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FOREWORD

Prerequisites for the formation and establishment of democracy in Ukraine (and especially – direct democracy at the present stage of state formation and law making) were laid in the early 9 years of the twentieth century in regulations. Given the specifics of the legal consolidation of the foundations of direct democracy and related socio-political processes from the beginning of the last decade of the twentieth century until 2021, we can distinguish the following periods of its development:

1) Pre-state period (1990 – 1991) – marked by the adoption of the Declaration of State Sovereignty of Ukraine;

2) State and pre-constitutional period (1991 – 1996) – was characterized by the fact that the democratic events of summer – winter 1991 ("velvet revolution") contributed to the adoption of the Act of Independence of Ukraine on August 24, 1991 and its subsequent national confirmation in an all-Ukrainian referendum 01 December 1991;

3) The initial constitutional period of approval of the mechanisms of direct democracy (1996 – 2004) – embodied the constitutional design of direct democracy in the norms of the modern Constitution of Ukraine. According to Article 5 of this Constitution, the bearer of sovereignty and the only source of power in Ukraine is the people. The people exercise power directly and through state authorities and local governments. The right to determine and change the constitutional order in Ukraine belongs exclusively to the people and cannot be usurped by the state, its bodies or officials. At the same time, Article 69 of the Constitution of Ukraine also stipulates that popular expression of will is carried out through elections, referendums and other forms of direct democracy, and on the basis of Article 73 the issue of changing the territory of Ukraine is resolved exclusively by all-Ukrainian referendum. This period was also marked by real manifestations of direct (immediate) democracy, which was expressed in the "Velvet Revolution-2" in January 2000;

4) The secondary constitutional period for the establishment of mechanisms of direct democracy (2004-2010) – the period of the "Orange Revolution" from November 22 to early December 2004. It is due to these events, firstly, through revolutionary action, on the one hand, honest elections of the President of Ukraine during the second ballot, and on the

other hand - the transformation of the form of government from presidential-parliamentary to parliamentary-presidential;

5) The third (regressive) constitutional period of democracy in Ukraine (2010 – 2013) – was marked by the collapse of the mechanisms of direct and representative democracy. Legally, on September 30, 2010 the Constitutional Court of Ukraine ruled in the case on the constitutional petition of 252 deputies of Ukraine on the constitutionality of the Law of Ukraine "On Amendments to the Constitution of Ukraine" of December 8, 2004 (case on compliance with the procedure for amending Constitution of Ukraine). Thus, the Constitutional Court declared unconstitutional the Law of Ukraine "On Amendments to the Constitution of Ukraine" of December 8, 2004 in connection with the violation of the constitutional procedure for its consideration and adoption. Thus, the presidential-parliamentary form of government was renewed;

6) The fourth (modern) period formation and modernization of the fundamental principles of direct democracy in Ukraine (end of 2013 – present). The renewal of the mechanisms of direct democracy was marked by the events of late 2013 – early 2014, which were called the "Revolution of Dignity". Due to these events, on February 22, the provisions of the Constitution of Ukraine of December 8, 2004 were restored, and thus the parliamentary-presidential form of government was restored.

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PART 1
FUNDAMENTAL CONSTITUTIONAL BASEMENTS OF UKRAINIAN DEMOCRACY

Problems of classification of participants in constitutional proceedings

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In accordance with Part 1 of Art. 70 of the Law of Ukraine "On the Constitutional Court of Ukraine", participants in constitutional proceedings are the subject of the right to constitutional petition, constitutional appeal, constitutional complaint (authorized person acting on his behalf) and the body or official who adopted the act consideration in the Court (hereinafter – the participant in the constitutional proceedings), as well as involved in the proceedings of the Court bodies and officials, witnesses, experts, specialists, translators and other persons whose participation is necessary to ensure an objective and complete hearing (hereinafter – involved participant in the constitutional proceedings) [1].

Given this provision, we can identify the following types of participants in constitutional proceedings:

1. The Constitutional Court of Ukraine and its structural elements as the main subject of this proceeding;

2. Entities-initiators of constitutional proceedings, which include:

a) the subject of the right to a constitutional petition;

b) the subject of the right to a constitutional appeal;

c) the subject of the right to a constitutional complaint;

d) authorized persons;

3. Subjects of appeal - a body or official who has adopted an act that is the subject of consideration in court;

4. Involved subjects (participants) of the constitutional proceedings – bodies and officials, witnesses, experts, specialists, translators and other persons, whose participation is necessary to ensure an objective and complete consideration of the case.

If we talk about the Constitutional Court of Ukraine as the main participant in the constitutional proceedings, then its legal status is determined by the powers provided for in Part 1 of Art. 7 of the Law "On the Constitutional Court of Ukraine", in particular:

1) resolving issues of compliance with the Constitution of Ukraine (constitutionality) of laws of Ukraine and other legal acts of the Supreme Council of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Supreme Council of the Autonomous Republic of Crimea;

2) official interpretation of the Constitution of Ukraine;

3) submission at the request of the President of Ukraine or at least forty-five deputies of Ukraine or the Cabinet of Ministers of Ukraine of conclusions on compliance with the Constitution of Ukraine of current international treaties of Ukraine or those international treaties submitted to the Supreme Council of Ukraine for consent;

4) providing, at the request of the President of Ukraine or at least forty-five people's deputies of Ukraine, conclusions on the compliance of the Constitution of Ukraine (constitutionality) with the issues proposed for submission to the all-Ukrainian referendum on the people's initiative;

5) submitting an opinion on the application of the Supreme Council of Ukraine on observance of the constitutional procedure of investigation and consideration of the case on removal from office of the President of Ukraine by way of impeachment within the limits specified in Articles 111 and 151 of the Constitution of Ukraine;

6) providing an opinion at the request of the Supreme Council of Ukraine on the compliance of the draft law on amendments to the

Constitution of Ukraine with the requirements of Articles 157 and 158 of the Constitution of Ukraine;

7) submission of an opinion on the violation of the Constitution of Ukraine or laws of Ukraine by the Supreme Council of the Autonomous Republic of Crimea upon the request of the Supreme Council of Ukraine;

8) resolving issues of compliance with the Constitution of Ukraine and the laws of Ukraine of normative legal acts of the Supreme Council of the Autonomous Republic of Crimea at the request of the President of Ukraine in accordance with part two of Article 137 of the Constitution of Ukraine;

9) resolving issues of compliance with the Constitution of Ukraine (constitutionality) of the laws of Ukraine (their individual provisions) on the constitutional complaint of a person who believes that the law of Ukraine applied in the final court decision in her case contradicts the Constitution of Ukraine [1].

General provisions on the Constitutional Court of Ukraine as the main participant in the constitutional proceedings, as well as its structural components are enshrined in Art. 32 of the Law "On the Constitutional Court of Ukraine". According to this article, the Court consists of the Grand Chamber, two senates and six chambers.

The Grand Chamber, senates, and colleges, within the limits of their defined powers in relation to constitutional proceedings, act as the Constitutional Court. In this case, the Grand Chamber, the Senate, the Board have the status of the Court.

At the same time, representative, organizational, administrative functions are performed by the President of the Court, the Deputy President of the Court, and the secretaries of the panels.

Further it is expedient to pass to the characteristic of subjects-initiators of constitutional proceedings (subjects of the right to constitutional representation, subjects of the right to the constitutional address, subjects of the right to the constitutional complaint, the authorized persons acting on behalf of the subject of the right to constitutional submission, constitutional appeal or constitutional

complaint). At the same time, to the subjects of the right to a constitutional petition, under Part 1 of Art. 52 of this Law are:

1) the President of Ukraine;

2) at least forty-five people's deputies of Ukraine;

3) the Supreme Court of Ukraine;

4) the Commissioner for Human Rights of the Supreme Council of Ukraine;

5) The Supreme Council of the Autonomous Republic of Crimea [1].

These entities may apply to the Constitutional Court of Ukraine on the following issues:

1) on declaring an act (its separate provisions) unconstitutional;

2) on the official interpretation of the Constitution of Ukraine (Part 1 of Article 51 of the Law "On the Constitutional Court of Ukraine") [1].

Subjects of the right to constitutional appeal, under Art. 154 of the Law of Ukraine "On the Constitutional Court of Ukraine" are:

1) the President of Ukraine – on compliance with the Constitution of Ukraine of the current international treaty of Ukraine or an international treaty submitted to the Supreme Council of Ukraine for consent to its binding force; compliance of the Constitution of Ukraine (constitutionality) with the issues proposed for submission to the all-Ukrainian referendum on the people's initiative; compliance of normative legal acts of the Supreme Council of the Autonomous Republic of Crimea with the Constitution of Ukraine and the laws of Ukraine.

2) The Supreme Council of Ukraine – on the issues of observance of the constitutional procedure of investigation and consideration of the case on removal of the President of Ukraine from office by way of impeachment; compliance of the draft law on amendments to the Constitution of Ukraine with the requirements of Articles 157 and 158 of the Constitution of Ukraine; violation by the Supreme Council of the Autonomous Republic of Crimea of the Constitution of Ukraine or laws of Ukraine;

3) the Cabinet of Ministers of Ukraine – in accordance with the Constitution of Ukraine of the current international treaty of Ukraine or an international treaty submitted to the Supreme Council of Ukraine for consent to its binding, arising from Article 151 of the Constitution of Ukraine;

4) at least forty-five People's Deputies of Ukraine – in matters of compliance with the Constitution of Ukraine of the current international treaty of Ukraine or an international treaty submitted to the Supreme Council of Ukraine for consent to its binding nature; compliance of the Constitution of Ukraine (constitutionality) with the issues proposed for submission to the all-Ukrainian referendum on the people's initiative, which follows from Article 151 of the Constitution of Ukraine [1].

A peculiar novelty of the constitutional judiciary is the introduction of the institution of a constitutional complaint. In this regard, under Art. 56 of the Law of Ukraine "On the Constitutional Court of Ukraine" the subject of the right to a constitutional complaint is a person who believes that the law of Ukraine (its individual provisions) applied in the final court decision in her case contradicts the Constitution of Ukraine [1].

