modern developments and technology.
- Establishing international courts for intellectual property with the appointment of specialized judges in this field.
- Continued cooperation between countries to protect intellectual property rights and to find a mechanism to work to enable this coordination through joint work for staff in this field and to activate legislation to protect their rights.
- Qualifying agencies concerned with protecting intellectual property and teaching intellectual property curricula in schools and universities to follow up on contemporary developments.
- Exchanging experiences and knowledge between member states to prevent mistakes and benefit from each other's experiences.
- Illegal counterfeiting and copying must be combated through the effective application of international agreements, especially the embedding agreement, and in coordination with the countries that are considered as transit centers for these counterfeit goods and goods.
- Exchange of experiences in the field of intellectual property between developing and developed countries to acquire the necessary expertise to protect intellectual property rights.

Author contributions. The authors contributed equally.

Disclosure statement. The authors do not have any conflict of interest.

References:

1. Abdel-Rahim, R,A.(2012). The International Organization for Intellectual Property Protection Under the Agreements of the World Intellectual Property Organization (WIPO), New University House, Alexandria.
2. Abu Delo, A, M.(2004). Conflict of Laws in Intellectual Property, A Comparative Study, Wael Publishing and Distribution House, Jordan, First Edition.
3. Bali, S, F. (2001). Issues of Commercial, Industrial and Intellectual Piracy, 1st Edition, Al-Halabi Legal Publications, Beirut.
4. Ben Idriss, H. (2014). Protection of Intellectual Property Rights in Algerian Legislation, Doctoral Thesis in Private Law, Abi Bakr Al Qaid University.
5. Douda, F, A.(2011). Legal Protection of a Trademark in the Republic of Yemen, A Comparative Study, The New University House, Alexandria.

6. Fathy, N.(2012). International Protection of Intellectual Property Rights, Master Thesis in International Law, Faculty of Law and Political Science, Mawlawi Mamari University.
7. Ghamdi, A, B.(2004). Intellectual Property Rights, First Edition, Naif Arab University for Security Sciences, Riyadh.
8. Idris,K.(2003) Intellectual Property, World Intellectual Property Organization Publications, Geneva.
9. Jalal, A, K.(1983). The Legal System for the Protection of Inventions and Transfer of Technology, Kuwait.
10.Khashroum, A.(2005). Al-Wajeez in Industrial and Commercial Property Rights, First Edition, Wael Publishing House, Jordan.
11.Kiswani, A,M. (2011). Intellectual Property, Al-Jubayb Publishing House, Jordan.
12.Mahmoud, M, L, S.(2014). Informatics and its Reflections on Intellectual Property for Digital Works, a Comparative Study, Legal Books House, Shatat Publishing and Software House, Egypt, UAE.
13.Mamoun, A.(1987). Research on Copyright, Dar Al-Nahda Al-Arabiya, Cairo,.
14.Mohamadeen, W, J.(2000). Legal Protection of Industrial Property According to the Agreement on Trade-Related Aspects of Intellectual Property Rights TRPES, New University Publishing House, Egypt.
15.Mozari, A.(2012). Intellectual Property Rights under the World Trade Organization and its Role in Developing the Investment Climate, Presentation of International Experiences, Master Thesis in Economic Sciences.
16.Muhammad, H, A.(1971). Industrial Property and Commercial Store, Dar Al-Nahda Al-Arabiya, Egypt.
17.Muhammad, H, M, L. (1992). Practical Reference on Literary and Artistic Ownership in Light of the Rulings of Jurisprudence and Judicial Rulings, Book One, Egypt.
18.Najm, A, N. (2009). Electronic Management, Al-Yazuri Scientific House, Jordan.
19.Qailoubi, S.(1981). Industrial Property, Dar Al-Nahda Al-Arabiya, Egypt.
20.Salah Al-Din, Z.(1999). Industrial and Commercial Property, House of Culture, Amman, Jordan.
21.Salah, Z.(2011)., Introduction to Intellectual Property, Its Origins, Concept, Scope, Importance, Organization and Protection, Third Edition, House of Culture for Publishing and Distribution, Amman.
22.Salah, Z.(2015). Explanation of Industrial and Commercial Legislation, Dar Al-Thaqafa for Publishing and Distribution, Jordan.
23.Sherawan, H, I.(2010). Border Measures to Protect Intellectual Property, Analytical Study, Tigris House, Iraq, First Edition.
24.Summary of the Paris Convention for the Protection of Industrial Property (1883) WIPO, https://www.wipo.int/treaties/en/ip/paris/summary_paris.html

Received: August 07, 2021
Approved: September 12, 2021

SYSTEMATIZATION OF COMPONENTS OF COMPETENCE OF SUBJECTS OF FREE LEGAL AID PROVISION IN UKRAINE: ADMINISTRATIVE AND LEGAL ASPECT

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Abstract. *In the article, the author defines the general subject of conducting subjects for the provision of free legal assistance, systematizes their rights and obligations (powers), as well as conducts a generalized analysis and identifies common competency blocks for entities providing free legal assistance. So, the subject of reference in this case determines the scope of the provision of free legal assistance. The competence of local governments that provide free primary legal assistance (executive bodies of rural, village, city councils), which consists of the following blocks: is determined: professional; organizational and managerial; control; informational; associative; scientific and methodological and logistics unit. Specialized institutions that provide free primary legal assistance implement the following competency blocks: professional; organizational and managerial; informational and analytical and normative. The competence of regional centers for the provision of free secondary legal assistance consists of: a professional unit; analytical unit; monitoring unit; methodological and educational unit; strategic block; personnel block; associative block; regulatory unit. The structural blocks of competence of local centers for the provision of free legal assistance in their content are similar to the competence of regional centers with minor differences: professional block; analytical unit; organizational unit; methodological and educational unit; strategic block; personnel block; associative block; regulatory unit. The competency blocks of the subjects of the provision of free legal assistance make it possible to form an objective idea of their general competence, to establish the similarity of its individual elements with each other. It is noted that the difference between the individual blocks of competence mainly depends on the level and volume of implementation of such competence by the subjects of the provision of free legal assistance and the types of the latter – primary or secondary. It is concluded that the general competence of the subjects for the provision of free legal aid consists of a set of rights and responsibilities, which are proposed to be combined into such blocks as: professional, regulatory, organizational and managerial, control, monitoring, personnel, strategic, analytical, informational, logistical, methodological and educational, scientific, associative.*

Keywords: *powers, rights and obligations, subject matter, public receptions, local authorities, specialized agencies for the provision of free primary legal assistance, centers for the provision of free legal assistance.*

JEL Classification: K19, K30

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 13

Introduction. By studying the institutional component of the administrative-legal mechanism of free legal aid, it is impossible to reveal the essence of such a mechanism, because the subjects are only one of its components, including: principles, forms and methods of specific activities, administrative law, legal relations, etc. . In general, the mechanism of administrative and legal regulation can be defined as a set of legal means used for the purpose of legal regulation of administrative legal relations. Without delving into the essence of the concept of "legal remedy", we emphasize the importance of clarifying the clear scope of competence of the subjects, in particular those who provide free legal aid. Because

the subjects of free legal aid in case of deprivation of their competence are not able to perform any task set before him, including strategically important - the protection of human rights, freedoms and interests.

Without a clear legally defined competence of the subjects of free legal aid, they will not be able to "activate" other elements of the administrative-legal mechanism, such as using certain means or implementing the relevant principles, and will not be able to become a party to legal relations. Thus, the competence of the subjects of free legal aid is a "link" of the elements of the administrative-legal mechanism, as well as an element of the administrative-legal status of the vast majority of subjects of free legal aid.

Literature Review. Issues related to the definition of the limits of competence of the subjects of free legal aid have remained out of the attention of modern jurisprudence. In turn, to eliminate the relevant theoretical gap, which is also of practical importance, a number of legal acts regulating the activities of these entities were analyzed. At the same time, the study used the provisions and conclusions on the content of the concept of "competence" of such scientists as: VB Averyanov, DM Bakhrakh, Yu. P. Bytyak, II Dakhova, BV Rossinsky, OF Skakun, Yu. N. Starilov, Yu. A. Tikhomirov.

Aim. The purpose of the article is to determine the specific components of the competence of the subjects of free legal aid and as a result of their assessment of the classification of the first.

Methods. The comparative method, methods of analysis and synthesis are the basis of the research methodology presented in the article.

Results.. Given the importance of the competence of the subjects of free legal aid, on which depends the procedure and quality of legal services, we consider it necessary to dwell in more detail on the concept of "competence".

In a general sense, competence is: “the right granted to someone to do something; in the plural - the rights granted to a person or enterprise by the authorities "[1, p. 1000]; "Awareness, experience in a particular field, a question; availability of powers, sovereignty "[2, p. 460]. In the legal plane, the understanding of competence tends to the legal rather than the professional aspect, and is defined as "a set of subjects of competence, functions, powers, rights and responsibilities of the executive body, official" [3, p. 210]. Some scholars, such as OF Skakun, identify competence with areas of activity that follow from the functional purpose of the subject [4, p. 394]. We consider this approach to be biased, as it is impractical to replace the category of competence with another category - areas of activity, because they are different in nature, because competence determines the scope of activity, not replaces it. It is inexpedient, in our opinion, to define competence as a goal, function, goal or task [5, p. 261; 6, p. 190], given that these are independent and different in their legal nature concepts.

However, the essence of the concept of "competence" is detailed depending on the scope of its use and the specifics of the subjects who are endowed with such competence. In particular, the developer of the theory of competence Yu. A. Tikhomirov claimed that the latter is a set of public affairs which are entrusted in the

manner prescribed by law to a particular entity [7, p. 53-54]. Yu. P. Bytyak understands competence as a significant "volume of state activity assigned to a specific body or range of issues provided by law, other regulations, which he has the right to decide in the process of practical activities" [8, p. 64]. Thus, the competence is a defined in the law the ability to carry out certain activities, to exercise their powers (traditionally - a set of rights and responsibilities) within its subject matter. Accordingly, the content of the competence of a body is the authority and the subject of jurisdiction - these are elements of the structure of the concept of "competence".

Yu. O. Tikhomirov proposes to define similar elements that make up the structure of competence: "a) normatively established goals, which mean a way of long-term normative orientation of subjects of law and sustainable activity to achieve these goals. In a broad sense, we mean public functions, without which society and the state can not ensure their livelihood and existence; b) subjects of jurisdiction as legally defined spheres and objects of influence; c) power as a legally guaranteed measure of decision-making and action "[7, p. 55-56], as well as as an additional element of liability for non-performance or improper performance of duties, and is a kind of public law guarantee. We cannot unequivocally agree with the attribution of goals, objectives and responsibilities to the structure of competence, because these elements are components of the administrative and legal status.

In our opinion, in order to investigate the competence of the subjects of free legal aid, it is necessary to: first, determine the general subject matter; secondly, to systematize the rights and responsibilities (powers) of each of these entities, as well as on the basis of such systematization to conduct a general analysis and identify common competence blocks for entities providing free legal aid, which in the future may be defined as areas of activity. Meanwhile, it should be noted that the category of competence is specific to the body or official, not an individual, including a lawyer, so in this section will focus on bodies providing free legal aid, specialized institutions and centers for free legal aid. It is advisable to take into account not only the direct provision of free legal services, but also the organizational aspects of such activities.

The subject of jurisdiction in this case, we determine the scope of free legal aid, the general management of which in accordance with paragraph 8 of the Regulation on the Ministry of Justice approved by the Cabinet of Ministers of Ukraine from 2.07. 2014 № 228 [9] is carried out by the Ministry of Justice of Ukraine, its interregional bodies together with the Coordination Center for Legal Aid.

As we have already noted in the executive authorities, first of all the Ministry of Justice of Ukraine and its interregional bodies create public receptions for free primary legal aid, the head of which is appointed by the executive body to which it was established, they (executive authorities) must also provide material -technical basis of such reception (premises and material and technical equipment). For its part, the competence of the public reception for the provision of free primary legal aid is enshrined in p. 3.9. and 3.10 of the Procedure for the work of the public reception center for free primary legal aid approved by the order of the Ministry of Justice of Ukraine dated 21.09.2011 № 3047/5, after analyzing which we propose to single out

the following competence blocks. The first, most important competence block is the direct provision of legal services within the framework of primary legal aid, namely: "provision of legal information; providing advice and clarifications on legal issues; preparation of applications, complaints and other legal documents (except for procedural documents); providing assistance in ensuring a person's access to secondary legal aid and mediation "[10], as well as the organization and documentation in accordance with current legislation of personal reception of citizens who have applied for free legal aid. The second block can be defined as informational, because to perform the tasks assigned to the public reception for free primary legal aid, the latter can obtain the necessary information from government agencies, government agencies and organizations, including current regulations. The next block - personnel, which is associated with the organization of the reception, work with staff, in particular his encouragement for conscientious work. The fourth block is associative, it provides for active interaction with public authorities, as well as the possibility of involving "specialists of executive bodies of the Autonomous Republic of Crimea, territorial bodies of central executive bodies, local executive bodies, local governments, state enterprises, institutions, organizations (with their consent) to consider issues within their competence "[10].

The general powers of local self-government bodies that provide free primary legal aid (executive bodies of village, settlement, city councils) are contained in Art. 38-1 of the Law of Ukraine "On Local Self-Government in Ukraine" we propose to conditionally divide them into such blocks. The first (professional) block, as in the previous case, is related to the provision of free primary legal aid. It includes the possibility to: consider written and oral requests for free primary legal aid, including those received during a personal reception; provide clarification of the provisions of current legislation; to conduct legal consultations; involve lawyers and other legal professionals. The next is the organizational and managerial unit, which includes powers related to the establishment of institutions for free legal aid and organization of their work, staffing, recruitment, coordination of their activities with other executive bodies within the scope of jurisdiction. The logistics unit provides for their full financing of the provision of material and technical resources for their work. Within the limits of defining the competence of local self-government bodies, there is a control unit, as these bodies control the use of financial resources. The information block is related to the provision of direct legal entities that provide free legal aid with all the necessary information related to the latter. It is also necessary to single out the associative unit, as the relevant entities actively contribute to the work of the centers for the provision of free secondary legal aid. In addition, the powers of local governments in the field of free legal aid include "organization of seminars, conferences on free primary legal aid" [12], in our opinion, such powers can be divided into an independent scientific and methodological unit.

The powers of specialized institutions providing free primary legal aid are set out in the Standard Regulations on the institution for providing free primary legal aid approved by the order of the Ministry of Justice of Ukraine dated 28.03.2012 № 483/5 and relate to: providing primary and secondary free legal aid, namely

consideration of appeals on the provision of free legal aid, the provision of legal information, clarifications and consultations, the preparation of legal documents, other than procedural, as well as ensuring access of persons to the provision of secondary legal aid (professional unit); organization of own activity for the quality of which is responsible; solution of personnel issues (organizational and managerial unit); generalization and analysis of information about the subjects who were provided with free primary legal aid, its quality; dissemination among the population of information on the possibility of receiving free primary legal aid (information and analytical unit); publication of organizational and administrative documents (acts) by the head of the institution (normative block).