In this case, we are talking about individuals and legal entities of private law, as the Law clearly stipulates that the subjects of the right to a constitutional complaint do not include legal entities of public law.

It should also be borne in mind that an individual signs a constitutional complaint in person. If the subject of the right to a constitutional complaint is an able-bodied natural person who, due to health or physical disability, is unable to personally sign the constitutional complaint, it is signed by a person authorized by law in the manner prescribed by law.

The constitutional complaint of a legal entity is signed by the authorized person, whose authority must be confirmed by the constituent documents of the legal entity and the act of appointment (election) to the position of authorized person [1].

Participants in the constitutional proceedings (both the subjects-initiators of the constitutional proceedings and the subjects of the appeal

whose decision is being appealed) in accordance with Part 1 of Art. 71 of the Law "On the Constitutional Court of Ukraine" have the following rights:

1) get acquainted with the case materials;

2) give oral and written explanations;

3) express their views on the issues under consideration;

4) ask questions to other participants in the constitutional proceedings with the permission of the presiding judge;

5) apply;

6) submit applications for dismissal of a judge;

7) enjoy other rights provided by this Law and the Regulations.

On the other hand, under Part 3 of Art. 71 of this Law, the subjects-initiators of constitutional proceedings and the subjects of appeal have a number of responsibilities:

1) in the case of an invitation to appear at a meeting, plenary session of the Senate, the Grand Chamber;

2) give true explanations;

3) provide documents, materials and other information necessary for a full and comprehensive consideration of the case;

4) be responsible for failure to provide information or providing knowingly inaccurate documents, materials, other inaccurate information [1].

A separate category of participants in the constitutional proceedings are the so-called involved participants. This group of participants is characterized by the fact that it does not act as an independent party to the constitutional proceedings, plays a supporting role in resolving the case on the merits and does not make its own demands. This includes experts, specialists, witnesses and others whose participation should contribute to an objective and complete trial.

According to Part 1 of Art. 72 of the Law "On the Constitutional Court of Ukraine" the general rights of the involved participant in the constitutional proceedings are:

1) the right to submit written explanations, which are attached to the case file;

2) the right to get acquainted with the explanations of other participants in the proceedings [1].

In turn, according to Part 2 of Art. 72 of this Law, experts, specialists, witnesses and other persons, whose participation should contribute to the objective and complete consideration of the case, in case of invitation are obliged to:

1) to attend a meeting or plenary session of the Senate, the Grand Chamber;

2) give true explanations;

3) provide documents, materials and other information necessary for a full and comprehensive consideration of the case.

4) be responsible for failure to provide information or providing knowingly inaccurate documents, materials, other inaccurate information [1].

The special legal status of certain involved entities (experts, specialists, translators) is defined in the Rules of Procedure of the Constitutional Court of Ukraine of February 22, 2018 № 1-ps / 2018.

Pursuant to Clause 1 § 63 of the Rules of Procedure of the Constitutional Court of Ukraine, an expert is a person who has the necessary special knowledge and who is instructed to provide an opinion on issues arising during the proceedings and related to the special knowledge of this person [2].

According to item 5 of § 63 of the specified Regulations, the expert has the right:

1) get acquainted with the materials of the case relating to the subject of research;

2) state in the conclusion of the examination the facts revealed during its conduct, which are relevant to the case and about which he was not asked questions;

3) with the permission of the chairman of the plenary session of the Senate, the Grand Chamber to ask questions to the participants in the

constitutional proceedings, the involved participants in the constitutional proceedings;

4) refuse to provide an opinion if there are not enough materials to perform the duties assigned to him or if he does not have the necessary knowledge to perform the duties assigned to him [2].

According to paragraphs 2 - 4 of § 63 of the Rules of Procedure of the Constitutional Court of Ukraine, an expert is also assigned a number of responsibilities, in particular:

1) conduct a full study and provide a reasonable and objective written opinion on the questions posed to him;

2) if necessary – to attend a meeting of the Board, a meeting or plenary session of the Senate, the Grand Chamber;

3) provide an opinion or explain it to the Court;

4) immediately inform the Board, the Senate, the Grand Chamber of the impossibility of conducting an examination due to lack of necessary knowledge or without the involvement of other experts;

5) in case of doubt as to the content and scope of the power of attorney, immediately submit to the Constitutional Court of Ukraine a request to clarify such power of attorney;

6) to inform the Constitutional Court of Ukraine of the impossibility of conducting an examination on certain issues.

As for the specialist and his legal status in constitutional proceedings, his legal status is determined in paragraph 2 § 65 of the Rules of Procedure of the Constitutional Court of Ukraine, according to which a specialist may be a person who has special knowledge and skills in technical means and can provide advice during research of case materials. At the same time, paragraph 6 of § 65 of these Regulations defines the following rights of a specialist in constitutional proceedings:

1) get acquainted with the materials of the case relating to the subject of research;

2) with the permission of the chairman of the plenary session of the Senate, the Grand Chamber to ask questions to the participants in the

constitutional proceedings, the involved participants in the constitutional proceedings;

3) refuse to provide oral advice or written explanations (conclusions) if he does not have the necessary knowledge and skills [2].

The specialist is also assigned a number of responsibilities. According to Clause 3 § 65 of the Rules of Procedure of the Constitutional Court of Ukraine, a specialist is obliged to:

1) appear at the invitation of a meeting of the Board, a meeting or plenary session of the Senate or the Grand Chamber;

2) answer questions;

3) give oral consultations and written explanations;

4) pay attention to the characteristics of the materials under study;

5) if necessary, provide technical assistance [2].

The special rights and responsibilities of the translator in constitutional proceedings also have their peculiarities. According to Clause 1 § 65 of the Rules of Procedure of the Constitutional Court of Ukraine, a translator may be a person fluent in the state language and another language whose knowledge is necessary for oral or written translation from one language to another, as well as a person fluent in communication with the deaf. dumb or deaf-mute.

In accordance with paragraph 4 of § 65 of these Regulations, the translator has the right to:

1) ask questions in order to clarify the translation;

2) to refuse to participate in constitutional proceedings if he does not have sufficient knowledge of the language or technique of communication with the deaf, dumb or deaf, necessary for translation [2].

At the same time, in accordance with items 5 - 6 of the Rules of Procedure of the Constitutional Court of Ukraine, the translator is obliged to:

1) appear at the invitation of the Court for a sitting of the College, a sitting or a plenary session of the Senate or the Grand Chamber;

2) make a complete and correct translation;

3) certify the correctness of the translation with his / her signature in the procedural documents provided to the participants in the constitutional proceedings in translation in their native language or in the language they speak;

4) to bear criminal responsibility for knowingly incorrect translation or for refusal without good reason to perform the duties assigned to him, and for failure to perform other duties - the responsibility established by law [2].

Thus, the classification of participants in constitutional proceedings has not only scientific but also practical and applied significance. This is due to the following factors:

1) it determines the place of the Constitutional Court of Ukraine in the system of the state apparatus of Ukraine as a whole, determines its structure depending on the nature of its functional powers, and also determines the importance of its procedural decisions in constitutional proceedings in particular;

2) the classification of participants in constitutional proceedings makes it possible to clearly determine the legal status of both the main participants in constitutional proceedings (subjects-initiators and subjects of appeal) and its auxiliary participants (witnesses, experts, specialists, translators, etc.);

3) classification of participants in constitutional proceedings according to their legal status and ways of exercising their rights and responsibilities makes it possible to determine, on the one hand, the degree of their responsibility, and on the other hand – to improve the efficiency of constitutional proceedings.

According to the results of the study, the following types of participants in the constitutional proceedings can be distinguished: a) the Constitutional Court of Ukraine and its structural elements as the main subject of the proceedings; b) subjects-initiators of constitutional proceedings, which include: the subject of the right to a constitutional petition; the subject of the right to a constitutional appeal; the subject of the right to a constitutional complaint; authorized persons; c) subjects of

appeal - a body or official who has adopted an act that is the subject of consideration in court; d) involved subjects (participants) of the constitutional proceedings – bodies and officials, witnesses, experts, specialists, translators and other persons, whose participation is necessary to ensure an objective and complete consideration of the case.

The above classification of participants in constitutional proceedings has not only scientific but also practical and applied significance. This is explained by the following factors: a) it determines the place of the Constitutional Court of Ukraine in the system of the state apparatus of Ukraine in general, determines its structure depending on the nature of its functional powers, and determines the importance of its procedural decisions in constitutional proceedings in particular; b) the classification of participants in constitutional proceedings makes it possible to clearly define the legal status of both the main participants in constitutional proceedings (subjects-initiators and subjects of appeal) and its auxiliary participants (witnesses, experts, specialists, translators, etc.); c) classification of participants in constitutional proceedings according to their legal status and ways of exercising their rights and responsibilities makes it possible to determine, on the one hand, the degree of their responsibility, and on the other hand - to improve the efficiency of constitutional proceedings.

The Constitutional Court of Ukraine, as a special instance in constitutional proceedings, differs from the judiciary in the following features: a) organization and functioning are determined by the provisions of the basic law of the country, which complicates changes in their legal status; b) the scope of powers (exclusive right to competently and definitively decide on the constitutional review of the legality of actions of other state bodies); c) a special way of forming the composition of these bodies and in the special legal status of judges; d) a significant degree of internal organizational independence, which is expressed in their right in most countries to determine their chairman, to adopt their own regulations; e) special procedure of activity; e) the mechanism of

execution of decisions; f) the legal consequences of the decisions taken (are final and binding).

Functional aspects of the Constitutional Court of Ukraine, on the one hand, are characterized by its withdrawal from the general judicial system of Ukraine, and on the other hand - give it the opportunity to act as an arbitrator in relations between public authorities (through mechanisms for reviewing constitutional petitions and constitutional appeals). in the relationship between public authorities and civil society or its members (through the constitutional complaint review mechanism).

Guarantees of realization of rights and obligations by the Constitutional Court of Ukraine can be material, legal, moral-political and judicial. In our opinion, the leading role here is played by constitutional and judicial guarantees, which are respectively based on the rule of law and the authority of the body of constitutional jurisdiction.