Centers for free legal aid operate on the basis of the Regulation on centers for free secondary legal aid approved by the order of the Ministry of Justice of Ukraine dated 02.07.2012 № 967/5 [12], it also enshrines the powers of both regional and local centers that can provide primary and secondary legal aid.

The competence of the regional centers for free secondary legal aid consists of: 1) a professional unit which includes the authority to provide free primary and secondary legal aid, in particular provides protection of the person (participation of the defender during the pre-trial investigation and court proceedings, including an agreement or contract with him, issuing instructions or making a decision to replace him or terminate the provision of free secondary legal aid); 2) the analytical block provides for the collection and generalization of information on the provision of free legal aid and legal services, study of public satisfaction with legal services, statistical information on the number, subjects and results of appeals, as well as systematic reporting on regional and local centers on the provision of free secondary legal aid; 3) the monitoring unit includes the authority to supervise the work of local centers of free secondary legal aid and evaluate their activities, as well as direct supervision of lawyers' compliance with the standards of free legal aid and control over the work of local centers; 4) the methodological and educational unit combines the powers to exercise the right to education and the right to educational work, providing advisory and methodological assistance to local centers for free legal aid, dissemination of the practice of providing legal services to the population free of charge; 5) the strategic block envisages the need to plan the activities of free legal aid centers and its observance in the process of carrying out their activities in the field of free legal aid; 6) the personnel block of powers is realized in the part of the organization of advanced training of the personnel of the centers of granting of free legal aid and lawyers; 7) the associative block concerns the powers to coordinate the work of local centers that provide free legal aid and interact with public authorities, local governments, legal entities and individuals, enters into agreements, issues powers of attorney to represent the interests of the regional center; 8) the normative block follows from the powers of the director of the regional center who is authorized to issue administrative acts (organizational and administrative orders).

The competence of local centers for free legal aid differs slightly from regional ones in the absence of such a competent unit as monitoring, instead the analysis of the powers of these entities makes it possible to identify the organizational unit

related to remote points of free legal aid, and visits to persons in need of legal aid at their place of residence.

The separate competence blocks of the subjects of free legal aid provide an opportunity to form an objective idea of their general competence and the similarity of its individual elements. The difference in this case mainly depends on the level and scope of implementation of such competence by the subjects of free legal aid and the types of the latter - primary or secondary. Thus, the competence of local governments that provide free primary legal aid (executive bodies of village, town, city councils) consists of the following blocks: professional; organizational and managerial; control; informative; associative; scientific and methodical and logistics unit. Specialized institutions that provide free primary legal aid implement the following competence blocks: professional; organizational and managerial; information-analytical and normative.

The competence of the regional centers for free secondary legal aid consists of: a professional unit; analytical unit; monitoring unit; methodical and educational block; strategic block; personnel block; associative block; regulatory unit. The structural blocks of the competence of local centers for the provision of free legal aid in their content are similar to the competence of regional centers with minor differences: professional block; analytical unit; organizational unit; methodical and educational block; strategic block; personnel unit; associative block; regulatory unit.

Discussion. Outlining the rights and responsibilities of specific subjects of free legal aid made it possible to consider their competence within the following separate blocks:

professional - related to the authority to provide primary and secondary free legal aid;

normative - contains the authority to issue acts of an administrative nature in order to organize the internal activities of these entities;

organizational and managerial - involves the implementation of various measures aimed at internal and external organization of the work of a particular entity, the provision of free legal aid, the implementation of other tasks set before him;

control - includes the authority to exercise control over the work of the subjects of free legal aid and the quality of its provision;

monitoring - certain rights and obligations to carry out supervisory activities under the procedures and conditions for providing free legal aid to the population;

personnel - a set of powers for the selection of personnel of the subjects of free legal aid, training, disciplinary liability and the use of incentives;

strategic - related to long-term, short-term and current planning of the activities of free legal aid in both professional and managerial areas;

analytical - the authority to collect, summarize and publish information on quantitative and qualitative indicators of free legal aid to the population;

information - rights and responsibilities regarding informing the population about the possibility, procedure and conditions of receiving free legal aid;

logistics - provides for the implementation of specific rights aimed at providing the necessary material and technical conditions for the provision of free legal services such as premises, office supplies, office equipment, etc .;

methodological and educational - powers related to the provision of explanations and consultations of a methodological nature to employees of bodies and institutions that provide free legal aid, and directly to persons who plan to receive it;

scientific - establishes the rights and responsibilities of entities that provide free legal aid, aimed at systematically improving the professional level of employees of relevant bodies and institutions, in particular by organizing and conducting scientific events (conferences, round tables, etc.);

associative - consists of a set of powers that enable such entities to interact with each other in the system of free legal aid and outside them, at the national and international levels.

Conclusions. At the same time, the definition of the system of legal aid entities and the delineation of their competence do not reveal the essence of the administrative-legal mechanism of free legal aid, nor does it contribute to the formation of understanding of the procedure and grounds for providing legal services. Therefore, a promising area of further research is the study of other elements of the administrative and legal mechanism of free legal aid, namely: the grounds, procedure and forms of free legal aid in Ukraine and administrative and legal cooperation of free legal aid in Ukraine.

References:

1. Busel V.T. (2005). Large explanatory dictionary of the modern Ukrainian language. Kyiv; Irpen: Perun. 1728 p.
2. Kalashnik V.S. (2009). Explanatory dictionary of the modern Ukrainian language. Common vocabulary. Kharkiv. 960 p.
3. Popular legal encyclopedia (2002). / V.K. Gizhevsky, V.V. Glovchenko, V.S. Kovalsky [etc.]. K .: Jurinkom Inter. 528 p.
4. Skakun O.F. (2000). Theory of State and Law: a textbook. 704 p.
5. Averyanov V.B. (2007). Administrative law of Ukraine. Academic course: textbook.. 592 p.
6. Bahrakh D.N., Rossinsky B.V., Starilov Y.N. (2007). Administrative law: a textbook. 816 p.
7. Tikhomirov Yu. A. (2001). Theory of competence. 355 p.
8. Bityak Y.P. (2003). Administrative law of Ukraine. 576 p.
9. On approval of the Regulation on the Ministry of Justice of Ukraine: Resolution of the Cabinet of Ministers of Ukraine of 02.07. 2014 № 228. Official Gazette of Ukraine. 2014. № 54. Art. 1455
10. On approval of the Procedure for the work of the public reception center for the provision of free primary legal aid: order of the Ministry of Justice of Ukraine dated 21.09.2011 № 3047/5. Official Gazette of Ukraine. 2011. № 75. Art. 2819
11. On local self-government in Ukraine: Law of Ukraine 21.05.1997 № 280/97-VR. Information of the Verkhovna Rada of Ukraine. 1997. № 24. Art. 170.
12. On approval of the Regulations on centers for the provision of free secondary legal aid: order of the Ministry of Justice of Ukraine dated 02.07.2012 № 967/5. Official Gazette of Ukraine. 2012. № 50. Art. 2002.
13. Marchenko, V., & Protsevsky, V. (2020). CONSTITUTIONAL AND LEGAL REGULATION OF THE STATUS OF THE HEAD OF GOVERNMENT IN THE MIXED-TYPE REPUBLICS. *Public Administration and Law Review*, (2), 28–35. https://doi.org/10.36690/2674-5216-2020-2-28.

Received: August 20, 2021
Approved: September21, 2021

ADMINISTRATIVE ARREST IN THE ADMINISTRATIVE LIABILITY SYSTEM OF UKRAINE

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Abstract*. The article is devoted to the study of the issue of administrative arrest in the system of administrative responsibility of Ukraine. A retrospective analysis of normative legal acts regulating administrative offenses in Ukraine is carried out. The purpose of the article is to determine the essence of correctional work as a type of administrative penalty, the procedure for its establishment and application on the basis of the analysis of the current legislation of Ukraine, generalization of the practice of its implementation, elaboration of theoretical provisions. The research methodology is general scientific methods, such as: historical-legal, system-structural and scientific generalization, which were used to clarify the essence of correctional work. The article provides proposals for regulatory support for the prosecution of persons with disabilities.*

Keywords*: administrative arrest, administrative responsibility, law, persons with disabilities.*

JEL Classification: K15, K30, K40

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 17

Introduction. The fundamental changes taking place in Ukraine towards the establishment of a social State governed by the rule of law also concern the reform of the Ukrainian legal system in general and of every branch of the law in particular. This also applies to administrative law, the concept of which has made the renewal of the legal institution of administrative responsibility one of the main directions of reform. An integral part of the reform of this institution is the reconsideration and scientific justification of the definition of administrative detention as an administrative penalty, introduced by article 24 of the Code of Administrative Offences (in the following CAO) and the procedure for its application. The transition in Ukraine from a relationship of the "State over man" type, in which the latter was given the place only of a managed object, to which authority and administrative influence from State bodies were directed to a "State for the Human Being", where the State has the primary duty "to affirm and ensure human rights and freedoms", and recognition of the State as the ultimate social value of the State (art. of the Constitution) considerably reduces the scope of the State's interference in human life through the use of various coercive measures and restrictions on his or her conduct.

Literature Review. The basic method of human-State relations in Ukraine today is persuasion, as a system of legal and non-legal measures, consisting in the application of educational measures, awareness-raising and promotional activities aimed at creating awareness among citizens of the need to comply strictly with the requirements of laws and other legal acts [2].

However, the widespread use of persuasion does not fully address the reasonable limits of its use as a means of coercion against persons who do not comply with legal regulations. This method is far from being sufficient to deal with this category of persons. That is why the State, while protecting the rights and freedoms of citizens

and society as a whole, compels some of them, who are not amenable to persuasive measures, to respect the rule of law by applying various measures to them.

Aim. The aim is to determine the essence of correctional work as a type of administrative penalty, the procedure for its establishment and application on the basis of the analysis of the current legislation of Ukraine, generalization of the practice of its implementation, elaboration of theoretical provisions.

Methods. To clarify the essence of correctional work, preference was given to such general scientific methods as historical-legal, system-structural and scientific generalization.

Results. Traditionally, administrative coercion is regarded as a form of State-legal coercion, a system of means of psychological or physical influence on the consciousness and behaviour of people, with a view to achieving clear fulfilment of the prescribed duties, development of society within the framework of the law and the rule of law. It is possible to specify the objectives of administrative enforcement measures - to ensure public order and security, to prevent and punish offences and to punish offenders [3].

It is well known that administrative penalties in the form of the last link in the system of administrative coercive measures are a means of implementing the administrative liability that arises for the commission of administrative offences by a person, an exhaustive list is given in Article 24 of the CAO. Administrative penalties are imposed for the purpose of educating a person who has committed an administrative offence to respect the laws of Ukraine and the rules of general residence; and also help to prevent the commission of administrative misconduct as the offender himself, such other persons.

According to the existing classification by the nature of the effect on a person, administrative detention refers to personal administrative sanctions having a corrective-educational effect. This penalty is imposed as the main penalty in the application procedure [4].

The administrative penalties in Art. 24 of the CAO are set out in the appropriate order. Differentiation in the severity of penalties is a systemic factor. Their core is the increase from minor (warning) to greater (confiscation) and severe penalties, such as punitive deduction of earnings and administrative detention. Administrative arrest is thus the most important criterion for the severity of penalties.

In the Art. 32 of the current CAO does not define the concept of administrative detention. It merely notes that administrative detention is imposed and applied in exceptional cases for certain types of administrative offences for up to 15 days. Administrative detention is ordered by a district, city district or district court (or by a judge).

It should be noted that, like any other administrative detention, administrative arrest is a measure of administrative coercion. Administrative coercion is a form of State coercion aimed at ensuring law and order and ensuring human and civil rights and freedoms. And it provides for the application of a set of administrative and legal measures to prevent offences [5].

It should be noted here that administrative arrest, as can be seen from the practice of its application and departmental administrative and legal acts of the Ministry of Internal Affairs of Ukraine, is no more than the detention of a person in conditions which prevent a citizen from moving freely and from living in a place of his choice [6]. In other words, it is a form of punishment whereby the freedom of movement and free choice of place of residence guaranteed by article 33 of the Constitution of Ukraine are temporarily restricted.

A special condition for the application of administrative arrest by the courts is that persons serving such penalties must be required to work. The Constitution prohibits the use of forced labour. However, according to the Basic Law, work or service performed by a person pursuant to a sentence or other court decision is not considered forced labour. Thus, the employment of persons held in administrative detention centres for administrative offences on the basis of court orders does not constitute forced labour. The purpose of employing persons arrested by the court on the basis of its decision is to educate such persons in employment, by developing their skills, habits and needs for work, and thus to be useful to society. This enables the person under administrative arrest to demonstrate by honest work and exemplary behaviour that he is on the path of correction and prevention of further unlawful acts.

The peculiarity of the above-mentioned type of penalty is the fact that administrative arrest is applied by the court only in exceptional cases for certain types of administrative misconduct. That is, such a measure can only be determined by a court order. Prior to the adoption and entry into force of the Code of Administrative Procedure, many scientists and practitioners of administrative law believed that cases of administrative offences would be dealt with by the administrative courts and thus, administrative penalties in the form of administrative arrest will also be imposed by the administrative court. However, the designation of an administrative court, as is known from the practice of these Western law enforcement agencies [8], is to settle disputes about the legality of individual administrative cases by public authorities. In modern democracies, the legal protection of an independent and authoritative body, the court, is of great importance for the protection of human rights in its relations with the authorities. The judicial mechanism for the protection of human rights makes it possible to eliminate the arbitrariness of the State by ensuring that the principle of its responsibility towards the individual is upheld. This mechanism is called "administrative justice". In most European countries, administrative justice is represented by specialized administrative courts [9]. The Code of Administrative Procedure of Ukraine, which entered into force on 1 September 2005, correctly states that the competence of administrative courts does not extend to public-law disputes concerning the imposition of administrative penalties [10]. Therefore, a decision in the form of an administrative penalty is taken by a local general district, city district or inter-district court. The removal of administrative offences from the jurisdiction of the administrative court is in fact appropriate for several reasons: first, the Administrative Court, as seen in the European system of administrative jurisdiction, does not have the right of prosecution; second, it is a human rights body whose main purpose is to protect human and civil rights and freedoms against unlawful actions by

the executive and local authorities, and third, it is a body, who supervises the structures of public power and decides on the annulment of their unlawful decisions. In no case may a person be subjected to coercion by an administrative court [11]. The reaction of the administrative court to the violation of human and civil rights and freedoms is not only a right of the administrative court but also a direct duty [12].

Thus, administrative arrest is imposed only on individuals by the local general court, as defined in the Law of Ukraine "On the Judicial System and the Status of Judges" [13].

The fact that administrative detention is applied only in exceptional cases and for certain types of offences should be emphasized that the CAO contains few such articles providing for administrative detention for administrative offences. These are article 44. " Illicit production, acquisition, storage, transport or trans-shipment of narcotic drugs or psychotropic substances without the purpose of marketing them in small quantities"; 51. "Misappropriation of property"; 173 "Petty hooliganism"; 173-2 "Commission of domestic violence, gender-based violence, failure to comply with the time-limit prohibition or failure to communicate the place of temporary stay"; 178. "Drinking of beer, alcoholic beverages, soft beverages in illegal or intoxicated public places»; 185. "Wilful disobedience to a lawful order or demand by a police officer, a member of a public security group for the protection of public order and the State border, a member of the armed forces"; 185-1. "Violation of the procedure for organizing and holding assemblies, meetings, street processions and demonstrations";185-3 "Contempt of court or the Constitutional Court of Ukraine"; 185-10. " Wilful disobedience to a lawful order or demand from a member of the Ukrainian State Border Service or a member of a public security group to protect public order and the State border"; 204-1. “illegal crossing or attempted illegal crossing of the state border of Ukraine”. A comparative analysis of the text of the CAO of Ukraine, which was in force until 1991, that is, before Ukraine became independent, and in the current period leads to the conclusion that, the application of this type of penalty as administrative detention has been considerably expanded.

To sum up, we can conclude that the definition of administrative arrest is the detention of a person who has committed an administrative offence, in solitary confinement with compulsory labour, and for a period of up to 15 days, the courts apply only in exceptional cases for certain types of administrative offences defined in the CAO.

Administrative detention differs from what is called arrest under Ukrainian and international law, is used to ensure legality and is governed by the norms of other branches of law. In addition, the law includes both the seizure of a person and the seizure of assets, property and even a ship or aircraft. The subjects of administrative or criminal proceedings for administrative arrest and arrest, as provided for in the Criminal Code, are also different. Under criminal law, persons under the age of 16 may not be arrested, and administrative law prohibits the imposition of administrative detention on persons under the age of 18. Such disagreements, in our view, stem from the fact that administrative arrest is a lesser penalty for other custodial sentences. In administrative law, administrative detention is the most severe form of administrative

punishment. Under criminal law, detention is also not applied to pregnant women or to women with children under the age of seven. The Art. 32 of the Ukrainian CAO also prohibits the imposition of such penalties on pregnant women and women with children. However, the age of administrative detention may be considerably higher for children up to the age of 12.

The Code of Administrative Offences notes that administrative detention does not apply to category I and II disabled persons. This is correct, since the regime for the detention of such persons provides for their use in corrective labour. Persons with disabilities may not work physically and are in fact not subject to the regime for persons under administrative arrest. However, it was not clear why persons with limited legal capacity, or third-party disabled persons, were subject to administrative arrest. Under the Act "On the foundations of social protection for disabled persons in Ukraine", a disabled person is a person with a permanent impairment of bodily functions caused by illness, injury or birth defects, resulting in the restriction of vital activity and the need for social assistance and protection, and the Article 3 of this Act defines disability as a measure of loss of health by means of an expert examination by the medical and social assessment bodies of the Ministry of Health [14].

Discussion. The procedure for establishing disability groups is provided in the Instruction of the Ministry of Health, approved by the order 183 of the central executive authority from 7 April 2004. The basis for the determination of the third disability group is a persistent, moderate impairment due to illness, injury or birth defects, which have resulted in moderately restricted activities, including working capacity, in need of social assistance and social protection. The criteria for determining group III disability are to limit one or more categories of activity to a moderate degree: limitation of self-service (degree I); limitation of the ability to move independently (degree I); limitations of ability to learn (degree I); limitations of ability to work (degree I); limitations of ability to orient (degree I); limitations of ability to communicate (degree I); limitations of ability to control one’s behavior (degree I) [16].

Moderately restricted activity is the partial loss of opportunities for meaningful work (loss of occupation, significant loss of qualification or decline in work; significant difficulty in acquiring a profession or in finding a job): significant decrease (by more than 25 per cent) in the volume of work; Loss of a profession or significant loss of qualification; significant difficulty in acquiring a profession or in finding employment with persons who have never worked or have no occupation before. And even the Law of Ukraine of May 18, 2004 № 1727 - IU "On state social assistance to persons who do not have the right to a pension and the disabled", disabled people of the third group, who are lonely and according to the conclusion of the medical advisory commission need constant third-party care, are assigned social assistance [17].

Conclusions. It was clear that such persons could not be kept in isolation and could not be involved in physical work. It is therefore proposed that article 32 of the CAO should be supplemented, given that persons with disabilities in the third category are also not subject to administrative arrest, especially since the practice of

imposing this type of punishment is precisely by not applying it to persons with disabilities in the third category.

References:

1. The Constitution of Ukraine. Press of Ukraine. 1977. 80 p.
2. Law of Ukraine "On Amendments to the Constitution of Ukraine" of December 8, 2004 № 2222 - IU // Bulletin of the Verkhovna Rada of Ukraine. 2005. № 2. pp. 44.
3. Convention on International Civil Aviation 1944. Official Gazette of Ukraine. 2004. № 40. pp. 2667.
5. Code of Labor Laws of Ukraine. Bulletin of the Verkhovna Rada of Ukraine. 1971. № 50 (appendix). pp. 357.
7. Fundamentals of the legislation of the USSR and the union republics on administrative offenses. // Information of the Supreme Soviet of the USSR. 1980. № 44. pp. 909.
8. Code of Administrative Procedure of Ukraine. *Information of the Verkhovna Rada of Ukraine*. 2005. № 37. pp. 446.
9. Criminal Code of Ukraine. December 28, 1960. *Information of the Verkhovna Rada of Ukraine*. - 1960. № 2. pp. 14.
10. Criminal Code of Ukraine. *Information of the Verkhovna Rada of Ukraine*. 2001. № 25-26. pp. 131.
11. Administrative Code of the Ukrainian Soviet Socialist Republic. Collection of Legalizations and Orders of the Workers 'and Peasants' Government of Ukraine for 1927. *Official publication of the People's Commissariat of Justice*. December 31, 1927, parts 63-65. Narlit Department. - pp.1218-1229
12. Administrative Code of the USSR. K. 1934.
13. Budget Code of Ukraine. *Voice of Ukraine*. 2001. July 24.
14. Water Code of Ukraine // Bulletin of the Verkhovna Rada of Ukraine. 1995. №24. Article 189.
15. Commercial Procedural Code of Ukraine (as amended by the Law of Ukraine of June 21, 2001. *Voice of Ukraine*. 2001. June 5.
16. Housing Code of Ukraine. *Bulletin of the Verkhovna Rada of Ukraine*. 1983. №28. Article 574.
17. Criminal Procedure Code of Ukraine. K. 2001.

Received: August 25, 2021
Approved: September 27, 2021

CHILDREN'S RIGHTS IN UKRAINE AS A «NEW AXIOLOGY» OF DEMOCRATIC DEVELOPMENT IN THE CONTEXT OF GLOBALIZATION CHALLENGES

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Abstract. *Global democracy as a relatively new phenomenon, introduced by the processes of globalization, embodies the formation and implementation of a universal system of human values. Every child, as the most valuable treasure of the state, must grow up in peace and security. However, unfortunately, despite the efforts of most countries in the world, children remain the primary targets of systemic discrimination, which is especially acute in crisis situations, in particular, minors are the main victims of modern armed conflicts: they are involved in fighting, they die as a result of bombing and shelling or are blown up by mines.*

The article considers the legal issues of children under the conditions of military aggression in the occupied territories of Ukraine, analyzes how the state protects children victims of hybrid warfare, the involvement of minors in hostilities by the so-called Donetsk and Luhansk «people's republics», outlines prospects for improving Ukrainian legislation with regard to minors, and proposes to criminalize the involvement of children in hostilities and armed conflict.

Keywords: *children's rights, armed conflict, hybrid warfare, axiology, protection of children's rights, a child affected by hostilities and armed conflicts, children-combatants, national legislation.*

JEL Classification: K15, K30, K40

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

Introduction. Today in Ukraine there is an axiological revolution associated with the revision of basic values of life, the formation of a new understanding of the world and human place under the influence of a number of global factors that exacerbate social confrontation, unrestrained economic race, which does not take into account the limited resources of the planet and opportunities for survival. Issues related to the consideration of values are highly diverse. However, the most important value of humanity is children, their health and safety, because they are the future of any state.

The importance and urgency of the article stem from the fact that the armed conflict in eastern Ukraine, which has lasted for seven years, has worsened the situation in areas where Ukraine has made substantial progress and aggravated the difficulties that have yet to be resolved. The Russian Federation is actively involving all means and methods of waging a hybrid war against Ukraine, in which children, the most essential future value, suffer the most. As a result, it is critical to research this issue. There are both theoretical and practical reasons for this. The study of the main categories and provisions of the legal status of child victims enshrined in Ukrainian law has theoretical significance, while practical interest stems from the need to improve relevant law enforcement and government bodies and structures to ensure the rights and needs of children affected by the Donbass hybrid war.

Literature Review. The issue of protection of children's rights during the war in eastern Ukraine has received little attention both in Ukraine and abroad. Among domestic scientists this issue was studied by: L. Volynets, V. Denysov, O.

Kochemyrovska, A. Lazorenko, H. Mazur, N. Opolska and others. From the standpoint of international law, these issues were studied by N.O. Filipska and O.Yu. Zadniprovska. Among the foreign authors, as a rule, there are representatives of international and regional organizations concerned with the protection of children's rights in armed conflicts. At the same time, there are currently no special studies that comprehensively research the issue regarding the protection of children in a hybrid war in Ukraine.

Our state was not at all prepared to participate in the military struggle, particularly in terms of legislation, which resulted in numerous challenges and disagreements. During the seven years of armed conflict in Ukraine, of course, much has been done by government officials and NGOs to improve the conditions for children who have experienced this terrible event, and legislation has been amended. In the face of the current circumstances, however, there is no comprehensive method in Ukraine that would protect and fully guarantee the rights of a child who has been subjected to armed attack. Unfortunately, most issues are resolved by volunteers, non-governmental groups, and humanitarian organizations. The children were on the verge of new challenges. A number of global issues remain unresolved.

Aim. Children living in the perilous areas of eastern Ukraine, whose lives have been disrupted by the war, require special care and protection today. Based on the current level of research on the aforementioned topic, there is an urgent need to investigate a critical issue for Ukraine: the preservation of children's rights and interests as the state's most essential value in the face of globalization difficulties.

It is vital to conceptualize and examine the rights of children who have been affected by the armed conflict in Ukraine. Simultaneously, it is necessary to determine the circumstances and consequences of using children and adolescents as soldiers in the so-called «people's republics» of Donetsk and Luhansk, as well as to create measures to modify existing legislation to prevent and prosecute this criminal activity.

Methods. To clarify the essence of correctional work, preference was given to such general scientific methods as historical-legal, system-structural and scientific generalization.

Results. Children, like adults, are subjected to complete disruptions of the natural order of things during wartime. Every day, children in eastern Ukraine are attacked, injured, forced to participate in battles, used as human shields, lose their homes, schooling, and medical treatment, and are in constant danger. Everything, from values to daily behaviors, must be rebuilt. Everything you've done previously has the potential to alter. Children, on the other hand, continue to live in conflict: they communicate with their families, make friends, and attend school.

To ensure that Ukraine's children have a carefree upbringing, the military in the east avoids no dangers regarding their health, often risking their lives in the fight for the country's future. If little Ukrainians can comfortably grow and develop, go to school, and dream of new toys in a peaceful territory, then children who have been forced to live in an area of armed conflict for seven years have never known a

carefree happy childhood, and their only wish is to grow up healthy and wait for the day when it's all over.

The highest social value in Ukraine is an individual, his life and health, honor and dignity, inviolability and security, according to the Ukrainian Constitution (Article 3) [1].

In 1991, Ukraine ratified the United Nations Convention on the Rights of the Child, pledging to implement the protection and promotion of children's rights at the state level. Children have public, political, social, cultural, and economic rights, according to the United Nations Convention on the Rights of the Child [2].

The right to life of a child has societal worth and is a foundation for all other rights. The biggest hazard to human life is war. Any armed war is inevitably accompanied by the dissolution of families, the disintegration of citizens, the rupture of the «social fabric» the destruction of support systems, and the destruction of medical services, according to experience. Children and adolescents (aged 0 to 18) are particularly vulnerable in this situation.

Minors are deprived of a quiet childhood during conflicts, and they suffer both immediate and long-term impacts of hostilities. About two million children have died as a result of the last decade's hostilities (not only from fighting, but also from malnutrition and disease caused or exacerbated by the conflict), and six more have been maimed; approximately 20 million children have become displaced or refugees, and about a million have been orphaned. It is unknown how many children are kidnapped, sold, or sexually exploited; girls and youngsters of both sexes who have been separated from their family are especially vulnerable [3].

According to the Office of the United Nations High Commissioner for Human Rights, seven children have become victims of shelling and damage from mines and explosive devices in eastern Ukraine since the beginning of 2021, four of them have died. During the armed fighting last year, ten children were injured. Between April 14, 2014 and April 30, 2021, there were 152 documented cases of children dying as a result of the conflict in eastern Ukraine (102 boys and 50 girls). 190 youngsters were injured as a result of mine mishaps, the handling of hazardous remains of war, and explosions at military depots. 44 children (42 boys and two girls) perished, while 146 others were injured (120 boys and 26 girls).

We consider how the state protects the most vulnerable members of society: children who have been victims of this heinous war. The passage of the Law of Ukraine «On Amendments to Certain Laws of Ukraine on Strengthening Social Protection of Children and Supporting Families with Children» of January 26, 2016 No 936-VIII [5] was a significant step forward in protecting the rights of children in war zones and armed conflicts. This document intends to strengthen Ukraine's system for safeguarding children's rights by improving decision-making structures and procedures to protect children at their residence, support families with children in challenging life conditions, and assist victims of war or armed conflict.

In the Law of Ukraine «On Child Protection» a new category of children appeared - «a child who suffered as a result of hostilities and armed conflicts - a child who as a result of hostilities or armed conflicts received injuries, contusions, maim,

suffered physical, sexual, psychological violence, was abducted or illegally taken out of Ukraine, involved in military formations or illegally detained, including in captivity [6]. Such a child has the opportunity to obtain the status of a child affected by hostilities and armed conflict. A child can acquire such a status, according to the approved Resolution of the Cabinet of Ministers of Ukraine № 268 05.04.2017 «Procedure for granting the status of a child affected by hostilities and armed conflicts». Unfortunately, it became possible to obtain the status of a child victim as a result of hostilities only in the 6th year of the war - in 2019. Although the relevant resolution was adopted by the government in 2017, during the first year of operation it was difficult to obtain the status due to the imperfect implementation mechanism [7]. According to the operative information of the National Social Service of Ukraine, as of May 30, 2021, the number of children who received the status of a child affected by hostilities and armed conflicts is 66,491. 95 of them received this status due to injuries, contusions, maim [4].

These sobering figures do not properly reflect the magnitude of the suffering endured by children as a result of the long-running armed conflict. It is impossible to estimate the scope of the challenges encountered by children on the other side of the line due to the inability of the state to maintain control over human rights in the temporarily occupied regions.