Procedural rights and obligations of the parties in the constitutional proceedings directly depend on the following aspects: a) the role and nature of the interest of the participants in the proceedings (subjects-initiators, subjects of appeal or involved subjects (participants) of the constitutional proceedings); b) from the form of procedural appeal to the CCU (constitutional petition, constitutional appeal, constitutional complaint, etc.).

In the system of guarantees for participants in constitutional proceedings, the leading role is given to the institution of constitutional complaint. This is due to the fact that it will certainly become an additional important guarantee in the mechanism of judicial protection of fundamental human and civil rights and freedoms. The opportunity for individuals to apply to a body of constitutional jurisdiction will help strengthen democracy and civil society, as this institution will become a form of public control over power, which will enable citizens to be not only observers but also active participants in legal policy. In addition, the introduction of this type of complaint will give a new impetus to the development of the doctrine of the future mechanism of its implementation.

Based on the analysis of domestic and foreign experience of representation in constitutional proceedings, the following recommendations can be substantiated: a) amend the legislation on mandatory participation of a lawyer in constitutional proceedings and define him as the only person who can represent; b) to establish at the legislative level a list of qualification requirements for a person who may represent the subject of filing a constitutional complaint; c) provide a list of procedural rights and responsibilities of a lawyer in constitutional proceedings.

The study of the legal status of the expert in the constitutional proceedings made it possible to establish the following features: a) the current Resolution "On the Rules of Procedure of the Constitutional Court of Ukraine" increased the catalogue of procedural rights and responsibilities of the expert. The definition of an expert, which is positive for the work of the Constitutional Court of Ukraine, also appeared in the general provisions; b) a special form of expert activity in the form of the Temporary Commission of the CCU is defined in the constitutional proceedings. It is created for additional research of issues related to the constitutional proceedings, with the participation of experts in various fields of law. Such an ad hoc commission is usually set up with representatives of different legal views and only when the issue under investigation is particularly complex, complex and requires a certain "brainstorming", which often contributes to the Court's own new approaches to the subject matter; c) comparing the procedural status of the expert in the meetings of the Board and the Grand Chamber, we can say that the Board decides on the involvement of experts in the Board meeting, as well as summoning to the Board of Experts, if their participation is necessary to ensure objective and complete resolution. The meeting of the Grand Chamber directly decides on the appointment of an expert in the case.

Witnesses in constitutional proceedings may be classified according to the following criteria: classification of witnesses in constitutional proceedings. They can be classified according to the following criteria: a)

by affiliation to the case: basic and auxiliary; b) with their participation in certain stages of the act is divided into witnesses who participated in: the order of signing; the order of acceptance; the order of publication; the procedure for enacting such an act; c) by the level of legal consolidation and the form of legal activity: legislative and law enforcement; d) under the procedure of summons to court: summoned at the request of the parties or summoned by the court on its own initiative; e) by type of court session: those who participate in closed court proceedings, as well as those who participate in open court proceedings.

The analysis of the legal position of the translator in the constitutional proceedings makes it possible to determine certain advantages in the legislation of Lithuania and Germany in comparison with the legislation of Ukraine. In particular, the legal position of an interpreter in the constitutional proceedings of Lithuania has the following advantages: a) flexibility of norms that determine the possibility of involving an interpreter in constitutional proceedings. This is manifested in the combination of the uniqueness of the use of the state language for individuals and legal entities of Lithuania with the possibility of involving an interpreter in the interests of participants in the process who do not speak the state language; b) complete free services of an interpreter for the participants in the constitutional proceedings themselves; b) variety of forms of translation (existence of oral and written form); c) increased responsibility of the translator for the quality of the translation. In our opinion, such experience can be successfully implemented in the legislation of Ukraine.

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The mechanism of realization of constitutional and legal responsibility in modern conditions of legal regulation

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It should be noted that the legal consolidation of constitutional and legal responsibility will not be effective if you do not determine the mechanism for implementing this type of responsibility.

However, before starting to study the mechanism of constitutional and legal responsibility, it is necessary to pay attention to more general concepts – such as mechanism, sectoral mechanisms, legal mechanism and organizational mechanism.

It should be noted that the mechanism means:

1) a set of artificial movable-connected elements that perform a given movement [1, p. 380], a device (set of moving parts or components) that transmits or converts (reproduces) movement [2];

2) the internal structure, the system of functioning of something, the apparatus of any activity [3, p. 245; 4].

Thus, the general concept of "mechanism" can be reduced to two main meanings:

1) as a technical mechanism relating to the operation of technology, various technological processes;

2) as a social mechanism relating to social regulation and management of social processes or procedures.

We are interested in the generic concept of "social mechanism", which, in turn, is differentiated by scientists into the following species:

1) the mechanism of political governance [5; 6; 7; 8; 9];

2) the mechanism of economic management [10; 11; 12; 13; 14; 15; 16];

3) the mechanism of public administration [17; 18; 19; 20; 21; 22; 23; 24; 25];

4) the mechanism of legal regulation [26].

In the framework of the mechanism of legal regulation, in our opinion, we can distinguish two subgroups of mechanisms:

1) legal mechanisms;

2) organizational mechanisms.

O. G. Rogova defines legal mechanisms as complexes of interrelated legal means, which are objectified at the regulatory level, necessary and sufficient to achieve a certain goal [27, p. 423].

According to O. G. Rogova, in modern legal science "legal mechanism" as a general theoretical category is not defined. One of the classic methodological approaches to the study of this mechanism in legal science has developed within the so-called instrumental concept. The main postulate of this concept is the idea that one of the essential properties of positive law and its individual elements is their ability to be an instrument for achieving a certain goal [27, p. 423].

According to O. G. Rogova, the objective basis for the formation of the category of "legal mechanism" is the fact of the existence in the structure of positive law, both simple and complex elements. Simple structural elements of positive law include permits, prohibitions, subjective rights and responsibilities, measures of responsibility, and so on. Accordingly, as complex elements, the sets of legal instruments appointed by the legislator for the guaranteed realization of the subjects of law of their legitimate interests are considered [27, p. 423].

The combination of simple and complex elements in a certain sequence to achieve a specific legal goal forms a legal mechanism. Such a mechanism combines a certain range of legal remedies, including: rights, obligations, prohibitions, principles, presumptions, deadlines, procedures, measures of responsibility, measures of encouragement, etc. [27, p. 423].

According to O. G. Rogova, the essential property and system-forming factor of the legal mechanism is its connection with a specific

goal or set of goals. On this basis, this mechanism can be defined as a legal technology designed to realize the legitimate interests of legal entities [27, p. 423].

Another necessary feature of the legal mechanism is its systemic nature, which involves not an arbitrary combination of different legal phenomena, but an orderly, interconnected stable set of legal instruments, which together form a perfect instrumental structure. Analysis of positive law with the help of an instrumental approach makes it possible to identify numerous legal mechanisms aimed at achieving a particular goal (methods of democracy, checks and balances, lawsuits, appeals) [27, p. 423].

According to O. G. Rogova, it is through the use of such legal tools that subjects exercise most of their subjective rights and legitimate interests. The lack of necessary means in the legislation to transform the "proper" into the "existing" characterizes the legal mechanism of insufficient quality of legal regulation [27, p. 423].

O. G. Rogova also believes that the most studied among the legal mechanisms is the mechanism of legal regulation. Like any other management process, legal regulation seeks to achieve its goal - the quality of public relations. The mechanism of legal regulation plays the role of a kind of legal "bridge" that combines the interests of the subjects with the practice of their implementation, brings the process of public administration to a logical result [27, p. 423].

As for organizational mechanisms, V. V. Kalyuzhny notes in this regard that each complex system (complex) has an internal or external control subsystem that performs various management functions [28, p. 422].

According to V. V. Kalyuzhny, a separate management function can be implemented through an organizational mechanism, the action of which can be aimed at conjugation (connection of complexes), ingression (entry of one element of another complex into another) and disingression (disintegration of the complex) [28, p. 422].

As V. V. Kalyuzhny notes, the organizational mechanism is a sequence of stages of designing structures, detailed analysis and definition of the system of goals, well-thought-out selection of organizational units and forms of their coordination to ensure the functioning of a complex (organizational system). The end result of the functioning of the organizational mechanism is the construction of the organizational system, when it turns out:

1) internal order, the coherence of the interaction of more or less differentiated and autonomous parts of the whole, due to its structure;

2) a set of processes or actions that lead to the formation and improvement of relationships between parts of the whole.

Regarding organizational systems, according to V. V. Kalyuzhny, apply two clarifying concepts: a) the mechanism of operation - a set of rules, laws and procedures governing the interaction of participants in the organizational system; b) management mechanism – a set of procedures for making management decisions [28, p. 422].

At the same time V. V. Kalyuzhny defines the organizational mechanism in public administration as a subsystem of management, designed to transform a certain organizational influence of public authority (subject) in the desired (target) behaviour, effectiveness and efficiency of the object of government [28, p. 422 - 423].

Derived concept from the legal and organizational mechanism is, respectively, the mechanism of realization of constitutional and legal responsibility. It should be noted that the problems of the mechanism of constitutional and legal responsibility were studied in the following aspects:

1) the relationship of mechanisms of social and constitutional responsibility (A. F. Plakhotny) [29];

2) basics of the mechanism of constitutional and legal responsibility (N. M. Kolosova, V. F. Melashchenko) [30; 31];

3) the specifics of the mechanism of constitutional and legal responsibility of individual state bodies (N. M. Kolosova, M. A. Krasnov,

L. T. Krivenko, O. V. Maidanyk, O. O. Maidanyk,) [32; 33; 34; 35; 36; 37];

4) features of the mechanism of constitutional and legal responsibility of political parties (V. I. Kafarsky) [38; 39; 40];

5) the mechanism of application of constitutional and legal responsibility and counteraction to constitutional torts (V. O. Luchin, V. F. Pogorilko, V. L. Fedorenko) [41; 42].

In the science of constitutional law, the issue of the mechanism of realization of constitutional responsibility was most fully studied at the dissertation level by V. I. Kafarsky (in the context of constitutional and legal responsibility of political parties). Under the mechanism of realization of constitutional responsibility V. I. Kafarsky understand a set of interconnected elements that allow to transform the "normative" subinstitution of constitutional responsibility in the orderliness of social relations that satisfy the interests of constitutional law, establish and ensure constitutional law and order [43, p. 66].