Unfortunately, the truth about physical and sexual assault against children during the armed conflict is still a secret whether it's due to the inaccessibility of war-torn areas, the victims' silence, or the fear of social rejection or revenge. Victims of violence are frequently denied freedom, reintegration, or legal assistance, despite their desire for justice, rehabilitation, and social inclusion.

Another problem arose with conditionally sentenced children (more than 500 of them in Luhansk and Donetsk regions). They must report regularly to the enforcement service so as not to be imprisoned for violating the probation regime. The issue of exercising the relevant control functions is acute, as the executive services do not work there.

In Ukraine, the category of «child combatants» has emerged, a new group of children with which Ukraine is unfamiliar. These are children who are participating in armed conflicts, according to international law. It should be highlighted that the international community reacts categorically when minors are involved in conflicts. According to Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the Participation of Children in Armed Conflict, ratified by Ukraine's Verkhovna Rada on June 23, 2004, «armed groups other than the state's armed forces should under no circumstances recruit or use in hostilities persons under the age of 18» [8].

Despite the ban, militants use children to obtain intelligence, train them to participate in hostilities, and perform ancillary duties. The involvement of children in the armed conflict in eastern Ukraine is due to both children and adults' ignorance of international humanitarian law and Ukrainian juvenile law, both of which forbid minors from participating in any sort of military activity. At the same time, the precarious economic status of young people is a significant factor. According to the

youngster convicted of participation in an unanticipated armed formation (Article 260 of the Criminal Code of Ukraine), after graduating from high school, he sought unsuccessfully to find work, therefore he joined the criminal group «Donetsk People's Republic» [9]. In many cases, perpetrators of crimes against children face impunity, despite the fact that such offenses are classified as crimes under international human rights law and the Rome Statute of the International Criminal Court. Although almost all states have accepted the Convention on the Rights of the Child, it is not universally implemented. Children suffer disproportionately in armed conflict, and their sufferings are varied and have long-term implications. The effects of armed war on future generations may sow the seeds for violence to resurface or continue. The Additional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict aims to overcome this situation [10].

Today, there are not even approximate statistics on the number of children participating in the armed conflict against Ukraine on the side of the so-called «Donetsk People's Republic» and «Luhansk People's Republic». The only thing that the analysis of the information space of the Russian Federation and the zone of temporary occupation of Luhansk and Donetsk regions shows is that the active involvement of children and adolescents in the ranks of illegal armed groups began in 2014. With regard to such actions against the growing generation, the Prosecutor General's Office of Ukraine has initiated criminal proceedings on the fact of assisting the Russian Federation in preparing children for hostilities. It should be underlined that the occupying Power has no right to compel civilians under protection to serve in its military or auxiliary forces under Articles 47 and 51 of the Geneva Convention relating to the Protection of Civilian Persons in Time of War of 12 August 1949 [11].

In occupied Donetsk and Luhansk, teenagers are enrolled in the organization «Young Guard - Young Army», which militants of the «Donetsk People's Republic» created by analogy with the military-patriotic organization «Yunarmiia (Young Army)» operating in the Russian Federation under the auspices of the Ministry of Defense. Teenagers swear loyalty to the false republic and the occupiers during the reception. In this sense, children in occupied territory are completely militarized, and they are subjected to not just armed violence but also psychological coercion. According to the head of the Eastern Human Rights Group Vira Yastrebova, children throughout the occupied districts of Donetsk and Luhansk regions are involved in honoring the memory of the fallen militants, in unveiling monuments to members of illegal gangs, actions dedicated to «defenders of Luhansk and Donetsk people's republics», in rallies on the occasion of the so-called Day of the State Flag of the Donetsk People's Republic, actions and flash mobs in honor of the anniversary of the publication by the so-called People's Council of Luhansk People's Republic of the law «On the State Flag of Luhansk People's Republic» [12].

Thus, domestic legislation needs to be improved in terms of establishing both criminal liability for involving minors in hostilities and the responsibility of minors themselves for participating in this type of activity. Article 438 of the Criminal Code of Ukraine «Violation of the laws and customs of war» of Chapter XX «Crimes against peace, security of mankind and international law» is proposed to be

supplemented with the following phrase: «Ill-treatment of prisoners of war or civilians, involvement of minors in hostilities, sabotage or terrorist acts, expulsion of civilians for forced labor, looting of national property in the occupied territories, use of means of warfare prohibited by international law, other violations of the laws and customs of war provided for by international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, as well as ordering such actions, shall be punishable by imprisonment for a term of eight to twelve years».

Men who support the so-called self-proclaimed but not recognized Donetsk People's Republic and the Luhansk People's Republic prevent women, particularly those with young children, from leaving the combat zone, according to the UN High Commissioner for Human Rights [13].

The birth registration and juvenile justice systems are on the verge of imploding. The possibility of rising social orphanhood has grown. Adoption of children has been halted, and orphans and youngsters deprived of parental care, temporarily removed for rehabilitation outside the conflict zone, have been denied the right to a family upbringing as a result of an unregulated procedure for placing them in the homes of Ukrainian nationals. In the event of legislative changes, these concerns should be carefully evaluated, and social services should work more diligently to investigate guardians and conduct unexpected inspections.

Children and families who are (were) in a zone of military conflict are a category of people who find themselves in difficult life circumstances, and therefore need support and should expect to receive a list of social services defined by Ukrainian law. At the same time, «being in a zone of hostilities» today is not included in the list of difficult life circumstances, the range of which is defined in Art. 1 of the Law of Ukraine «On Social Services». In fact, this is a new category of people for Ukraine, which significantly increases the number of potential consumers of social services at the place of residence [14].

The scenario might be different if the government provided assistance to families with children. But, regardless of who is our president, the government hasn't done so in seven years. When individuals had to be evacuated from the combat zone, nothing was offered to them in Ukraine's controlled region. As a result, the number of displaced people returning to the combat zone with their children is on the rise. There are impoverished communities in Ukraine with empty buildings where individuals from the fighting zone may be housed, but no one has offered them this option. Only recently have government initiatives been established to assist these families. The issues were taken to the municipal level. The burden was taken mostly by the Kyiv, Dnipro, Zaporizhzhia, Donetsk, and Luhansk regions»[15].

At the same time, the initiative of the President of Ukraine to take measures to accommodate as soon as possible children whose parents (one of the parents) died as a result of injury, contusion or mutilation received in the areas of anti-terrorist operation, established by Presidential Decree № 835/2014 29.10.2014 «On urgent measures to provide additional social guarantees to certain categories of citizens» (paragraph 5, part 1) is a positive step [16].

Such children are expected to be placed by establishing custody and care of such children, as well as transfer to foster families, family-type orphanages, and institutions for orphans and children without parental care (unfortunately, the latter contradicts priorities of the state for the development of family forms of education and prevention from 01.01.2014 of placement of children in boarding schools; such a mechanism can be considered only as palliative, temporary).

Discussion. Military actions in eastern Ukraine are a flagrant violation of a child's right to life, health care, education, family upbringing, protection from all types of violence and participation in hostilities and armed conflicts, as well as the child's freedom to choose where he or she lives. As a result, the protection of the rights of Ukrainian children who are actively involved in armed conflict is a worldwide issue that the state should address.

Appropriate ways to improve legislation in the field of ensuring and protecting the rights of the child in Ukraine should be based on an approach that, on the one hand, provides positive consequences for the introduction into law and practice of certain legal norms and standards of other states in this area, and on the other hand, will take into account the traditional, real social and regulatory requirements and needs of Ukrainian society.

Conclusions. The government, parliament, public authorities, local governments, and the public need to make every effort to implement a policy to protect and safeguard Ukrainian children from armed conflict. Ukraine should have a state policy to protect the rights of children affected by the conflict in Donbas. There is a need for a separate, integrated state program for conflict-affected children, where assistance measures should be defined, a specific budget set aside to help these children, and local government actions should be coordinated and advice given on how to deal with these children, so that the current imbalance does not exist. National legislation should be brought in line with the requirements of international legal acts in order to close legislative gaps in the sphere of protection of children's rights in the armed conflict in Ukraine.

References:

1. Constitution of Ukraine of June 28, 1996. *Bulletin of the Verkhovna Rada*. 1996.
2. Convention on the Rights of the Child. *Collection of current international treaties of Ukraine*. 1990. № 1. 205 p.
3. EU Guidelines for Children in Armed Conflict. URL: https://www.refworld.org.ru/pdfid/5512c43f6.pdf (date of reference: 07.07.2021)
4. Ukrainian National News Agency «Ukrinform»: website. *URL:https://www.ukrinform.ua/rubric-ato/3258811-vnaslidok-rosijskoi-agresii-v-ukraini-zaginuli-152-ditini-i-se-146-buli-poraneni-oon.html*. *(*date of reference*: 01.08.2021)*
5. On Amendments to Certain Legislative Acts of Ukraine Concerning Strengthening Social Protection of Children and Supporting Families with Children: Law of Ukraine of January 26, 2016 № 936-VIII. Information of the Verkhovna Rada of Ukraine. 2016. № 10. Art. 99.
6. Law of Ukraine «On Child Protection». The Verkhovna Rada of Ukraine: website. URL: https://zakon.rada.gov.ua/laws/show/2402-14 *(date of reference: 07.07.2021)*
7. On approval of the Procedure for granting the status of a child affected by hostilities and armed conflicts: Resolution of the Cabinet of Ministers of Ukraine № 268 of April 5, 2017. URL:https://zakon.rada.gov.ua/laws/show/268-2017-D0%BF#Text *(date of reference: 30.08.2021)*
8. On Ratification of the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict: Law of Ukraine of 23 June 2004 № 1845-IV website. URL: http://zakon4.rada.gov.ua/laws/show/995_795. *(date of reference: 23.08.2021)*

9. Proceedings № 1-kp / 235/256/16, The only unique № 235/9951/15-k,: verdict Krasnoarm. city district. court of Donets. reg. April 20, 2016 URL:http://www.reyestr.court.gov.ua/Review/57287047 *(date of reference:* 23.02.2017*)*
10. Protecting children's rights in armed conflicts: EU policy and practice. Ukrainian law: website. URL: https://ukrainepravo.com/international_law/european_union_law/iashyfkh-tuav-ekkhyem-ts-ibusmrysh-nsrchoknkhash-tsokkhyna-k-tuankhyna-zhf/ *(date of reference: 07.07.2021)*
11. Convention for the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949: Website**.** URL: https://zakon.rada.gov.ua/laws/show/995_154#Text *(date of reference: 07.07.2021)*
12. Mosondz O. Shelling on the way to school and mines in the kitchen-garden. Almost half a million children are suffering from the war in Donbass. ArmyINFORM: website**. URL:** https://armyinform.com.ua/2021/06/obstrily-po-dorozi-do-shkoly-ta-miny-na-gorodi-majzhe-piv-miljona-ditej-strazhdayut-cherez-vijnu-na-donbasi/ *(date of reference: 07.07.2021)*
13. Sexual and gender-based violence in the military conflict in Ukraine. URL: http://women-union.org.ua *(date of reference: 07.07.2021)*
14. Law of Ukraine «On Social Services» of January 17, 2019 №2671-VIII
https://zakon.rada.gov.ua/laws/show/2671-19#Text *(date of reference: 07.07.2021)*
15. Pavliukovskyi Ye. Children of Donbass: who will be responsible for the lost childhood? Ukrainian Helsinki Human Rights Union. URL: https://helsinki.org.ua/articles/dity-donbasu-khto-vidpovist-za-vtrachene-dytynstvo/ *(date of reference: 07.07.2021)*
16. On urgent measures to provide additional social guarantees to certain categories of citizens. Decree of the President of Ukraine URL: https://zakon.rada.gov.ua/laws/show/835/2014#Text *(date of reference: 07.07.2021)*

Received: August 22, 2021
Approved: September24, 2021

CHAPTER 3
THEORETICAL AND PRACTICAL ASPECTS OF MODERN PSYCHOLOGY

SOCIO-PSYCHOLOGICAL TECHNOLOGIES OF PROFESSIONAL HEALTH FORMATION

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Abstract. *It is revealed that a person's success in professional activity is closely related to his health, and the impact of health on his career and vice versa is an interdependent process. It is proved that healthy behaviour is a concrete manifestation of the psychological potential of health, it is both a process and the result of the interaction of such factors as motivation to health; lessons learned in maintaining health; the ability to maintain your health at an attained level. For the usage of the appropriate socio-psychological technologies for the formation of occupational health of the economic sphere professionals, we considered the factors of a three-component structure that combines cognitive, emotional and behavioural modules. The cognitive module provides an adequate understanding of the specialist about his level of health. Emotional module includes the full range of «health / illness» experiences arising from a specialist involved in a particular professional situation. The behavioural module reflects the behaviour of a specialist, which facilitates adaptation to changing environmental conditions and professional activity. We also refer to the psychological factors of occupational health of the economic sphere professionals as stressors of professional activity and individual-psychological features of the personality of a professional. The main stressors that affect the activities of the economic sphere professionals are the following: the content of professional activity, its organization; professional career; corporate relationships; non-organizational sources of stress. The impact of various stress factors on the occupational health of the economic sphere specialist is great. The main features of this negative impact are: negative self-esteem; feelings of guilt; increasing aggression, hostility; feeling of emotional exhaustion; presence of psychosomatic disease. In terms of satisfaction with life and happiness, it depends on four factors: emotional equilibrium; life priorities; work and rest ratio; own weight. Most of the described factors can be attributed to the objective influences and subjective experience of the situation in professional activity and based on the level of development of psychological resources of specialists in the economic sphere.*

Keywords: *health, occupational health, social and psychological technologies, psychological factors, economic sphere specialists, psychological well-being, stress.*

JEL Classification: H10, IO, Y8

Formulas:0; fig.0; tabl.4; bibl. 13

Introduction. Much of his life a person spends at work. Working conditions, relationships with colleagues and superiors, career prospects determine not only the quality of their work responsibilities, but also their physical and psychological state.

The success of a person in a professional activity is closely linked to his health. Professional fitness does not limit the absence of health disorders, but eliminates «medical» barriers to professional development. On the other hand, success in professional activity is one of the most important sources of self-confidence and positive emotions, and these are the main «doctors» for any spiritual or physical ailment.

In recent decades, a qualitatively different attitude towards the understanding of health in the professional sphere of human activity has been formed. Careful attention of professionals to the problem of occupational health is due to the fact that the health of the employee is considered not only as an economic value (along with the profitability of production), but also as a necessary condition for improving the efficiency and quality of work.

Literature review. The problem of occupational health today is attracting increasing attention of scientists. V. Ponomarenko views occupational health as an opportunity for the human body to retain the necessary protective and compensatory mechanisms that ensure efficiency at all stages of professional activity in all conditions [7]. Health within such a concept is considered as a set of psychophysiological and physiological parameters that provide high reliability of activity and professional longevity. The importance of studying the psychological factors of occupational health is emphasized by S.S. Uchadze. According to him, the following features are present in the activity of a specialist: the character is constantly complicated; many different types of specific activities involved in hierarchical relationships; the creative nature of the activity through a variety of non-standard situations; high mental tension; expressiveness of the prognostic nature of the tasks being solved; high level of responsibility for decisions made in complex tasks; making strict demands on the personality and professional qualities of a specialist, professionalism and activity in general [10].