Analysing this definition, it is worth noting the following features:

1) the positive thing is that V. I. Kafarsky emphasize in this definition the connection of normative elements of constitutional and legal responsibility with its functional elements. But, in addition to normative and functional elements, there are also institutional and ideological elements;

2) on the other hand, it is not clear in what sense normativeness is considered – in the narrow sense (as defined only by constitutional and legal norms) or in the broad sense (defined not only by constitutional and legal norms, but also by other norms that also define certain rights and responsibilities of the subjects of state and political relations and establish a certain positive responsibility for their implementation). This question is important for determining the fact which set of norms can be the normative basis for the implementation of the mechanism of constitutional responsibility;

3) in addition, the definition refers to the satisfaction of the interests of the subjects of constitutional relations, while the concept of "interest"

is only a subjective category, which is expressed through the prism of the rights of these subjects, and neglected responsibilities and prohibitions. At the same time, constitutional rights, obligations and prohibitions established by legal norms are both objective (defined by objective law) and subjective (their implementation depends on the will of the subjects). In turn, the constitutional and legal responsibility aims to ensure the unity of the subjective and objective in constitutional relations - the compliance of the behaviour of the subjects of constitutional relations with constitutional and legal norms;

4) at the same time, the goal of the mechanism of realization of constitutional and legal responsibility should not be reduced only to ensuring constitutional law and order, as, in addition to law and order, there are such constitutional and legal phenomena as "legality" and "discipline" [43, p. 66 - 67].

Thus, the mechanism of realization of constitutional and legal responsibility is a set of interrelated normative, institutional, functional and ideological elements (autonomous subsystems), which ensure the conscious use of their rights, performance of duties, compliance with prohibitions, and in this case committing a constitutional-legal tort – application of constitutional-legal sanctions in order to ensure constitutional legality, discipline and law and order [43, p. 67].

In our opinion, the signs of the mechanism of realization of constitutional and legal responsibility are:

1) it is a set of interrelated normative, institutional, functional and ideological elements (autonomous subsystems);

2) aimed at ensuring the conscious use by the subjects of constitutional legal relations (including state-power and state-political relations) of their rights, performance of duties, observance of prohibitions, which ensures the implementation, first of all, of their positive perspective) constitutional responsibility;

3) in case of commission of constitutional and legal torts by the above-mentioned subjects, it is aimed at the implementation of their

negative (retrospective) constitutional responsibility in the form of constitutional and legal sanctions;

4) the ultimate goal of the mechanism of realization of the constitutional and legal responsibility of the subjects of constitutional legal relations (including state-power and state-political relations) is to ensure constitutional legality in their activity and in the constitutional relations of which they are subjects. , discipline and law and order [43, p. 67 - 68].

The mechanism of constitutional responsibility, according to V. I. Kafarsky, should include the following elements:

1) a set of legal norms that determine the constitutional and legal status of subjects (among these norms a special place is occupied by norms that establish the functional responsibilities of subjects, non-compliance with which is the basis for the application of sanctions);

2) legal norms that determine the forms of their illegal activities;

3) state bodies that exercise control over the activities of these entities in order to respond in a timely manner to the illegal actions of the latter;

4) normatively defined procedural form of consideration of cases on liability of subjects of constitutional legal relations (including subjects of state-power and state-political relations);

5) bodies of justice, whose competence includes the administration of constitutional justice in its broadest sense (not only control over the compliance of laws and other legal acts with the Constitution of Ukraine) [43, p. 68].

In general, agreeing with this design, we consider it appropriate to present these elements in a more systematic form. In particular, it is proposed to combine legal norms that determine the constitutional and legal status of the subjects of constitutional legal relations (including state-government and state-political relations), legal norms that determine the forms of their illegal activities, as well as to include here are other rules that are set out in the status laws of these entities. It is proposed to define such a set of norms as a normative (regulatory) subsystem of the

mechanism of realization of constitutional and legal responsibility of the subjects of constitutional legal relations (including state-power and state-political relations).

It is also proposed to define, as a single element, state bodies that exercise control over the activities of subjects of constitutional legal relations (including state-government and state-political relations), judicial bodies whose competence includes the administration of constitutional justice and which together provide state control, as well as civil society and its institutions, which provide civil control and thus contribute to the implementation of both positive (prospective) and negative (retrospective) constitutional responsibility of such entities. It is proposed to define the set of subjects that provide state and public control in the field of constitutional responsibility as an institutional subsystem of the mechanism of realization of constitutional and legal responsibility [43, p. 68 - 69].

It is proposed to consider the normatively defined procedural form of consideration of cases on liability of subjects of constitutional legal relations (including state-power and state-political relations) more broadly – as a set of procedures and procedures related to the implementation of their constitutional responsibility. positive (prospective) and negative (retrospective) responsibility). It is proposed to consider them as a functional subsystem of the mechanism of realization of constitutional and legal responsibility.

However, in our opinion, it is also worth highlighting the ideological subsystem of the mechanism of constitutional responsibility, which includes a conscious attitude of the subjects of constitutional relations (including state-power and state-political relations) to the exercise of their rights, performance of duties, observance of prohibitions, and also to performance of the tasks and functions before other subjects of constitutional relations (positive (perspective) constitutional responsibility which provides first of all intellectual aspect), and also readiness to bear responsibility for commission of constitutional and legal torts (negative (retrospective) constitutional responsibility, which is

expressed primarily through the volitional (behavioural) aspect) [43, p. 69].

A special role in the mechanism of realization of constitutional and legal responsibility belongs to constitutional torts and sanctions as an integral element of this mechanism in terms of application of negative responsibility.

An important issue in the field of legal consolidation and application of constitutional liability is the composition of the constitutional offense.

Like all other types of offenses, constitutional offenses (constitutional torts) include the object, the objective side, the subject and the subjective side.

It should be noted that the object of constitutional offenses is public relations governed by the rules of constitutional law. However, the object of a constitutional offense can be differentiated into the following types:

1) common object – all constitutional legal relations, which are regulated by the norms of the Constitution of Ukraine and constitutional laws;

2) tribal object – a group of constitutional legal relations to which the constitutional tort is directed (for example, principles of the constitutional order of Ukraine, constitutional principles of legal status of a person, constitutional form of government in Ukraine, constitutional form of territorial organization of Ukraine, constitutional principles of local self-government, constitutional principles functioning of civil society institutions);

3) direct object – a specific constitutional legal relationship encroached upon by a constitutional tort (for example, encroachment on the state sovereignty and independence of Ukraine, violation of the integrity and inviolability of the state territory of Ukraine, violation of people's sovereignty, seizure of power or appropriation of power, violation principles of political, economic and ideological pluralism, attempt to introduce universal ideology or censorship, abolition, illegal restriction of human rights and freedoms or obstruction of their exercise,

violation of the established order of formation of public authorities and their officials, illegal suspension or termination of powers local self-government, creation of illegal armed groups by associations of citizens).

The objective aspect of a constitutional offense is the illegal behaviour of the subject that does not comply with the norms of constitutional law. Some constitutions of constitutional offenses provide for the need to prove the fact of damage and the existence of a causal link between it and the violation of the norm. A feature of the objective side of the constitutional offense is enshrined in a specific regulatory norm that determines the legal status of the guilty subject. Moreover, the issue of assessing the objective side of a constitutional offense (unlike other types of legal liability) is decided by the entity endowed with the right to apply a constitutional sanction.

The subjects of constitutional offense and constitutional liability in retrospect are those subjects of constitutional law of Ukraine who are endowed with constitutional tort.

In constitutional law, two types of subjects have constitutional tort:

1) individual (citizens of Ukraine, deputies of all representative bodies of state power and local self-government; officials, etc.);

2) collective (public authorities, local governments, associations of citizens and other social entities, (committees and commissions of representative bodies, election commissions).

The following subjects of constitutional offenses can be distinguished:

1) the state, which should bear constitutional and legal responsibility in all cases when it does not fulfil its official obligations, if as a result it has caused harm to anyone. This is confirmed in Art. 56 of the Constitution of Ukraine, according to which everyone has the right to compensation at the expense of the state or local governments material and moral damage caused by illegal decisions, actions or inaction of public authorities, local governments, their officials and officials in exercising their powers;

2) the people of Ukraine, who in accordance with Art. 5 of the Constitution of Ukraine is the only source of power, and therefore - responsible for the formation of public authorities through elections and for making important government decisions through referendums;

3) natural persons who are subjects of constitutional and legal responsibility, if they: have the citizenship of Ukraine; reached 18 years of age; are capable. In some cases, citizens of Ukraine can bear constitutional and legal responsibility only if they have a special legal capacity of a deputy, official;

4) elected state bodies and the system of local self-government – the Supreme Council of Ukraine, the President of Ukraine and local self-government bodies, which are responsible, first of all, to the citizens who elect them, but not only. This may be liability for violation of the Constitution of Ukraine;

5) bodies of state executive power shall be liable in case of violation of constitutional and legal norms. However, in some cases (for example, the Government of Ukraine) they may also be subject to political responsibility;

6) judicial bodies and judges – in the form of their election by parliament and the first appointment by the President of Ukraine. In addition, such liability is closely related to disciplinary liability [44];

7) the top management of law enforcement agencies – the Prosecutor General, the Minister of Internal Affairs, the Head of the Security Service of Ukraine, the formation and recall of which is also influenced by the Parliament and the President of Ukraine. There is also a place for a combination of constitutional, legal and disciplinary responsibility.

The subjective aspect of a constitutional offense is guilt, the content of which depends on the nature of the subject liable. Thus, if it is an individual subject, then the psychological attitude of the person to his illegal actions and their possible consequences is important in the content of guilt. As for the guilt of a collective subject, it is recognized only when this subject, having the opportunity to choose, has chosen the wrong

option. When admitting the guilt of a collective subject, the constitutional responsibility rests with the collective subject, and not with individual members of the collective or leaders, who, at the same time, may simultaneously bear personal responsibility for their own illegal and guilty actions related to the guilt of the collective subject. The current legislation provides for cases when collective entities are responsible for illegal and guilty actions of their employees within the scope of their official duties, being responsible for them as for their own actions (Article 56 of the Constitution of Ukraine). In such cases, both subjects of constitutional law are responsible: both the member of the team and the team itself [45; 46].

Sometimes the subjective side of a constitutional offense is characterized by such additional features as motive and purpose. For example, in accordance with Art. 37 of the Constitution of Ukraine, the formation and operation of political parties and public organizations is a constitutional offense only if they pursue illegal goals under this article [47, p. 512-513].

Thus, the composition of constitutional offenses is characterized by its own features, in particular:

1) the presence of its own specifics of the object, the objective side, the subject and the subjective side of the constitutional tort;

2) legal consolidation at the level of the Constitution of Ukraine and certain status laws that determine the legal status of certain subjects of constitutional relations;

3) placement of elements of the composition of constitutional offenses, as a rule, in various articles of constitutional legal acts [48, p. 55-56].

The issue of constitutional and legal responsibility (especially in the context of further constitutional reform and the introduction of the institution of lustration) is relevant and practical. At the same time, sanctions are an important component of the mechanism of its implementation as a form of retrospective (negative) constitutional and legal responsibility of the subjects of constitutional (state-political)

relations. It is the legal consolidation and further practical implementation of effective constitutional and legal sanctions that can ensure proper cooperation between various state bodies and local governments in Ukraine.

It should be noted that the problems of legal responsibility in general and constitutional liability in particular are reflected in research conducted by K. Basin, V. Kafarsky, I. Kresina, O. Maidanyk, N. Onishchenko, V. Pogorilko, V. Polevyi, T. Tarakhonych, V. Fedorenko, V. Shapoval and other scientists.

However, in our opinion, the concept and types of sanctions of constitutional and legal responsibility as a form of legal consolidation and practical implementation of retrospective (negative) constitutional and legal responsibility of the subjects of constitutional (state and political) relations need additional research.

In the reference and encyclopaedic literature, the concept of "sanction" is considered in several senses:

1) in the general social sense – as approval, recognition of something;

2) in the legal sense – as measures of influence, punishment for violating the law (at the level of the national legal system) or as measures of influence against a state that has violated an international agreement (at the international legal level);

3) in the economic sense – as measures of influence applied by the bank to violators of financial, cash, settlement and credit discipline [49, p. 83].

Given the legal understanding of the nature of sanctions and the main approaches to their understanding in the science of constitutional law, constitutional sanctions can be defined as provided by constitutional law negative consequences imposed forcibly on a subject for committing a constitutional tort; certain oppressions of a political and legal nature, which he must suffer as a result of bringing to constitutional and legal responsibility.

Constitutional and legal sanctions are imposed only by those entities that are authorized to do so by the Constitution and laws of Ukraine. The purpose of applying constitutional and legal sanctions is:

1) punitive (repressive) – punishment of the one who committed a constitutional tort;

2) compensatory – restoration of constitutional law and order;

3) moral and political – ensuring social justice in the political and legal sphere;

4) precautionary (preventive, prejudicial) – prevention of similar torts in the future;

5) educational – the implementation of educational influence on the offender and a wide range of participants in political and legal communication, convincing them of the need for strict compliance with constitutional and legal norms;

6) restorative – restoration of the violated law and order [49, p. 83-84].

Constitutional and legal sanctions are quite diverse and differ in a number of ways, including:

1) by the range of subjects to which they apply;

2) in their content (the nature of the negative consequences they have for the offender);

3) by the procedure of imposition;

4) by time of application [50].

If we consider the constitutional and legal sanctions at the level of their constitutional and legislative consolidation, then the President of Ukraine can be applied only one type of constitutional and legal responsibility – removal from office by impeachment; to political parties two – warnings and bans on activities, and to public organizations five – warnings, fines, temporary bans on certain activities, temporary bans on activities in general, forced dissolution.

Constitutional and legal sanctions can be divided into basic and additional. The basic sanction is primary and self-sufficient, and the additional one is applied only in connection with the main one and

follows it. For example, Article 111 of the Constitution of Ukraine provides for the main sanction against the President of Ukraine in the form of removal from office by the Supreme Council of Ukraine, and Article 105 of the Constitution – deprivation of the title of President of Ukraine in case of removal from office by impeachment.

A similar example is provided by the Law of Ukraine "On Refugees and Persons in Need of Additional or Temporary Protection". It provides for the possibility of depriving a person of refugee status (basic sanction) if he engages in activities that threaten national security, public order, health of the population of Ukraine, and also establishes that a person who has not exercised the right to appeal the decision to deprive him of his status refugee, must leave the territory of Ukraine in due time (additional sanction), if she has no other legal grounds to stay in Ukraine [51].

Constitutional liability is characterized by a wide variety of sanctions, the vast majority of which are not found in other areas of law, such as the reorganization of one body of another body (change of government by parliament or head of state, recall of local council deputies, etc.), early termination powers (dissolution, resignation, impeachment), temporary suspension of the subject's activity, compulsory liquidation (compulsory dissolution, prohibition of activity) of the subject, invalidation of the election, deprivation of the person of state awards and titles, etc. In fact, for each type of subjects of constitutional law there are special measures of constitutional and legal responsibility.

Appropriate sanctions must be provided for each type of constitutional tort. The application of constitutional sanctions by analogy is unacceptable.

Every constitutional and legal tort is subject to the sanction that was provided by law at the time of its commission. Legal norms that establish or change the constitutional and legal responsibility have no retroactive force. Conversely, legal norms that abolish or mitigate constitutional liability have retroactive effect.

Constitutional sanctions as measures of constitutional liability should be distinguished from other coercive measures provided by constitutional law, such as preventive measures, suspension measures or remedial measures. Unlike measures of prevention or cessation (such as the imposition of a state of emergency, federal intervention, etc.), constitutional sanctions are imposed not before or during illegal activities, but after its completion or cessation. In turn, remedial measures (for example, declaring an act unconstitutional and its subsequent repeal) do not have direct negative consequences for the offender, but are aimed at restoring the violated constitutional legality, while constitutional sanctions force the offender to directly suffer certain oppressions and troubles, regardless of whether it is possible to restore the state of political and legal relations violated by the tort.

The main forms of sanctions for constitutional liability are:

1) cancellation or suspension of acts of state bodies and local self-government bodies or their individual provisions (for example, in accordance with Part 8 of Article 118 of the Constitution of Ukraine, decisions of heads of local state administrations contrary to the Constitution and laws of Ukraine in accordance with the law, abolished by the President of Ukraine or the head of the local state administration of the highest level). A variant of this sanction is the recognition of unconstitutional acts determined by the Constitution of Ukraine of state bodies or their individual provisions, which is carried out by the Constitutional Court of Ukraine;

2) termination of the activity of state bodies, local self-government bodies, their officials and officials (for example, according to Part 1 of Article 87 of the Constitution of Ukraine, the Supreme Council of Ukraine may consider responsibility of the Cabinet of Ministers of Ukraine and to adopt a resolution of no confidence in the Cabinet of Ministers of Ukraine by a majority of the constitutional composition of the Supreme Council of Ukraine);

3) annulment of legal results of certain constitutional and legal actions (for example, in accordance with the Law of Ukraine "On

Elections of People's Deputies of Ukraine" the polling station election commission may declare voting at a polling station invalid if it finds violations expression of will of voters);

4) restriction or suspension of some basic rights of citizens. Thus, on the basis of Part C of Art. 76 of the Constitution of Ukraine, a citizen who has a criminal record for an intentional crime may not be elected to the Supreme Council of Ukraine if this criminal record has not been expunged and revoked in accordance with the procedure established by law;

5) cancellation of the decision on admission to the citizenship of Ukraine. For example, according to the Law of Ukraine "On Citizenship of Ukraine" of 18.01.2001, as amended by the acquisition of Ukrainian citizenship through citizenship of Ukraine due to fraud, deliberate submission of false information or false documents is grounds for loss of Ukrainian citizenship.

The problematic aspect of the application of constitutional and legal responsibility is fragmentation and fragmentation, a significant number of gaps in the procedural order of bringing to constitutional and legal responsibility. For example, there is no statute of limitations for bringing to constitutional and legal responsibility, etc.

To streamline all components of constitutional and legal responsibility, it is advisable to adopt the law "On constitutional and legal responsibility" or to consolidate these components within specific laws governing the legal status of various state institutions and officials.

Thus, based on the results of the study of the essence of the types of sanctions of constitutional liability, the following conclusions and proposals can be made:

1) constitutional and legal sanctions are negative consequences provided by constitutional and legal norms, which are imposed compulsorily on a certain subject for committing a constitutional tort; certain oppressions of a political and legal nature, which he must suffer as a result of bringing to constitutional and legal responsibility;

2) distinguish punitive (repressive), compensatory, moral and political, preventive (preventive, prejudicial), educational and restorative purpose of applying constitutional and legal sanctions;

3) sanctions of constitutional and legal responsibility are classified according to various criteria: according to the range of subjects to which they are applied; in their content (the nature of the negative consequences they have for the offender); by the procedure of imposition; by time of application;

4) the main forms of sanctions of constitutional and legal responsibility are: cancellation or suspension of acts of state bodies and local self-government bodies or their separate provisions; termination of activity of state bodies, local self-government bodies, their officials and officials; annulment of legal results of certain constitutional and legal actions; restriction or suspension of some basic rights of citizens; cancellation of the decision on admission to the citizenship of Ukraine.

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Features of legal regulation and practical problems of constitutional and legal responsibility of higher state authorities in Ukraine

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In the scientific literature, the content of constitutional responsibility is mainly limited to constitutional and legal sanctions (retrospective liability). In interpreting constitutional responsibility, long-term responsibilities that result from the proper exercise by subjects of their legal status are often overlooked. That is why the development and further improvement of the constitutional and legal responsibility of the subjects of power relations should begin, first of all, with the determination of their legal status. Perspective and retrospective constitutional and legal responsibility is a key element in building the interaction of the subjects of power relations with each other, with the state and with civil society. The formation of the legal status of the subjects of power relations and its key element, such as constitutional responsibility, necessitates a clear normative definition of such responsibility, as well as in the scientific substantiation of ways to improve the mechanism of its implementation.