The problem of occupational health is an area of interdisciplinary research and its study is reduced to the issues of consistency of requirements of the professional environment and opportunities of the individual for successful and effective fulfilment of conditions of professional activity. Most occupational health studies have focused on the prevention of occupational diseases. At the same time, a much smaller number of theoretical and practical developments are aimed at its formation and strengthening, in particular for specialists in the economic sphere.

The subject of the study is the use of appropriate socio-psychological technologies for the formation of occupational health of the economic sphere professionals, in particular, the consideration of factors of the three-component structure that combines cognitive, emotional and behavioural modules.

Aims. The aim of the article **is** to present the results of the development and justification of the impact of socio-psychological technologies on the formation of occupational health of the economic sphere professionals.

Methods. In this article, research methods were united into three groups.

The first group of methods of research included theoretical analysis of scientific sources, subject-activity and personality-competent approach of research of social and psychological bases of professional health of economic sphere specialists.

The second group included - empirical research methods such as observation, conversation, method of expert assessments, psychodiagnostic methods that were used to: identify features of the cognitive, emotional-volitional, personal spheres; study the level of motivation to maintain occupational health.

To eliminate the factors of occupational health of professionals, its structure and main components, we used the method of principal components, and to display the graph of eigenvalues. The factors were rotated using the Varimax method, displaying the structure of the factor after the rotation. In the process of factor analysis, we used three stages of processing empirical data: preparation for the variation matrix; selection of orthogonal factors; Varimax research and meaningful interpretation of the obtained factors.

Also, the variables were sorted by the factor loadings. First of all, to the extent of adequacy, that is, the magnitude that characterizes the degree of applicability of factor analysis to a given sample, we have determined the unconditional adequacy (0,746).

As a result of the Varimax study, we studied the received factor loadings and identified for each factor the variables with the highest loadings. The total informativeness of the three factors identified by us describes 40,2% of the variance. Next, for each factor, we identified those variables that had the highest and lowest factor loadings. So, for ease of results presentation and overall analysis, we left the most significant indicators for each factor.

Using sociometric indexes, we determined the level of development of communication skills, conflict, stress resistance, prognosis of indicators of occupational longevity and occupational diseases, as well as the risks of professional activity, which reduce the productivity and quality of life of specialists in the economic sphere.

At the same time working conditions include: 1) breadth of decisions (knowledge of new, requirements of high qualification, creativity, uniqueness, possibility of improvement, variety, possibility of choosing ways and terms of execution); 2) psychological requirements for work (to work quickly, hard, excessively, not enough time, the presence of conflicts); 3) physical requirements for work (physical effort). Equation coefficients are selected from two databases (country-level health databases and occupational conditions database) [5].

Third group - methods of mathematical processing of data with their further qualitative interpretation and meaningful generalization. Statistical data processing and graphical presentation of the survey results were performed using the SPSS statistical software package (version 16.0).

Results. Occupational health of specialists in the economic sphere - an integral characteristic of the functional state of the body according to physical and mental indicators: assessment of ability to professional activity, resistance to adverse factors that accompany these activities.

Socio-psychological technologies for the formation of occupational health of the economic sphere specialists are achieved through the construction of a system of management of occupational risks, which should be aimed at reducing the number of professionals who were injured or killed in accidents, reducing the proportion of professionals working in conditions that do not meet the hygiene standards and reduce the proportion of organizations with poor working conditions.

To use the appropriate socio-psychological technologies for the formation of occupational health the economic sphere professionals, we considered the factors of a three-component structure that combines cognitive, emotional and behavioural modules. The table 1 presents the factors that determine the professional health of a specialist in the economic sphere, their nature and the necessary position of the individual.

Table 1. Factors that determine the professional health of the economic sphere specialist

№	Factors	Essence	The position of the individual
1.	Emotional	various emotional stressors affecting occupational health	the ability of a person to withstand stress, to express their emotions and to manage them, to adequately assess the emotions of others, which characterizes its emotional stability
2	Cognitive	knowledge about occupational health, about the main factors that strengthen and damage health, about its role in life	human ability to make adequate decisions, identify the most important, find missing information, ability to think, stability and concentration of attention, critical thinking, professional memory, professional observation, speed of decision making, their volume and correctness, ability to think promptly and positively
3.	Behavioural	choosing a specific strategy for dealing with a stressful situation	the ability to quickly adapt to the demands of the situation by mastering, mitigating or weakening those requirements

The structure of factors of occupational health is based on the concept of «psychology of relationships» V.N. Myasishcheva, which defines the attitude to health as a reflection of the individual experience of the person and at the same time as a factor, which has a significant impact on its behaviour. « A person's attitude to his or her health is not just about worrying about health or neglecting it. Here at the same time we are talking about a higher level of ideological relations of the individual. A significant place in the hygiene and prevention of mental health is the issue of somatic status. This is due to the important role of the psyche and personality traits in the prevention of somatic diseases and the promotion of physical health» [6]. This approach allows us to consider health as one of the main elements that can be addressed by regulatory (corrective) influence. The three-component structure makes it possible to fully reveal the psychological factors of occupational health of the economic sphere specialists, to reflect the diversity of connections between structural elements (modules).

The cognitive module provides an adequate insight into the level of one's health based on knowledge of health and healthy lifestyles, including in the performance of

professional responsibilities, awareness of the role of health and its impact on life in general, and also the success and effectiveness of professional activities, in particular, understanding the main risk factors of the profession and ways to maintain and promote health.

Emotional module includes the full range of health / illness experiences arising from a specialist involved in a particular professional situation, adequate emotional response (from «pouring out emotions» to restraining them in situations where necessary).

The behavioural module reflects the behavioural characteristics of the specialist, contributing to adaptation to changing environmental conditions and professional activity, as well as behavioural strategies driven by health changes, healthy lifestyles and work.

Healthy behaviour is understood as «a concrete manifestation of the psychological potential of health»; it «is both a process and a result of the interaction of four factors: motivation to health; lessons learned in maintaining health; the ability to maintain their health; appropriate level of health achieved» [1]. All three modules are interconnected. A holistic and consistent internal picture of a specialist's health (cognitive module) facilitates the development of behavioural strategies that promote a healthy lifestyle and work (behavioural module), accompanied by adequate emotional reactions and experiences (emotional module).

To the part of social-psychological technologies of formation of occupational health of the economic sphere specialists we also include stress factors of professional activity (manifestations of the external environment in which human activity takes place) and individual-psychological peculiarities of the professional's personality (manifestations of the internal environment that determine the cognitive, emotional, and behavioural modules). The main stress factors that affect the activity of specialists in the economic sphere are the following: the content of professional activity, its organization; professional career; corporate relationships; non-organizational sources of stress.

The emotional aspect of occupational health is the ability of a person to withstand stress, to express and manage their emotions, to adequately assess the emotions of others that characterize emotional resilience. In his professional activities, an expert in the economic sphere is confronted with many specific stressors, acting for a long time and continuously, causing fatigue, weakness, general and occupational diseases, premature aging and personality destruction. Stressors of different nature are influenced by a person's professional activity. The main signs of this negative impact are: low self-esteem; feelings of guilt; increasing aggression, hostility; feeling of emotional exhaustion; presence of psychosomatic disease. Thus, the impact of various stress factors on the occupational health of a specialist of the economic field is great.

To solve such problems, first of all, it is necessary to draw the attention of specialists themselves to the problem of maintaining health and preventing occupational diseases. To form a position of reflection towards the promotion of

occupational health - introspection and self-assessment in understanding the role of health in life. In this regard, let us consider the cognitive components of this process.

Specialists of the economic sphere constantly have to deal with voluminous information: analysis of information, a huge base of regulatory acts, so the specialist's memory is prone to heavy workloads. We recommend conducting classes and trainings aimed at the formation and development of certain qualities, skills necessary to maintain occupational health [9]. These are trainings on professional observation development, accumulation of experience, memory and professional sensitivity, development of professional thinking. For example, training «constructive communication», «corporate education and leadership», «the formation of life goals».

Modern research aspects of the formation of occupational health of the economic sphere professionals are of interest, mainly, they are of applied nature. For example, take the results of research relating to health, work and subjective evaluation of happiness. According to a survey of 25 to 60 year olds in Germany, conducted over the past 24 years by specialists from the University of Tilburg (Netherlands), the Max Planck Institute for Developmental Biology (Germany), led by B. Hidey (Australia), a sense of satisfaction with life and a sense of happiness depends on four factors:

1) emotional balance;

2) life priorities. «People who are most valued in their lives by their families are happier than those who consider material values and careers to be the absolute priority. This situation is typical for both men and women. But there is still one gender difference: women whose partner puts above all family values are much happier than those whose material-oriented companions»;

3) work and rest ratio. « For men and women, the lack of work time is significantly worse on the emotional state than overwork. And the most serious trauma to the psyche is the lack of work »;

4) weight. «For men, lack of weight is a much more serious disadvantage than its excess, lack of weight is also a general dissatisfaction with life. For women, overweight causes only a slight feeling of dissatisfaction, and on average, full women are fully satisfied with life» [3].

Summarizing the analysis of the main approaches to addressing occupational health problems in Western science, we can say that two main directions of studying the health of working people and providing them with assistance are formed: 1) stress management; 2) health management.

The variety of foreign studies in occupational health is limited to the following issues: stress in professional activity; physical health (from work-related injuries to cardiovascular disease) and mental health (distress, burnout, depression); unhealthy lifestyle factors (smoking, alcohol and drugs); job satisfaction, balance of work effort and encouragement (salary, recognition, status, prospects of promotion, etc.); transferring harmful events that have occurred in the workplace to privacy; work and family: conflict of interests; on workplace safety (the impact of shift work on occupational health); psychological effects of unemployment [12].

Note that the problems of occupational health in western science remain

underdeveloped. In particular, we have not identified any works in this area (psychological maintenance of occupational health) placed in search engines, as well as in English-language printed works. Research is mainly about regular professional activity and related aspects (stress in professional activity, job satisfaction, balance «work – family», workplace safety, etc.). Issues of psychological support for health in choosing a profession, at the stage of vocational training, professional adaptation, when «leaving» the profession are practically not presented in scientific research.

Promising directions for the development of occupational health in the West [8] in the coming years will address: issues of positive psychology of occupational health; studying the impact of new forms of leadership on employee health; research on the role of emotions in maintaining occupational health; issues related to the development, implementation and evaluation of the effectiveness of intervention programs in organizations.

Special attention should be paid to the fact that occupational health issues are addressed in the West on a systematic basis: organizations that specialize in psychological problems of occupational health (institutes, academies, associations, training centres) are established and actively functioning; a number of US and British universities have organized specialist training for the program «Occupational health psychology»; international conferences and congresses are held regularly; specialized journals are published; with every passing year the number of publications, articles, books is increasing, and textbooks have appeared. It must be admitted that in Ukraine such work is only unfolding.

The proposed structure of socio-psychological technologies of formation of occupational health of specialists of economic sphere, in our opinion, allows to cover all variety of psychological determinants of health in professional activity and is used by us in conducting empirical research. These factors are considered in conjunction and form a unified process of health. Consider these factors in more detail (Tables 2, 3, 4) and propose ways of forming the necessary personality position in order to maintain the professional health of the economic sphere specialists. Most of the illustrated factors can be attributed to objective influences (stress, mobbing, character) and subjective experience of the situation in professional activity, based on the level of development of psychological resources (passion for work, vitality, existential occupancy). At present, in the modern foreign and domestic psychology, personal factors of professional health of specialists of economic sphere are not described.

Factor I includes 18 indicators that correlated positively with them. Here are the most significant indicators in terms of weight factor load: rest (0.961), memory (0.931), stress resistance (0.933), attention (0.892), all these indicators can be attributed to the level of professional health of specialists of economic sphere. The following are indicators relevant to the social level of occupational health of professionals: belonging to the professional community (0,886), occupational demand (0,572). Indicators of psychological and social level of occupational health of specialists of economic sphere correlate with such personal qualities as feelings of well-being (0,547) and tolerance (0,453).

Table 2. Factor I. Psychological and occupational well-being

№	Indicators	«Weight»
1	Wb – sense of well-being	0,747
2	To – tolerance	0,553
3	Well-being	0,673
4	Activity	0,571
5	Energy	0,569
6	Rest	0,961
7	Emotional stability	0,669
8	Internal locus of control	0,511
9	Health-saving behaviour	0,408
10	Robotic ability	0,646
11	Memory	0,931
12	Attention	0,892
13	Stress resistance	0,933
14	Problem coping	0,682
16	Professional community	0,886
17	Professional demand	0,572
18	Professional authority	0,565

In their work, S. Vodyakh and Y. Vodyakh also describe the relationship between the parameters of psychological well-being and tolerance as personality traits, substantiating this relationship as accepting the value of a partner's personality, the ability to empathize and, accordingly, the confidence of positive evaluation by others [2]. It should be noted that factor-forming value have factor loadings of the main parameter having maximum factor weight, in this case - these are indicators that describe the psychological health of specialists in the economic sphere.

Table 3. Factor II. Flexibility of achievement

№	Indicators	«Weight»
1	Do – dominance	0,764
2	Sy – sociability	0,580
3	Em – empathy	0,860
4	So – socialization	0,765
5	Sc – self-control	0,876
6	Ai – achievements through independence	0,865
7	Ac – achievement through conformality	-0,636
8	Fx – flexibility	0,916
9	Cheerfulness	0,715
10	Chronic diseases	-0,814

Factor II includes ten indicators, eight of which correlated positively with this factor, two negatively. The highest number of indicators obtained determines the personal qualities that influence the level of professional specialists in the economic sphere, with the greatest «weight» are: empathy (0,860), self-control (0,876), flexibility (0,916), dominance (0,764), achievement through independence (0,865). Positive correlations indicate the presence of dominant behaviour of the economic

sphere specialists, the achievement of the goal through independence, the flexibility of behaviour, and the developed quality of empathy. These qualities correlate with indicators of physical health of specialists in the economic sphere, namely, cheerfulness (0,715) and chronic diseases (-0,814). As we can see, the last indicator has an inverse correlation, which is logical. In particular, Dyka L.G. considers self-regulation and self-control as one of the factors of personality adaptation abilities, which is connected with efficiency and reliability in professional activity [4].

Confirmation of the link between self-regulation and occupational health can also be found in contemporary overseas studies that highlight two factors that affect occupational health: dispositional self-control, defined as the ability to regulate thoughts and behaviour, and day-to-day planning to compile a list of cases for the next working day [6]. Another foreign study identifies personal resources (emotion regulation strategies) as a way of reducing workload and maintaining psychological well-being [11].

In factor III, most variables have a negative specific gravity and are associated with external locus of control (0.614) and control by «competent others» (0,691).