It should be noted that this issue was studied at the general theoretical level by S. Alekseev, O. Vitchenko, V. Goiman, L. Zavadska, O. Zaychuk, V. Kazimirchuk, V. Kudryavtsev, Y. Kryvytsky, S. Lysenkov, O. Malko, O. Melnyk, N. Onishchenko, A. Polyakov, P. Rabinovych, Y. Reshetov, V. Syrykh, O. Skakun and others. O. Maidanyk, K. Basin, V. Kafarsky, I. Kresina, V. Pohorilko, V. Polevy, V. Fedorenko, A. Chervyatsova and others considered this topic from the point of view of constitutional law.

However, given the latest trends in Ukrainian law making and state building, this issue needs research from a theoretical and legal point of view.

It is important to start with the fact that the existence of a constitutional liability is not a prerequisite for the existence of a constitution or other constitutional acts, as is often the case in legal science. First of all, this is due to the fact that at different stages of historical development there were other regulators of social relations, which performed the same functions that belong to constitutional norms; subjects of administrative (state-power) relations existed in previous centuries, even when there were no constitutional acts; a system of relations was still formed between these subjects depending on the nature of subordination.

Given the above, we substantiate the idea of the existence of constitutional and legal responsibility in the lands of Ukraine in different historical periods of its development. That is why the study of the institute of constitutional responsibility, in our opinion, should begin with a view to the peculiarities of positive and negative constitutional and legal responsibility in the times of Kievan Rus.

P. P. Zakharchenko notes that in Kievan Rus there is a specific system of government and their competence. The Grand Duke of Kyiv headed the state. At the beginning of the formation of the state, its functions were mainly in the organization of the armed forces, their command, collection of tribute, the establishment of foreign trade. It was during this period that the prince's domain was formed, in which the princes ran their own farms [1].

Later, the prince was endowed with other functions, both legislative (adoption of laws) and executive (appointment of local governments) and judicial (highest court). And at the beginning of the XI century was transformed into a typical monarch of the Middle Ages. Eventually, the prince's power weakened, and strife began, which could be stopped only by Vladimir Monomakh in the early 12th century [1].

In view of this, it can be argued that the beginning of the emergence of the so-called universal positive constitutional and legal responsibility of the Grand Duke of Kiev. As for the universality of such responsibility, it manifested itself in a wide range of powers of the prince, which

determined the broad limits of positive responsibility in various spheres of public life, including: 1) in the legislative sphere – through the adoption of regulations on various issues of society; 2) in the field of executive and management activities – through the implementation of personnel appointments at different levels of government; 3) in the field of justice – due to the presence of the highest judicial authority.

It should be noted that in this period we can talk about the onset of negative constitutional and legal responsibility for the Grand Duke (in the form of his resignation). This was manifested in the activities of the Chamber, which was the body of direct democracy in Rus. An example of this was the council in Kyiv in 1024, which rejected Mstislav Volodymyrovych, who aspired to become the Grand Duke of Kyiv and lead Rus. The chamber also removed Izyaslav from the princely position [2].

The Chamber, which was a body of direct democracy, was also a subject of constitutional and legal responsibility. According to A. Petrovsky, the term "chamber" first appears in the "Tale of bygone years" when describing the events that took place in the city of Belgorod [3].

The following signs of constitutional and legal responsibility of this body can be distinguished:

1) it was exclusively positive, which concerned the choice of direction of development of Kievan Rus, and as for the negative responsibility of the council, it was not determined by law, because the constitutional and legal responsibility can not be applied to the people.

2) the amount of positive constitutional and legal responsibility of the council for the circle of persons who took part in it depended on the city in Kievan Rus. In Kyiv, the entire population was responsible for the decision (because the chamber was popular), while in Novgorod the number of people involved was limited, and therefore the responsibility itself was limited;

3) according to the scope and scope of powers, the positive constitutional and legal responsibility of the People's Council can be differentiated as follows:

a) responsibility for personnel appointments (for example, for the election of the prince or his removal);

b) responsibility for justice. The Chamber could hear individual cases, but these were isolated cases, most of which were based not on regulations but on legal customs.

Another subject of constitutional and legal responsibility was the Council under the Prince. As V. S. Kulchytsky, M. I. Nastyuk and B. Y. Tyshchyk rightly noted, the council included the most powerful feudal landowners who held positions in the state apparatus, as well as representatives of the higher clergy. The prince discussed with them the issue of declaring war, making peace, establishing alliances with other states. In the field of domestic policy, the activities of the council were expressed in the discussion and issuance of new laws. In addition, the council performed judicial functions, participated in resolving military, administrative, financial and other issues. In the absence of the prince or after his death, the council became the main body of power, which not only resolved all issues of domestic and foreign policy, but also established the power of the future prince.

Together with the prince, issues of foreign policy, the conclusion of alliances, the issuance of new laws were considered. In case of death of the prince, the council temporarily performed the functions of the supreme body of the country [3; 4].

The Council had an advisory nature, but in some cases it was subject to positive constitutional and legal liability, which had the following features:

1) as mentioned above, the Council was ancillary in nature, so its responsibilities were mainly derivative (but not primary);

2) despite its derivative nature, the Council under the Prince within its defined status bore a positive derivative constitutional and legal responsibility: a) for the legislative sphere of activity in the field of

internal relations (discussion and publication of new laws); for the administration of justice (from those court cases that the prince brought to the Council); for the implementation of certain executive and administrative functions (solving administrative, financial, military and other issues); b) for the sphere of Russia's foreign relations with foreign states (consideration of issues related to the declaration of war and peace, the establishment of alliances with other states);

3) receiving in emergency situations (death of the prince) the main constitutional and legal responsibility for state formation and implementation of state policy.

According to V. M. Ivanov, the structure of the central authorities included princely congresses (snemy), convened by the Grand Duke to address issues of war and peace, changes in government, the order of the tables, the adoption of major legislation. Local princes, their allies (brothers), vassals (sons), the most powerful boyars, and sometimes the church nobility took part in the filming. During the period of weakening of Kyiv's power, the importance of princely congresses became especially important – their decisions had the force of national laws for some time. But they could not stop the process of feudal fragmentation [5, p. 62 - 63].

The peculiarities of the responsibility of such a body include:

1) it is a collegial or so-called collective form of constitutional and legal responsibility, which has been historically defined;

2) the sphere of constitutional and legal responsibility of the princely congresses was limited exclusively to the powers in the legislative and defence spheres, as well as the powers of the division of princely power in Rus.

As for other bodies, the delimitation of functional powers between them and areas of responsibility, in this regard, P. Zakharchenko and A. Petrovsky noted that in Russia the formation took place in two ways:

1) the introduction of decimal or numerical system, established in IX – X centuries in the prince's army;

2) the introduction of the palace-patrimony system, which was formed in parallel with the decimal and became crucial in the XI – XII centuries [1; 3].

Next, it is worth paying attention to the key features of the studied type of responsibility at the next stage of creation of the Ukrainian state, namely the period of development of the Galicia-Volyn principality, including the reign of Danylo Halytsky. It was this period, due to the peculiarities of the very difficult foreign policy situation of the Galicia-Volyn principality, that strengthened the constitutional and legal responsibility for the ruler. The main attention will be paid to the positive constitutional and legal responsibility of Danylo Halytsky.

One of the directions of formation of such responsibility of Danylo Halytsky in the field of foreign policy was the authority to unite the Galician-Volyn lands, which were part of other states. In particular, Danylo was engaged in the collection of Volyn lands, which were in the hands of other princes, or under the rule of Poland.

The exercise of powers in the field of regulating relations with the Mongol-Tatars is another area of formation of positive constitutional and legal responsibility of Danylo Halytsky in the field of foreign relations. It was the prince's responsibility for the exercise of constitutional powers in this area that significantly hindered his implementation of reform measures in the field of domestic policy. Danylo Halytsky received confirmation from the Tatars of his rights to the entire principality, but he had to declare himself a "peacemaker."

The third direction of positive constitutional and legal responsibility of Danylo Halytsky in the same sphere was the authority to establish relations with the Pope [6, p. 115 - 116].

The fourth area of positive constitutional and legal responsibility of Danylo Halytsky was the authority in the field of relations with neighbouring European countries (in particular, with Poland, Lithuania, Hungary and others).

Summarizing the above, we can identify the following signs of positive constitutional and legal responsibility of Danylo Halytsky:

1) the basis of such responsibility were mainly legal customs and acts of the former Kievan Rus, as well as treaties and agreements concluded by the head of the Galicia-Volyn state;

2) differentiation of responsibility for foreign policy activities in the areas and nature of powers, in particular: responsibility for the implementation of powers in the field of unification of the Galician-Volyn lands; responsibility for the implementation of powers in the organization of relations with the Mongol-Tatars; responsibility for the exercise of authority in the field of relations with the Pope and the throne of Rome; responsibility for the implementation of powers in the field of relations with neighbouring European countries, etc. [7, p. 64 - 65].

3) such responsibility was strengthened by opposition-minded boyars, potential competitors in the struggle for power.

The next historical period is the epoch of statelessness and Ukraine's joining other states (Poland, Lithuania). Therefore, the constitutional and legal responsibility, respectively, passes to state bodies and officials, which were created directly by these states.

It is quite possible to agree with the opinion of A. I. Melnyk that in fact the period of statelessness includes two main periods: 1) the period of the Grand Duchy of Lithuania (mid-fourteenth century – mid-sixteenth century); 2) the period of the Commonwealth (mid-16th century – mid-17th century) [8].

The peculiarities of the studied type of responsibility at these stages include 1) the combination of centralization and decentralization in the field of positive constitutional and legal responsibility and implementation of state policy between the Grand Duke of Lithuania and local princes in the fourteenth century. According to V. M. Ivanov and a number of other scholars, the head of state was the Grand Duke. The relationship between the Grand Duke and local princes was vassal. Local princes had broad autonomy in internal affairs, but, at the request of the Grand Duke, had to participate in military campaigns with his army and pay tribute (citizenship) [9, p. 102; 10, p. 46; 11, p. 62; 12, p. 97; 13, p. 84].

Thus, the centralizing tendencies of responsibility concerned the Grand Duke of Lithuania and were reduced to positive responsibility for the military-defence sphere and national taxes. As for the decentralization principles of responsibility, it was the sphere of local princes, which was reduced to broad internal powers in the lands under their control; centralization of power and the growing role of constitutional and legal responsibility of the Grand Duke during the fifteenth century. with a simultaneous narrowing of the powers and responsibilities of local princes. [9, p. 102 - 103; 14, p. 137; 15, p. 18;]; redistribution of the principles of positive constitutional and legal responsibility on the basis of caste-representative principles, the priority of collegial (collective) responsibility over individual; expanding the powers and constitutional and legal responsibility of the Sejm of the Rzeczpospolita for legislative activities and international relations, while reducing the scope of such responsibility for the King of the Rzeczpospolita under the Lublin Union of 1569 [16].

The next stage - the Cossack state, and then – the Hetmanate. It is characterized by the highest manifestation of national legal thought and the emergence of Ukrainian constitutionalism, and no less important is the fact that it was during this period that the institution of constitutional and legal responsibility was legalized. Namely, it is about the adoption of the Constitution in Bender on April 5, 1710 during the election of Philip Orlyk. Officially, it was called "Pacts and Constitutions of Laws and Freedoms of the Zaporozhian Army." As noted by P. P. Zakharchenko, the Constitution was a valid legal source on the Right Bank until 1714 [17, p. 105 - 106].

The norms of P. Orlyk's Constitution in a peculiar form provided for the division into branches of power and the division of responsibilities between them. That is why it can be argued that there is not only a positive constitutional and legal responsibility, which manifested itself in a clear definition of powers of authorities and establishing ways and forms of interaction between them, but also the onset of negative

constitutional and legal responsibility, which provided for sanctions against officials all levels [18].

As for the proper consolidation of constitutional and legal responsibility, it is contained in the Constitution of the Ukrainian People's Republic. The general principles of constitutional and legal responsibility under the Constitution of the Ukrainian People's Republic primarily follow from Art. 22, according to which "All power in the UPR comes from the people, and is carried out in the manner prescribed by this statute" [19].

The responsibility of public authorities and local self-government of the Ukrainian People's Republic was characterized by the following features:

1) constitutional consolidation of responsibility and its special features of the National Assembly of the Ukrainian People's Republic. The main features can be identified by functions: legislative and personnel. Such features can be traced in the following functions: exclusive constitutional rule-making, fiscal, economic, as well as emergency functions (declaration of war, formation of troops);

2) consolidation of sanctions against the ministers themselves, which is a negative constitutional and legal responsibility (individual), as well as sanctions that apply to the entire government, which is a collegial constitutional and legal responsibility;

3) assigning retrospective and long-term responsibility to the General Court of the Ukrainian People's Republic, which administered justice;

4) approval of the constitutional and legal responsibility of local governments through the control function of the Ministers of the Ukrainian People's Republic in relation to elected councils and administrations of communities, parishes and lands, as well as through the jurisdictional function of justice [20, p. 45 - 46].

Thus, the basic principles of competence and constitutional and legal responsibility of public authorities and local self-government of the UPR under the Constitution of the UPR are closely related to the

principle of separation of powers and other guiding principles corresponding to the model of democratic, social and legal state [20, p. 46].

The next stage can be called Ukrainian Soviet constitutionalism, during which constitutional and legal responsibility had its own peculiarities.

Its legal enshrinement dates back to the Constitution of the USSR in 1919.

Its main features include:

1) the amount of positive responsibility of the subjects is reduced only to the executive and administrative activities, there is no principle of separation of powers into three branches;

2) a strict hierarchy of state and local authorities in interaction with each other, the names of the bodies themselves contained references to a limited number of persons who may be part of them;

3) limiting the range of entities that have the right to access power;

4) the state and the state apparatus have practically no political or constitutional responsibility to society.

The Constitution of the USSR of 1919 basically laid the groundwork for the foundations of formal limited positive constitutional and legal responsibility. Measures and sanctions of negative constitutional and legal responsibility as such were not provided for in it at all.

Next we will consider the Constitution of the USSR of 1929, which also had its own peculiarities in terms of determining the prospective and retrospective constitutional and legal responsibility.

Unlike the Constitution of the USSR of 1919, a similar Constitution of 1929 already provided for a system of negative constitutional and legal liability of state bodies and officials. We can also talk about the structuring and delimitation of responsibilities of the Republic and its state bodies and officials, the delimitation of collective and individual responsibilities.

The Constitution of the USSR of 1937 is characterized by both provisions common to previous constitutional acts and different norms. In accordance with the provisions of this Constitution, it is also possible to observe the differentiation of the constitutional and legal responsibility of the Republic in the spheres of public life. However, in the part of economic principles on guaranteeing personal property of citizens, the de jure responsibility was placed on the state (not in full).

In fact, long-term and retrospective constitutional and legal responsibility was already based on the principle of separation of powers and powers. As for the consolidation of negative constitutional and legal responsibility, it could be both collegial and individual.

Further, at the constitutional level, the issues of constitutional and legal responsibility of the state and state bodies were regulated by the Constitution of the USSR of 1978. The general principles of constitutional and legal responsibility of the state (USSR) were also differentiated within certain spheres of public life. This constitution regulated both long-term and retrospective liability, which could be both individual and collective. There are other stages in the formation and development of the institution of constitutional and legal responsibility.

It is quite logical that in legal science in general and in the science of constitutional law in particular, there are many different approaches to understanding the nature and content of constitutional liability.

In our opinion, scholars who have studied this issue have not sufficiently opened the question of the relationship between the concept of "constitutional and legal responsibility" with the concepts of "responsibility", "social responsibility", "legal responsibility". That is why it is necessary to investigate further.

It is advisable to start research on this issue from the category that is the most generalized – responsibility. Referring to the encyclopaedic interpretation, the concept of "responsibility" is defined as imposed on someone or assumed responsibility to be responsible for a particular area of work, business, actions, deeds, words [21, p. 177].

Thus, it can be said that responsibility (as a general category) is characterized by the fact that it is a certain duty that can be imposed by someone on someone (or on himself). It is also worth noting that this concept applies to a variety of areas. Responsibility by norms in any forms and kinds is provided.

The most generalized concept of "responsibility" can be transformed into the generic concept of "social responsibility", if it directly relates to the sphere of public relations. The remarks of O. O. Okhrimenko and T. V. Ivanov that social responsibility is an integral element in the system "man-state-society" [22, p. 7]. These scientists share two types of social responsibility:

1) real responsibility - real human actions that are consistent with the requirements of social norms, and in social terms - the negative consequences for a person resulting from the inconsistency of his actions with the requirements of social norms;

2) potential responsibility, which provides for an effective mechanism of social control, able to ensure that each perpetrator is brought to the appropriate type of social responsibility in cases of violation of social norms, and in personal – human awareness of responsibility for the consequences of personal activities [22, p. 7].

Social responsibility is endowed with the following features:

1) it is the conscious fulfilment of the duty (duty) of a person to society;

2) the dictates of the subject's conscience play an important role in the implementation;

3) failure to perform a duty involves the condemnation of such a person by society;

4) is a social phenomenon;

5) has an initiative character;

6) prefers a compromise between public interests and goals, on the one hand, and individual, professional, ethical, etc. aspirations, on the other [22, p. 9 - 10].

In turn, social responsibility becomes a category of legal responsibility for the legal regulation of public relations. It is quite appropriate to mention O. V. Zaychuk and N. M. Onishchenko that social and legal responsibility are correlated as general and special [23].

In our opinion, it can be argued that in relation to the general concept of "responsibility" and the generic concept of "social responsibility", the category of "legal responsibility" is a specific concept. Legal responsibility as a type of concept is endowed with the following features:

1) is a form of social responsibility;

2) is embodied in legal norms;

3) can be provided with coercion;

4) most often the state and state bodies apply this type of responsibility;

5) can be both positive and negative [24, p. 132 - 138; 25, p. 131 - 137; 26, p. 77 - 85; 27, p. 59 - 62; 28, p. 80 - 81; 29, p. 172 - 174;].

As for the constitutional and legal responsibility, it is a direct concept, which is a synthesis of both those features that are inherent in the above concepts, and those that are inherent only in it.

It is worth paying attention to the internal division of constitutional and legal responsibility into positive and negative. There is no consensus among scientists on this issue. O. V. Ivanenko is a representative of the direction of denying the existence of positive legal responsibility, and recognizes only negative legal responsibility. In his opinion, legal responsibility cannot be understood otherwise than by the offender receiving adverse consequences, feeling that he has a certain form of state coercion. Applying a sanction of a legal norm to its violator means imposing a legal obligation on him, forcing him to answer for what he has done [30, p. 4].

There is an opposite direction, which involves the division of such responsibilities into negative and positive. Scientists V. I. Kafarsky [31, p. 24], V. F. Pogorilko and V. L. Fedorenko, who defined the constitutional and legal responsibility as an independent type of legal

responsibility, which provides for the proper conscientious performance of the subjects of constitutional law of their duties (positive aspect) or the occurrence of negative consequences or undesirable change of the constitutional status for these subjects for violation of the norms of the current constitutional law (negative aspect) [32, p. 118].

T. I. Tarakhonych holds the same opinion, considering such a comprehensive definition of constitutional and legal responsibility the most successful [33, p. 60].

There are a number of other doctrinal concepts regarding the allocation of perspective and retrospective responsibility in the structure of constitutional and legal responsibility. Analysing the above, we can identify the following features inherent in this type of responsibility:

1) it is not only a kind of legal responsibility, but also social and legal;

2) defined in the norms of the Basic Law (in other constitutional acts), in the constitutional and legal norms;

3) acts as an institute of public law;

4) is the basis of general principles of legal responsibility for committing illegal acts, which are enshrined in the Constitution, for the formation of other types of responsibility;

5) applies to those entities that exercise political power;

6) is characterized by perspective and retrospective form;

7) is characterized by the specificity of the grounds for such liability, namely the fact of acquiring constitutional status or committing a constitutional tort.