Table 4. Factor III. Emotional instability

№	Indicators	«Weight»
1	Gi – good impressions	-0,714
2	Creativity	-0,602
3	Colds	0,469
4	External locus of control	0,614
5	Control by «competent others»	0,691
6	Emotional stability	-0,714

The factor also contains such personal qualities as good impression (- 0,714) and creativity (-0,602), respectively, we can assume that the less creativity, emotional stability and ability to make a good impression, the higher the external locus of control and the lower level of professional health development. The data obtained agree that people with an external locus of control are more likely to have mental problems than people with an internal locus of control.

Developing socio-psychological technologies for the formation of occupational health of the economic sphere specialists, it should be assumed that this process should not fragmentarily affect this vital area of the professional (even in the form of training), and using a systematic approach - health management that allows you to use the energy of the instinct of self-preservation, not only for simple survival, but also to achieve the kind of successful life that a person can choose for himself.

Socio-psychological technologies of formation of occupational health of specialists of economic sphere are a complex of measures of organizational and individual character.

Organizational measures include: creating a favourable organizational and psychological climate, clearly defining the duties of employees; elimination of causes that lead to overwork and unloaded work; social support, stress management

programs (providing for special counselling organizations), fitness programs (general health programs).

To individual methods: exercise programs, relaxation technique training, biological feedback, behaviour modification. Filling out the specific content of a program of professional self-preservation is a rather individual process, because in this case there can be no standard solutions once and for all.

Discussion. We considered socio-psychological technologies of formation of occupational health of specialists of economic sphere as a three-component structure that unites cognitive, emotional and behavioural modules. All three modules are interconnected. A holistic and consistent internal picture of a specialist's health (cognitive module) facilitates the development of behavioural strategies that promote a healthy lifestyle and work (behavioural module), accompanied by an adequate emotional reactions and experiences (emotional module).

We also refer to the psychological factors of occupational health of the economic sphere specialists as stressful factors of professional activity and individual-psychological features of the personality of a professional. The main stressors that affect the activities of the economic sphere professionals are the following: the content of professional activity, its organization; professional career; corporate relationships; non-organizational sources of stress. The proposed structure of psychological factors of professional health of specialists in the economic sphere allows to cover all the variety of psychological determinants of health in professional activity and is used by us in conducting empirical research.

Conclusion. As a result of the study, we also identified three factors, two of which describe the personal qualities of the economic sphere specialists with high levels of occupational health (psychological and occupational well-being; flexibility of achievement). Another factor that reflects the personal qualities of professionals with low occupational health (emotional instability).

In the perspective of the study we see the definition of the occupational health of specialists in other fields of activity, as well as the study of the process of becoming professional health at different age stages of life (maturity, late maturity, old age). It requires in-depth study and the problem of engaging and training psychologists, educators, and leaders to participate in the direct process of formation and preservation of occupational health of the individual in various spheres of its activity. It is urgent to further develop social and psychological training and system of corrective measures that will help to prevent the negative effects associated with the professional destruction of professionals, as well as improve their occupational health.

Author contributions. The authors contributed equally.

Disclosure statement. The authors do not have any conflict of interest.

References:

1. Apanasenko, L. G. (2018).Zdorov'ja nacii ta trudovyi potencial Ukraini . Vcheni zapiski Institutu ekonomiky, upravlinn'a ta gospodars'kogo prava. Kyiv, Vyp, 119 – 121.

2. Kondes, T. V.(2019). Do pytannya pro formuvannya zdorovoho sposobu zhyttya studentiv i vykladachiv Instytutu ekonomiky, upravlinnya ta hospodars′koho prava . Vcheni zapiski Institutu ekonomiky, upravlinn'a ta gospodars'kogo prava. Kyiv, 1999. Vyp. 3, 176 – 178.

3. Burlakova, I.(2014). Role and place of health management in the system security personnel of business entities : Economics and management: problems of science and practice: Collection of scientific articles. Vol. 2.Verlag SWG imex GmbH, Nürnberg, Deutschland, 237 – 240.
4. Chmeruk, G. (2016). Health management of staff as a fundamentally new approach in formation of the organizational culture of the enterprise : Trends in the development of national and world science: Collection of scientific articles. Vol. 17. Verlag SWG imex GmbH, Nürnberg, Deutschland, 242 – 244..
5. Bushuev, Yu. V. (2011). O meditsinskikh problemakh fizicheskogo vospitaniya v vuzakh. Zb. nauk. prats′ spivrobitnykiv KMAPO im. P. L. Shupyka. Vyp. 10., 1225 – 1229.
6. Kondes, T. V. (2014). Praktychni aspekty formuvannya kul′tury zdorov'ya u VNZ. Materialy informatsiynoho seminaru «Menedzhment bibliotechnoyi diyal′nosti. Upravlinnya personalom osvityans′kykh bibliotek», 4-5 berez. 2014 r., m. Kyiv : Navchal′no-metodychnyy tsentr «Konsortsium iz udoskonalennya menedzhment-osvity v Ukrayini», 14 – 16.
7. Mostypan, V. V.(2017). Chomu ne pratsyuye systema? Materialy Vseukr. nauk.-prakt. konf. «Fizychne vykhovannya studentiv vyshchykh navchal′nykh zakladiv: zdobutky, problemy ta shlyakhy yikhn′oho vyrishennya u konteksti vymoh Bolons′koyi deklaratsiyi», 2-3 lyut. 2017 r., m. Kyiv: Natsional′nyy universytet «Kyyevo-Mohylyans′ka akademiya», 10 – 13.
8. Mihus, I. P. (2013). Navchannya upravlinnyu zdorov″yam yak innovatsiynyy aspekt osvity maybutnikh pratsivnykiv bankivs′kykh ustanov. Materialy Mizhnar. nauk.-prakt. konf. «Finansova systema Ukrayiny: problemy ta perspektyvy rozvytku v umovakh transformatsiyi sotsial′no-ekonomichnykh vidnosyn», 16-18 travn. 2013 r., m. Sevastopol′. Sevastopol′ : Sevastopol′s′kyy instytut bankivs′koyi spravy Ukrayins′koyi akademiyi bankivs′koyi spravy Natsional′noho banku Ukrayiny, 49 – 50.
9. Chmeruk, G.G. (2016). Sotsial'no-psikhologicheskiye metody formirovaniya informatsionnoy bezopasnosti personala predpriyatiya. *Sbornik s dokladi ot mezhdunarodna nauchna konferentsiya* «Ukraĭna-Bŭlgariya-Evropeĭski sŭyuz: sŭvremenno sŭstoyanie i perspektivi», Varna : Izdatelstvo «Nauka i ikonomika». T. 1, 225 – 229.
10.Gadamer, H.-G. (2018). Istyna i metod: Osnovy filosofskoi germenevtyki [Truth and Method: Basics of Philosophical Hermeneutics] URL: http://yanko.lib.ru/books/philosoph/gadamer-istina_i_metod.pdf .
11.Zynchenko, V. V.(2015). Individualizacija global'nych strategii transformacii suspil'stva ta jsvity u konteksty krytichnoi teorii. Antropologichni vymiry filosofs'kih doslydzhen'. Kyiv, Vyp. 7, 50-63.
12.Syn'jaev, S. S.(2017) Teoretycheskie osnovy formirovanija pedagogicheskoi kompetentnosti specialista sfery fysycheskoi kultury i sporta. Izvestija VGPU. Pedagogicheskie nauki. Volgograd, 2017. № 1, 45-50.
13.Sharunenko, Yu. M.(2010). Pedagogicheskije uslovija podgotovki sportsmenov vysokoi kvalifikacii na sovremennom etape. Avtonomija lichnosti. Moskva, 2010. № 1, 138-141.

Received: August 18, 2021
Approved: September20, 2021

THEORETICAL AND PRACTICAL FOUNDATIONS FOR INNOVATIVE IMPLEMENTATION OF PSYCHOTHERAPEUTIC CONFRONTATIONAL SUPERVISION: TOWARDS A CONCEPT OF COGNITIVE PSYCHOTHERAPY IN HIGHER EDUCATION INSTITUTIONS

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Abstract. *In this article some theoretical aspects of psychotherapeutic confrontational suggestion. The similarities between of certain provisions of psychotherapeutic confrontational suggestion and cognitive psychotherapy. It was also found that confrontational psychotherapeutic suggestion and traditional cognitive psychotherapy have in common. Cognitive psychotherapy is the priority of working with dysfunctional thoughts in students. It is stated that psychotherapy is a way of learning and education. It has been shown that unlike traditional cognitive psychotherapy, in psychotherapeutic confrontational suggestion the connection between feeling, behaviour and thought is not postulated, but presented as a hypothesis. It is noted that when psychotherapeutic confrontational suggestion is implemented, the client (student) forms adaptive beliefs that gradually destroy dysfunctional thoughts. It is shown that psychotherapeutic confrontational suggestion is an essential component of multimodal suggestive psychotherapy.*

Keywords*: suggestion, psychotherapy, psychotherapeutic confrontational suggestion, cognitive psychotherapy, dysfunctional thoughts, belief correction, multimodal suggestive psychotherapy, psychology.*

JEL Classification: I10, I21, I23, I25

Formulas: 0; fig.: 0; tabl.: 0; bibl.: 7

Introduction. Psychotherapeutic confrontational suggestion (PCS) is a very relatively new area of suggestive psychotherapy for people with all kinds of neurotic disorders.

Primarily we are talking about clients with anxiolytic-phobic, obsessive-compulsive and somatoform disorders. PCS complements and significantly expands the possibilities of traditional domestic suggestive psychotherapy.

One of the main goals of PCS is to have a sanogenic influence on the cognitive sphere of the person. Numerous publications on psychotherapy have repeatedly pointed to the fact that in well adapted individuals, cognitive strategies for perceiving reality change with their new experiences. Their thinking is characterized by plasticity and versatility.

Thoughts that prevent a person from coping with life's various situations, are called dysfunctional or maladaptive. They are most often associated with inadequate emotional reactions and all kinds of abnormal behaviour.

Processing dysfunctional thoughts and transforming them into adaptive ones is one of the main tasks of psychotherapeutic work in general, and PCS in particular.

The following can be added to the basics of psychotherapeutic confrontational suggestion [5]: 1. There are general scientific principles and worldview ideas that are antagonistic to dysfunctional thoughts; 2. These ideas-principles can be instilled in a person by heterogeneous suggestion; 3. The collision of suggested sanogenic ideas-principles with dysfunctional thoughts provokes the phenomenon of cognitive dissonance with the subsequent correction of dysfunctional thoughts.

In the process of practical work it became necessary to create a more fundamental theoretical framework for PCS. In this connection in this regard, a highly relevant area of scientific research is to establish the commonalities and differences between PCS and its main prototypes.

This article presents a comparative analysis of PCS and traditional cognitive psychotherapy.

Literature Review. Psychotherapeutic confrontational suggestion and its theoretical origins is a relatively new area of research and the number of publications devoted to this topic is very small.

The previously presented works outline only the basic ideas of confrontational suggestion, methodological recommendations for its implementation, and the relationship between PCS and rational psychotherapy. These publications contain virtually no data on the relationship of PCS to the leading psychotherapeutic trend, such as cognitive psychotherapy.

Numerous publications are devoted to cognitive (or rather, cognitive-behavioral) psychotherapy itself, its theoretical foundations, principles and methods of exposure. First of all we are talking about the works of A. Beck, A. Ellis, D. Prohazka, D. Norcross, V. Guidano, G. Liotti, M. Mahoney, K.S. Dobson, A. Lazarus [7].

Cognitive therapy of Aron Beck and rational-emotional therapy of Albert Elis (being basic directions!) are based on integration of principles of learning theory, information theory, as well as principles of correction of dysfunctional cognitive processes.

James Prohazka and John Norcross formulated the main features of cognitive-behavioural psychotherapy are [7]: 1. Dissatisfaction with clinical theory and findings psychoanalysis; 2. Cognitive orientation - helping clients is about cognitive orientation - helping clients is about teaching them how to think because all problems are based on impaired thinking; 3. Empiricism - theory must conform to the principles of objective science and no myths about human nature are acceptable;
4. Problem-orientation - focus on solving of concrete problems of relations rather than working through deep personal traumas; 5. Psychotherapy is a form of training, with the therapist acting as a teacher and a scholar; 6. Psychotherapy is a form of education and the therapist has the roles of a teacher and a scholar; 7. An obligatory element of the treatment is the homework of the client. 8. An obligatory part of the treatment is the homework of the client.

The importance of the ideas of cognitive-behavioural psychotherapy for the emergence of modern psychotherapy.

The significance of cognitive-behavioural psychotherapy ideas for the formation of modern psychotherapy determines

The relevance of using its ideas and methodology for constructing theoretical basis of psychotherapeutic confrontational suggestion.

Aims. To identify those main provisions of cognitive psychotherapy which can be used in innovative construction of the theoretical basis of psychotherapeutic confrontational suggestion.

Methods. The research was based on comparative method, analytical study method and theoretical generalization of existing scientific concepts method.

Results. According to the main tenets of cognitive psychotherapy, emotional and behavioural problems are related to impaired cognitive processes.

Cognitive psychotherapists traditionally distinguish two levels of cognitive processes: 1. "Automatic thoughts and images, which are connected with the processing of current information and are, in a sense, a reaction to what is happening at the moment; 2. Beliefs, attitudes, beliefs, which are the system of deep notions of an individual about himself or herself and the world around, which record all his past experience.

The main characteristics of automatic thoughts are They are involuntary, fleeting, and poorly conscious.

They are experienced as entirely plausible. Their truthfulness is not is not questioned.

Automatic thoughts with a specific direction and content predominate in affective disorders. In cognitive psychotherapy, automatic thoughts are regarded as the source of most emotional and behavioural disorders.

It should be noted that, in the special literature on cognitive psychotherapy, automatic thoughts are always presented as something negative.

However, their main characteristics, namely automatism, ego-synchrony, poor awareness, and difficulty of accessibility and sustainability, do not mean that they are dysfunctional. All spontaneous thoughts on a given occasion have these characteristics. In other words, the above-mentioned characteristics are necessary, but not sufficient, conditions for stating that automatic thought is pathogenic.

Their notion of "dysfunctionality" can be defined only situationally, as a result of the coincidence of multiple conditions.

The same thought can be both adaptive and maladaptive. For example, the absence of a reciprocal greeting from of a classmate may, in fact, be an indication of his or her an extremely unfriendly attitude towards an acquaintance. And the latter's thought the latter's "he can't stand me", is not dysfunctional, is consistent with the situation and provides an incentive to choose wiser interaction tactics.

The idea that "I mean nothing to her/him" may be fully consistent with the situation that has arisen. Appropriate to the situation and encourage the rejected person to the rejected person to act in a very constructive way [3]. The thought of a dangerous illness, in one case, provokes a hypochondriacal disorder, in the other it allows the necessary examinations in time, to take appropriate measures and to stop at an early stage dangerous disease in its early stages.

These examples show that "dysfunctionality" is not is not a necessary attribute of automatic thought, but only one possible consequences of it, as well as, evaluative

characteristics that give an idea of the degree of pathogenicity of thought at a particular time and in a particular situation.

In other words, "dysfunctionality" - is variable and situationally determined.

The degree of negative impact of automatic thought depends on many factors: the mental and physiological state of the person at the moment the thought occurred, the degree to which it concentration, the person's system of ideas about him- or herself and the world view, etc. One and the same automatic thought for different people or even the same person can be adaptive or maladaptive, at times maladaptive. This ambiguity should be defined as situational dysfunctionality as situational dysfunctionality. It is quite logical, therefore, to introduce the concept of situational dysfunctionality.

It is logical to introduce the notion of the degree of dysfunctional thought as a variable, which makes it possible to evaluate the usefulness or detrimentalness of automatic thought at a given point in time for a given individual.

All of the above considerations may well be applied to the more deeper cognitive formations such as beliefs, attitudes, "thought-forming" multimodal images, etc. In cognitive psychotherapy subdivides these underlying cognitions into intermediate and intermediate cognitive psychotherapy classifies these underlying formations into intermediate and basic formations [7]. Sometimes compensatory beliefs are sometimes subdivided into intermediate and basic beliefs a kind of reactive formations that serve as a defense against threats from the underlying negative beliefs, which are based on the underlying negative beliefs.

It is quite clear that this classification is very tentative and approximate, since compensatory beliefs are distinguished by the mechanism of their formation, and intermediate and basic beliefs are classified according to their degree of depth. The traditional scheme is: automatic thoughts - intermediate beliefs – basic beliefs is also arbitrary. This gradation is only tentative and helps the therapist to decide on one or another form of psychotherapeutic intervention form of psychotherapeutic intervention. It is not suitable for research purposes. It is not suitable for research purposes. It is hardly possible to draw a precise the boundary where automatic thoughts end and intermediate or basic beliefs begin intermediate or underlying beliefs [4].

Rather, one must speak of a certain continuum of "depth" (or resistance to all sorts of influences) of this or that thought.

The processing of dysfunctional thoughts is done in cognitive psychotherapy is carried out in steps. First of all the client is introduced to the general model of psychotherapy. The client is made aware of the limitations of knowledge, the close link between thought, feeling and action actions, and about processes which lead to distortions of thoughts. In the work of A. Kholmogorova and Garanyan [6] give an example client instruction. It looks as follows: "Usually between a specific external situation and an emotional reaction to (e.g., a 'gratuitous' disorder), there is a there is usually an interval, the so-called 'gap' during which "there are necessarily some thoughts which are called..."automatic" thoughts. They are involuntary, incoherent and flicker in the mind at a very high speed. But they are potentially "they're

potentially conscious, and in order to understand your reactions, it's very important to understand your reactions."

What is striking in this passage is the abundance of imperative statements - "there's usually a gap", "there's bound to be "there are thoughts", "they flicker around in your head at a high rate of speed", "it's important to learn to pick them up". In essence, the client is indoctrinated with the idea that between an event and an emotional reaction to it, the client is led to believe between the event and his or her (the client's) emotional reaction to it, a thought is bound to flit by. So whether this is true or not, in most cases it is impossible to check is impossible to verify.

However, under the influence of the authority of the therapist as well as some the client "remembers" an appropriate thought, as well as other factors case and receives positive reinforcement from the therapist [3]. When both participants in psychotherapy want to discover an automatic thought, they are bound to discover it, even where it was not there in the first place. This self-deception in itself is not too dangerous. In fact, the process of finding "automatic thought" allows you to get close to the client's real pathogenic beliefs.

The presence in cognitive psychotherapy of a significant a significant element of suggestion is evident in the traditional questions which the psychotherapist asks the client at the stage of revealing automatic thoughts. For example: "What flashed through your mind at that moment? (As if it was bound to "flicker"!); "What do you think you were thinking?" (Was I thinking of something?!);

Is it possible that you were thinking this or that (according to the therapist's the therapist's guess)? (This directly suggests a ready-made version, with which the client, in a trusting relationship with the therapist the therapist is likely to agree!).

The use of suggestion in cognitive psychotherapy (even if its existence is not acknowledged by cognitive psychotherapists themselves) is not a random phenomenon. Suggestion (of course, in reasonable in reasonable quantities!) enables psychotherapy to be compressed and made more "focused" directed and "concentrated" [4]. Analysis of transcripts of psychotherapeutic sessions gives reason to assert that the correction of dysfunctional thoughts goes more quickly with the active use of heterogeneous suggestion.

An overview of the main stages and techniques of cognitive psychotherapy shows that in the process it teaches the client the skills of recognising, systematically recording, evaluating dysfunctional thoughts and then confronting them and, as a consequence, correcting them consequently, correction. A person who has mastered such skills begins to treat any thought, any idea as only a as a hypothesis that needs to be tested. Hypothesis testing allows to detect logical errors in judgement, for example, overgeneralisations with other students.

Various techniques are used for the correction of logical errors. For example [2]: deliberate exaggeration - taking an idea to the extreme or even to the total absurdity; Calculating the probability of the worst possible version of events; "Scaling" - to soften the extremes of judgement by softening the extremes of judgement by introducing "gradation"; re-attribution - reconsidering perceptions of the contribution

of internal and external factors in what happened, and with it a revision of assessment of the positive and negative consequences of maintaining or changing beliefs.

Assessing the positive and negative consequences of maintaining or changing beliefs. All of these techniques allow the therapist and the client to explore to find and find more logical alternatives to dysfunctional inferences.

In order to consolidate a positive result, a process of confrontation with maladaptive thoughts needs to be brought to automaticity.

Logical confrontation is achieved through the analysis of consequence analysis, internal coping dialogue, practicing the skill of formulating a contrary view, etc.

Outside whether or not Socratic dialogue, the technique of is used, or any other technique, the result is that the client is taught to think more constructively. And all cognitive psychotherapy essentially boils down to a specific process of learning through a new "sanogenic logic" [1].

The behavioural techniques which are actively the behavioural techniques that are actively used, only serve to confirm of the usefulness and correctness of the acquired knowledge.

All of the above makes it possible to determine which of the statements of traditional cognitive psychotherapy can be borrowed cognitive psychotherapy can be borrowed to develop the theoretical foundations of psychotherapeutic confrontational suggestion. The first is the idea that maladaptive behaviour and negative emotions can be overcome by targeting the cognitive sphere of the individual.

Dysfunctional thoughts arise as a result of erroneous, distorted assessment of events and situations, and therefore a change in thinking inevitably leads to a change in perception of the world and, consequently, behaviour. For to transform maladaptive thoughts into adaptive ones the use of psychotherapeutic persuasion.

Psychotherapeutic intervention should not only target individual dysfunctional beliefs, but on the client as a whole the client's personality as a whole. The whole process of psychotherapy should be oriented towards to solve the problem. The question of why it arises is secondary [5]. The client is provided with the necessary and practically relevant information and, after a little bit of training, the client draws his own conclusions. Thus, psychotherapy becomes a way of teaching the "right" thinking. In doing so, the psychotherapist plays the role of as a natural scientist who shares with the other person his scientifically grounded knowledge of the world and his hypotheses as to the origins of the illness.

Discussion. In the future, a comparative analysis of methodological provisions of psychotherapeutic confrontational suggestion and short-term multimodal psychotherapy by A. Lazarus, and on the basis of this analysis to develop general theoretical positions of multimodal suggestive psychotherapy.

Conclusions. Some of the theoretical positions of cognitive psychotherapy (CP) can be used in the development of theoretical foundations of psychotherapeutic confrontational psychotherapy (PCS). It was found that common for PCS and traditional CP is the priority of work with dysfunctional thoughts.

It is shown that purposeful change of human thinking leads to correction of negative emotions and maladaptive behaviour.

Psychotherapeutic interventions should be aimed both at specific dysfunctional beliefs and at the client's personality as a whole the client's personality as a whole.

Psychotherapy is a way of teaching and educating the individual. In contrast to traditional CP, in PCS, the connection between feeling, behavior and thought is not postulated, but is presented as a hypothesis PCS does not use the concepts of "automatic thought", intermediate and basic non-adaptive.

Author contributions. The authors contributed equally.

Disclosure statement. The authors do not have any conflict of interest**.**

References:

1. Aleksandrov A. A. (2004). Psihoterapiya: uchebnoe posobie. 480 p.
2. Burlachuk L. F. (2012). Psihoterapiya : uchebnik dlya vuzov. L. F. Burlachuk, A. S. Kocharyan, M. E. Zhidko. 496 p. [in Russian].
3. Bek Dzh. S. (2006). Kognitivnaya terapiya : polnoe rukovodstvo. Dzhudit Bek. 400 p. [in Russian].
4. ManIlov I. F. (2015). Psihoterapevtichna konfrontatsIyna sugestIya : bazovi polozhennya I. F. ManIlov. AktualnI problemi psihologIYi : *ZbIrnik naukovih prats Institutu psihologiyi imeni G.S. Kostyuka NAPN UkraYini. P.III : Konsultativna psihologIya I psihoterapIya*. Vipusk 11. S. 170-185 [in Ukrainian].
5. ManIlov I. F. (2016). Rozvitok adaptivnogo mislennya za dopomogoyu konfrontatsiynoyi sugestiyi [Elektronniy resurs] ManIlov Igor FelIksovich. TehnologIYi rozvitku Intelektu. Rezhim dostupu: http://www.psytir.org.ua/upload/journals/2.1/authors/2016/Manilov_Igor_Felixovich_Rozvytok_adaptyvnogo_myslennya_za_dopomogoyu_konfrontatsijnoi_sugestii.pdf [in Ukrainian].
6. ManIlov I. F. (2016). TeoretichnI osnovi psihoterapevtichnoYi konfrontatsIynoYi sugestIYi : ratsIonalna psihoterapIya . I. F. ManIlov Problemi suchasnoYi psihologIYi : ZbIrnik naukovih prats Kam'yanetsPodIlskogo natsIonalnogo unIversitetu ImenI Ivana OgIEnka, Institutu psihologIYi ImenI G.S. Kostyuka NAPN UkraYini. Vip. 33. pp. 353-365 [in Ukrainian].
7. Holmogorova A. B. (2000). Kognitivno-bihevioralnaya psihoterapiya N. G. Garanyan // Osnovnyie napravleniya sovremennoy psihoterapii. M. : «Kogito-Tsentr», pp. 224-267 [in Russian].

Received: August 28, 2021
Approved: September 29, 2021

PSYCHOLOGICAL ASPECTS OF IMAGE FORMATION AS AN IMPORTANT INDICATOR OF CS PERFORMANCE IN THE CURRENT CONTEXT OF CORPORATE CULTURE DEVELOPMENT

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Abstract. *This article examines the value and grounds of using the concept of image for the implementation of effective activities of public organizations in the current market conditions. Particular attention is paid to the types, principles, as well as psychological criteria of image maintenance technology. Under the conditions of competitive market economy, the image of the company becomes increasingly important. After all, every organization functions in the economic space, where certain moral values, principles and culture have been formed. Therefore, enterprises and managers must build their relations with their employees and partners on the basis of ethics. At this time becomes real need to distinguish themselves from the community of similar, to gain a certain reputation. Entrepreneurs are trying to catch the attention of specific target groups: investors, shareholders, partners, customers and other vital and important groups of society. Therefore, the word "image" is everywhere - it enters into the minds of people, enshrines all spheres of human activity and is everywhere in controlling people's behaviour. The success of the activity and prestige of the organisation depends to some extent on its image. This can be seen as a system of perceptions of the organization and its employees.*

Keywords: *image, company image, stylish image, kerated image, external image, internal image, positive image, negative image, image psychology, image of a public organization.*

JEL Classification: D82, D83, I21, I25, M11, M12, M14

Formulas: 0; fig.: 7; tabl.: 0; bibl.: 10

Introduction: It is not difficult to establish that a strong image is a prerequisite for a community organisation to achieve sustainable and long-lasting business success. In the current system of market relations the life of a firm is determined not only by what it does and how it does it, but also by what other people think about it.

That is why creating the face of the public organization has always been one of the most important missions of business leaders and heads of these organizations around the world - the pursuit of prestige in the business world, popularity with customers, and the reputation among partners and customers. clients, credibility in the eyes of the employees.

And what people think about the organization determines in many ways its competitiveness. Whether or not image, as a socio-psychological phenomenon, influences the life of any enterprise (including a public organization).

Literature review. The essence of image was discussed by such prominent scientists as M. Pashkevich, O. Finagin, whose research analyzed the new analysis of innovative methods and modern approaches to image formation of territories as instruments of business activity activation, stimulation of investments and innovations of public administration at the level of the region, as well as the key factors influenced by the image of the region as a motivating factor, A. Surai, the authors have developed a methodology for assessing the level of development of the business environment of the world's countries in a global and regional context, using

the indices of international analytical organizations, T. Fedorov, who analyzed the main concepts of image and reputation in the sphere of public administration, characterized the main factors that affect the formation of image and reputation of public authorities, practical approaches to image and reputation management in the field of public administration (Fedorov), and Panteleichuk.

She analyzed theoretical and methodological as well as practical aspects of shaping positive image of public authorities, N. Shcherbak, who examined the shaping of positive image of public authorities and local self-government bodies, new approaches and instruments for creating positive image of the state power bodies and local self-government bodies as one of the priority directions of implementation of the new corporate culture and modernization of public administration in Ukraine and some others have been determined.

But today, when structural reforms are taking place in our state, the above mentioned issue is gaining relevance for public administration. This prompted the choice of the topic of the article.

Aims. The aim of the article is to investigate the image as an important indicator of public organisation performance in the current conditions of corporate culture development, as well as to investigate the psychology of CS image formation.

Methods. A method is a way of grasping the essence of a subject, recognising it through a system of cognitive and transformative tools and principles. During the work on this topic, we gave preference to such methods: general scientific research methods - empirical (experiment, observation, description) and theoretical (analysis, synthesis, abstraction, generalization, induction, deduction, explanation, classification, etc.), as well as systemic, functional, concrete sociological.

Results. In the current context of scientific development, significant attention is paid to the concept of "image".

The concept of "image" is given considerable attention in the current conditions of scientific development. In the period of the postindustrial development of society, image is closely connected with the problem of the quality of human life, when the quality of products that affect people is determined not so much by their technological characteristics as by their image equivalents, such as reputation of the manufacturer, good advertising, etc.

The field of public administration is no exception. For example, the employee begins to work on creating his or her own positive image of a professional.

A positive image is the main criterion for the success and efficient development of a community-based organization (CS). Science tries to answer the questions: what is the image, which elements it is composed of, when we can talk about the CS professional image, what is the psychological basis of the image (i.e., what it is composed of).

Taking into account the multiple structural disruptions in the domestic social and economic segment and the Ukrainian state's desire to achieve European standards and receive public services of new quality, the need for a positive image in CS becomes particularly urgent.

Regardless of the type of organisation Regardless of the type of public relations organization, image management is defined as the basis of the fundamentals of PR, because image is the most effective way of of mass awareness.

Reflecting the needs of the masses, it is easily captured and preserved in people's people's memory. The image is composed of the riches, which, on the one hand on the one hand, are of interest to the the communicator, and on the other, are meaningful to the the audience.

The main characteristic of an image is its implicit orientation, because it the image is the main characteristic of the image is its orientation because it must match both the capabilities of the wearer and the needs of the audience. the needs of the audience.

Now the concept of image has expanded to the size of the corporate world and the total communication field around it.

Image is one of the forms of manifestation of corporate culture. The concept of "image" was proposed by the American economist K. Balding in 1961 [7]. The image is based on: 1) the style of internal and external business and international relations of the staff; 2) official attributes: the name of the organization, logo, trademark; 3) reliability; 4) orderliness; 5) persistence; 6) culture; 7) social responsibility.

Today, image is one of the most important characteristics of the organization, a factor of trust in its products, and consequently, it is a condition for its prosperity.

The mission of the objective of image creation is not to make the organization popular, but to ensure a positive image for the organization and its products to ensure a positive image of the organization. The image is dynamic and can change under the influence of circumstances and new information. It is created with purposeful effort and depends on each employee. There are many definitions of the concept of "image", the following are some of them.

According to L E Orban'Lembrik, the image (from the English word image - image) is attitude which the organization and its employees create towards people and which is formed in their conscience in the form of certain emotionally indoctrinated stereotypical perceptions (thoughts, judgments about them) [7].

A.K. Semyonov believes that the image is inherently projected in the interests of the firm, based on peculiarities of activity, intrinsic laws, characteristics, merits, qualities and characteristics of an image that is purposefully included into the knowledge (awareness) of the target audience, meets its expectations and serves as a difference between the company and its peers [5, 87].

V. Sizonenko notes that image is a positive image of any company that forms a stable competitive advantage through the creation of a general image, reputation, public opinion, customers and partners about the company's prestige, its products and services, after-sales service [2, 139-143].

According to Markos Szijepanis, the head of a number of large Greek and Cypriot companies, the image of any company is made up of a number of things that are interconnected with the organization of production [3, 45-46].

The main lines are: responsibility, speed, efficiency. The image is created by the combined efforts of all employees without exception. First of all, it is necessary to

create an image within the company, among employees, and then - within the country. Building a good image is a lengthy and painstaking process.

First and foremost, you must remember that image is a psycho-social phenomenon. It does not exist only at the level of the individual, which means that the object must be recognizable to a certain group of people (customers, clients, etc.), but also must be meaningful to members of the group, to attract the

Attract interest and attention; secondly, it is dynamic in that its attributes can be modified or seen as a function of changes in the wearer or the thirdly, it is active in nature: it can have an impact on the intelligence, emotions, performance and actions of individuals as well as entire population groups [1]. Therefore, the image of CS is the sum total of the public perception of the company or the firm by many people. The image of CS is formed by personal contacts between people and CS; on the basis of rumours circulating in The CS and the public, and from mass-media reports.

Speaking about image characteristics, we can't help mentioning the following:

1. adequacy, credibility - the image created must correspond to what is true.
2. the image must be a complex creation. It is not just a trademark, design or picture, which is easy to is not just a trademark, a design or a picture that can be easily remembered. It is an authentic biography or history of the CS.

So the consumer focuses not only or only on the text and illustrations but they are indirectly interested in the qualities that make up the identity of the company.

The image of the firm is a kind of "medal", one side of which is the internal image of the company rooted in the conscience of the members of the firm, and the other side is its external image recognized by partners, competitors, financial and credit institutions, tax authorities, etc. It can be formed spontaneously and purposefully.

However, very often the managers "do not have time" to follow the emerging image of their company. After all, all the efforts, mainly given to the formation of productive capacity of the enterprise. In these cases, a stylish image is created, which has, both positive and negative reactions, of course, so that one and the same CS may be perceived as opposed to the other.

We believe that it is often correct to start the image-building work at the same time as the CS is being established.

A good image is the result of a complex, well-respected activity, aimed at creating, supporting and enhancing positive public opinion about the company and its products (services) [8, 17].

Thus, the image work is complicated and involves a lot of processes and it is very necessary, especially if the company wants to establish itself on the market and have good prospects for further development [6, 228-229].

It is important for the success of the company not only the external but also internal image.

From a psychological point of view, the perception of the organization is one of the structural components of conscience, which has specific features without which it is impossible to correctly understand the perceptions and purposefully influence

them. On the other hand, image is the impression a person or organisation has on individuals or groups.

This means that knowledge of the process of perception, interpretation of any facts, information about the individual, the organization of a particular group of people is one of the most important aspects of image management.

On the basis of the image, the perception of the manufacturer and its products is predicted. The practice proves that the hidden costs and efforts to manufacture environmentally friendly, ecologically odourless products are a prerequisite for their high marketability. The logical conclusion is the economic prosperity of the organisation, the manufacturer or if for some reason and not so - the attempt to repeat their reputation, which also attracts respect.

It is about style, that is, the most characteristic thing in its image - the external appearance, the internal image, which is the basis for the recognition of the organization for the whole manner. The image of the organisation can be both positive and negative. The basis of positive image is trust in the organization, appropriate stereotyping of its perception [7].

Ethical behavior of an enterprise is a powerful tool for shaping a positive image [5, 457]. Every businessman and manager must constantly be concerned that all aspects of the firm's life are maintained of the company's life work for the creation of a positive image [2, 176]. Negative image is manifested in distrust of the organization and its reputation. As a rule, a positive image of the organization saves its resources, while a negative one considerably increases costs.

The positive image of the organization depends on certain factors: management efficiency; corporate culture; environmental safety; quality, financial capacity and competitiveness of goods (services); and replication of the organization's name through mass media.

Most organisations pay special attention to ethical norms because the company's image and reputation depend on them to a significant extent. Often they are faced with a dilemma: to act ethically, but do not lose potential profits or reach the set goals by any means, that is, work on the principles of the XV century philosopher. Niccolò Machiavelli, "the goal justifies the means" [4, 67-68].

Experience shows that when the firm plans its operations in a short-term period, without having in mind future development, the firm prefers the second option.

However, if the company wants to achieve a stable position on the market, establish mutually beneficial and fair relations with its partners, ensure a successful and profitable business and profitable business in the long term, all actions and activities of its employees must be based on ethical norms and business ethics.

The strategy of ethical behaviour often induces enterprises to refrain from very trade-favourable propositions, which forms and strengthens their reputation in business circles. This confirms the feasibility and viability of investments in ethics.

Entrepreneurs are often not keen on long term prospects, which require hard work and a reputation for being free of debt, so they may be tempted by unethical options (negotiating with unhappy business partners, etc.). However, one should always bear in mind that unethical and illegal actions may result in someone being

hurt and someone being held liable, as a result of which the company will receive a loss exceeding the profit gained by illegal means [8, 74-81].

Private interest is a great motive and there is no stronger one. But the way to achieve the seller's self-interest in market conditions is only through the implementation of the buyer's interest [6, 30]. The image creation technology takes into account the following components:

- the approach to the distinctions that distinguish a certain object among others;
- identification of characteristic features;
- writing down a person in a symbolic concept of a leader, selecting his or her characteristics corresponding to this idealization;
- writing down the person in the model of the already realised leader;
- inclusion of the person into the model of the author's behaviour, i.e. into the context of the symbolically imposed subject;
- active use of associated symbols to create visual active use of associated symbols to create visual characteristics;
- active management of mass communication means;
- fight against autonomous flows of communication (ghosts, etc.);
- symbolization of autonomous spheres (clothes, hairdo, etc.).

The impact of the organization's image on consumers of services or goods can be made by different models and formulas. One of them is a scheme of behavioral management by means of a demonstration image. Formation, maintenance and growth of the image requires a pronounced, grounded activity of the entire enterprise team.

If we compare the psychological basis for image formation CSO and the whole country, we find that the psychological mechanism of the image of the country is a socio-cultural, ethnopsychological stereotype, which forms the basis not only about individual people, but also about the companies of these countries, their products and services. For the prosperity of the organization requires a constant expansion of markets for products (services), increasing the number of customers, etc. For this purpose, psychological mechanisms of influence are used such as: imposition, influence, reappraisal, "contamination" [8, 546-549].

Communication and interaction with people in the sales market is realized with the help of offered products and services.

The quality of goods (services) is a mirror of the CS. The quality of the product is a sign that determines our attitude towards the company [7]. After all, faced with substandard product, everyone experiences negative attitude not only and not only to their own product, but to the company, which produces and sells this product. And on the other hand, coming across a quality product, the consumer begins to look for all the other varieties of products, which are produced by a particular company. This is why there is a global market struggle for the quality of the products in the world market is the primary focus of the competition. This is because it is the psychology of the consumers.

The psychological mechanism of the image of the country is a social stereotype. This image level is used to strengthen the position of the goods (services) on the

market: "Good American Cigarettes", "Genuine German Quality", "Genuine French wine".

Discussion. For most Western businessmen, the Ukrainian market is an area of high risk due to the unstable state policy and legislation. Also, the company's long-standing positive public image may become a real asset in times of crisis. Hess, Rogowski and Dunphy provide a dramatic example where a good reputation has shaken McDonald's during the 1992 Los Angeles riots. The company's dedication to building good community relations through the Ronald McDonald House and its participation in the creation of new workplaces provided the company such strong credibility that rioters in turn did not scratch McDonald's outlets. The vandals, causing great damage to local businesses, destroyed 60 McDonald's restaurants.

The image problem is one of the central issues in psychology. The study began in the works of I. M. Siechenov, who viewed perception as "tricks of the real", that is, its patterns that are created on the basis of the reflexive activity of the brain.

In reflecting reality, they perform regulation of behavior and provide for its adequacy their appropriateness to the environment.

The category of image is included in cognitive processes. Numerous scientific and theoretical investigations of domestic psychology are devoted to revealing the essence of these processes on the basis of their In their behavioral capabilities (B.G. Ananiev, S.B. Kravkov, O. M. Leontiev, S. L. Rubinstein, B. M. Teplov, and others).

The image has often been the subject of study by various branches of science, which is connected with the presence of a specific person. This is due to the presence of a personal orientation in all spheres of social activity. In this way the image from a philosophical point of view is grounded in moral principles and is studied in connection with them.

In the sociological view, an important role is played by a recurring and recognised image, the building blocks for which are the of society, the stereotypical framework to which it is "adapted". From the political point of view, the image is often considered to be the political image of the person-politician, together with his external and internal characteristics as well as his electoral campaign, biography, desires and so on.

Psychology sees image as a totality of valuable and personal characteristics (the image is easy to remember, to be clearly expressed, based on a low level of personal characteristics, which are attractive to the individual).

On the basis of the study of "image" by various sciences we can state that the formation of image is a topical problem of our time. From the moment of the role of image in the course of historical, socio-economic, and political processes, there has been a desire to control its in the course of the historical, socio-economic and political processes, there is a desire to control the process of its creation and the image starts to be used in CS to achieve a certain goal, acting as a transmitter of socially relevant information.

Conclusions. The image, then, is the impression that a company makes on the public and that is recorded in their minds in the form of more or less inflamed emotionally charged thoughts or judgements about it.

These perceptions always appear to be generalised, i.e. by referring even to some, perhaps minor or partial details, people interpret them and they form an overall image of the company. This is why it is safe to say: there is and can be no difference in the image of the CS. Ethical or amoral business practices are an expression of the system of values that has developed in society, a particular social group or organization. Therefore, ethical norms of behaviour it is necessary to implement them on the basis of cultural level education and teaching ethics to every member of the team.

The main tasks to maintain the image of the company, first and foremost, should include:

- Compliance with moral integrity and universally recognized standards of morality.
- Fostering a supportive public attitude towards the enterprise's operations to ensure its smooth operation and broadening its sphere of influence.
- Improvement of interoperability between the enterprise and all stakeholders.
- Creation of a "public image" of the enterprise and preservation of its reputation.
- Increasing the impact of the company through propaganda, advertising, etc.

References:

1. Atamanska, K. I. (2012). Teoretychni aspekty poniattia imidzhu v naukovykh doslidzhenniakh [Theoretical aspects concept of image of scientific research]. Problemy suchasnoi pedahohichnoi osvity. Pedahohika i psykholohiia. Is. 37 (2). P. 28–32 [in Ukrainian]. Varna, N. V. (2007). Imidzhelohiia [Imageology]. Un-t «Ukraina». Kyiv [in Ukrainian].

2. Kovbasiuk, Iu. V. (Ed.) (2011). Entsyklopediia derzhavnoho upravlinnia [Encyclopedia of Public Administration]. Kyiv [in Ukrainian].

3. Zinchenko, O. M. (2006). Do pytannia profesionalizmu v derzhavnii sluzhbi [On the issue of professionalism in the civil service]. Visn. derzh. sluzhby Ukrainy. Is. 1. P. 17–20 [in Ukrainian].

4. Krynychna, I. P. (2013). Suchasni pidkhody do formuvannia imidzhu derzhavnoho sluzhbovtsia [Modern approaches to the image of a civil servant]. Publichne administruvannia: teoriia ta praktyka. Is. 1. Retrieved from: http://nbuv.gov.ua/UJRN/Patp_2013_1_22 Larina, N. (2013). Imidzh yak komunikatyvna osnova pozytsionuvannia vlady [Image as a communicative basis for positioning power]. Visnyk derzhavnoi sluzhby Ukrainy. Is. 2. P. 20–23 [in Ukrainian].

5. Pantelejchuk, I. V. (2011). Formuvannia pozytyvnoho imidzhu orhaniv derzhavnoi vlady: teoriia, metodolohiia, praktyka [Formation of a positive image of public authorities: theory, methodology, practice]. Kyiv [in Ukrainian].

6. Pachkevych, M. S., Finahina O. V. (2017). Formuvannia pozytyvnoho imidzhu terytorii yak bazys rozvytku dilovoho seredovyshcha rehioniv Ukrainy [Formation of a positive image of territories as a basis for the development of the business environment of the regions of Ukraine]. Visnyk Berdians'koho universytetu menedzhmentu i biznesu. Is. 4 (40). P. 74–78 [in Ukrainian].

7. The Verkhovna Rada of Ukraine (2016). The Law of Ukraine “About the civil service”. Retrieved from: https://zakon. rada.gov.ua/laws/show/889-19 Serohin, S. M. (2004). Derzhavnyi sluzhbovets u vzaiemovidnosynakh vlady i suspilstva [Public servant in Relations Between the authority and the Society] (Doctor’s thesis). Kyiv [in Ukrainian].

8. Serohin, S. M. (Ed.), Lola, V. V., Khozhylo, I. I. et al. (2009). Formuvannia pozytyvnoho imidzhu orhaniv vlady cherez pidvyshchennia yakosti nadannia administratyvnykh ta sotsialnykh posluh [Formation of a positive image of the authorities through improving the quality of administrative and social services]. Kyiv [in Ukrainian].

Received: August 29, 2021
Approved: September 29, 2021

Public Administration and Law Review

Issue 3 (7), 2021

Printed by: Scientific Center of Innovative Researches OÜ, Peterburi tee 47, 11415, Tallinn, Estonia
Number of copies: 300
First printing: September 30, 2021
Distributed worldwide by Scientific Center of Innovative Researches OÜ - office@scnchub.com
Full text available online at https://scnchub.com/
DOI: 10.36690/2674-5216-2021-3