Thus, constitutional and legal responsibility should be understood as a type of not only legal but also social and legal responsibility, which is determined by constitutional and legal norms, and is a regulator of proper performance by subjects of state power relations of their responsibilities. their acquisition of a specific constitutional status, as well as establishes constitutional and legal sanctions for committing a constitutional tort.

The Supreme Council of Ukraine (Parliament) is the only collegial legislative body of Ukraine, consisting of 450 deputies of Ukraine,

elected for a term of five years on the basis of universal, equal and direct suffrage by secret ballot. Therefore, the parliament is not only a subject of power, but also a leading subject of positive and negative constitutional and legal responsibility. The base of developments concerning the constitutional and legal responsibility of the parliament is quite significant [38; 34; 35; 36; 37; 38].

In accordance with Part 1 of Art. 9, paragraph 32 of Art. 85 of the Constitution of Ukraine, current international treaties, the binding nature of which was approved by the Supreme Council of Ukraine, are part of the national legislation of Ukraine [39].

It follows from such a constitutional norm that the parliament has a general positive constitutional and legal responsibility, which obliges it to exercise control over the conclusion of international treaties through ratification. Analyzing Article 85 of the Constitution of Ukraine, we can conclude that the parliament has such a constitutional and legal responsibility, which is positive:

1) the appointment of an all-Ukrainian referendum;

2) adoption of laws;

3) approval of the State Budget of Ukraine and amendments to it;

4) determining the principles of domestic and foreign policy;

5) calling the election of the President of Ukraine within the time limits provided by the Constitution;

6) declaration of war and peace at the request of the President of Ukraine;

7) removal of the President of Ukraine from office by special procedure (impeachment).

It is clear that along with positive constitutional and legal responsibility, negative constitutional and legal responsibility can also be applied to the Supreme Council of Ukraine.

Constitution of Ukraine in parts 2 and 3 of Art. 90 empowers the Head of State to terminate the activity of the Parliament if:

1) a coalition of deputy factions has not been formed in the Supreme Council of Ukraine within one month in accordance with Article 83 of this Constitution;

2) within sixty days after the resignation of the Cabinet of Ministers of Ukraine, the personal composition of the Cabinet of Ministers of Ukraine has not been formed;

3) plenary sessions may not begin within thirty days of one regular session. The decision on early termination of powers of the Supreme Council of Ukraine is made by the President of Ukraine after consultations with the Chairman of the Supreme Council of Ukraine, his deputies and chairmen of parliamentary factions in the Supreme Council of Ukraine [39].

As noted above, the Supreme Council of Ukraine is a collegial body, so it is clear that the constitutional and legal responsibility of such a body is collegial. If we are talking about a specific People's Deputy of Ukraine who is an individual, then such responsibility will be individual.

Law of Ukraine "On the Status of the People's Deputy of Ukraine" in particular Art. 6 establishes positive constitutional and legal responsibility. According to this article, a People's Deputy shall, in accordance with the procedure established by law:

1) participate in sittings of the Supreme Council of Ukraine;

2) participates in the work of deputy factions (groups);

3) participates in the work of committees, temporary special commissions, temporary commissions of inquiry formed by the Supreme Council of Ukraine;

4) executes instructions of the Supreme Council of Ukraine and its bodies;

5) participates in the work on bills and other acts of the Supreme Council of Ukraine;

6) participates in parliamentary hearings;

7) addresses a deputy's request or a deputy's appeal to the President of Ukraine, bodies of the Supreme Council of Ukraine, the Cabinet of Ministers of Ukraine, heads of other state authorities and local self-

government bodies, as well as heads of enterprises, institutions and organizations located in Ukraine subordination and forms of ownership in the manner prescribed by this Law and the Law on the Rules of Procedure of the Supreme Council of Ukraine [40].

The same law imposes a negative constitutional and legal responsibility on the People's Deputy of Ukraine. Namely, Part 2 of Art. 5 notes that in case of non-compliance with the requirement of incompatibility of the deputy mandate with other activities, the powers of the People's Deputy are terminated early on the basis of the law by a court decision.

In addition, a People's Deputy of Ukraine may be deprived of parliamentary immunity by a majority vote of the constitutional composition of parliament.

O. O. Maidanyk proposed a concept in which the Chairman of the Supreme Council, the Chairman of the Supreme Court, voters, deputies (not less than a quarter of the constitutional composition of parliament) will be able to raise the issue of deprivation of the mandate of the People's Deputy [41, p. 256].

As defined in Art. 102 of the Constitution of Ukraine, the President of Ukraine is the head of state and guarantor of state sovereignty, territorial integrity of Ukraine, compliance with the Constitution of Ukraine, human and civil rights and freedoms [39].

The Constitution also contains a norm (Article 106), which determines the long-term constitutional and legal responsibility for the head of state, namely:

1) ensures state independence, national security and succession of the state;

2) addresses with messages to the people and with annual and extraordinary messages to the Supreme Council of Ukraine on the internal and external situation of Ukraine;

3) represents the state in international relations, manages the foreign policy of the state, conducts negotiations and concludes international treaties of Ukraine;

4) decides on the recognition of foreign states;

5) appoint and dismiss the heads of diplomatic missions of Ukraine in other states and at international organizations;

6) appoints an all-Ukrainian referendum on amendments to the Constitution of Ukraine in accordance with Article 156 of this Constitution, proclaims an all-Ukrainian referendum on the people's initiative;

7) call early elections to the Supreme Council of Ukraine within the time limits established by this Constitution;

8) terminate the powers of the Supreme Council of Ukraine in the cases provided for by this Constitution;

9) submit, on the proposal of the coalition of parliamentary factions in the Supreme Council of Ukraine formed in accordance with Article 83 of the Constitution of Ukraine, a motion to appoint the Prime Minister of Ukraine by the Supreme Council of Ukraine no later than fifteen days after receiving such a proposal;

10) submit to the Supreme Council of Ukraine a motion to appoint the Minister of Defense of Ukraine, the Minister for Foreign Affairs of Ukraine;

11) appoints and dismisses the Prosecutor General and another with the consent of the Supreme Council of Ukraine [39].

That is, the powers of the head of state can be divided into the following:

1) powers to represent the state in domestic and foreign policy relations;

2) powers of the President in the sphere of legislative power;

3) powers of the President in the sphere of executive power;

4) powers of the President in the sphere of judicial power;

5) powers in the field of national security, defense and military policy.

It should be emphasized that the principle of division of power into 3 branches clearly distinguishes the powers of the President from other bodies. The head of state cannot interfere in the activities of bodies, but

he actively interacts with these bodies, while performing certain constituent functions [42, p. 108].

As for the negative constitutional and legal responsibility, its implementation takes place with the use of a specific institution of law - impeachment. According to Art. 111 of the Constitution of Ukraine, such an institution should be applied if the head of state committed treason or other crime in the manner prescribed by Art. 111 of the Constitution.

As for initiating the issue of removing the President of Ukraine from office, this is possible if 226 deputies of the Supreme Council of Ukraine (constitutional majority) raise such an issue.

To implement such a procedure, the legislation establishes the establishment of a special commission of inquiry by the Supreme Council of Ukraine, which is temporary and consists of a special prosecutor and investigators. Absolutely all proposals, conclusions and recommendations of such a collegial and temporary body should be considered by the Supreme Council of Ukraine at its meeting. If the grounds are found, the Supreme Council of Ukraine shall make a corresponding decision on the accusation of the President. Such a decision is made by at least 2/3 of the constitutional composition.

The next step is for the Constitutional Court to review all the case materials in order to conclude that the impeachment procedure has been reviewed and investigated. The next step is taken by the Supreme Court, which concludes that in fact the actions of the President of Ukraine have all the hallmarks of treason or some other crime.

After passing all these steps, the Supreme Council of Ukraine may take a decision to remove the President through the impeachment procedure. Such a decision is made by at least three quarters of the constitutional composition [43].

Analyzing all the above, in our opinion, it is necessary to pay attention to the fact that such an impeachment procedure has some shortcomings. The latter is that the President of Ukraine seems to stand above the Constitution of Ukraine, although he acts as its guarantor. This is argued by the fact that three-fourths of the constitutional composition

of the Supreme Council is a necessary condition for the removal of the President of Ukraine, and two-thirds of the votes of the deputies of the constitutional composition of the Supreme Council of Ukraine are sufficient for amendments to the Basic Law. Analyzing doctrine and history, this situation is more typical of dictatorial states, to which Ukraine certainly cannot be attributed.

You can also ask questions about the appropriateness and correctness of the form of government of Ukraine. Ukraine is a parliamentary-presidential republic, so, in our opinion, three-fourths of the votes for the removal of the President of Ukraine is too big. This issue can be resolved in two ways: 1) it is necessary to revise the form of government of Ukraine and replace it with presidential-parliamentary; 2) or reduce the threshold by three quarters of the votes of the constitutional composition of the Supreme Council of Ukraine.

According to the Constitution of Ukraine, the highest collegial executive body is the Cabinet of Ministers of Ukraine (government). The Cabinet of Ministers of Ukraine is accountable to the President of Ukraine and the Supreme Council of Ukraine, under the control of and accountable to the Supreme Council of Ukraine. It is this constitutional provision that determines the positive constitutional and legal responsibility of this body.

Also Art. 116 of the Constitution of Ukraine contains additions to the long-term responsibility of the Government of Ukraine, which specifies the areas of its powers, in particular:

1) ensures the state sovereignty and economic independence of Ukraine, the implementation of domestic and foreign policy of the state, the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine;

2) take measures to ensure the rights and freedoms of man and citizen;

3) ensures the implementation of financial, pricing, investment and tax policies; policies in the areas of labor and employment, social

protection, education, science and culture, nature protection, environmental security and nature management;

4) develops and implements national programs of economic, scientific and technical, social and cultural development of Ukraine;

5) provides equal conditions for the development of all forms of ownership; manages state property in accordance with the law;

6) develops the draft law on the State Budget of Ukraine and ensures the implementation of the State Budget of Ukraine approved by the Supreme Council of Ukraine, submits a report on its implementation to the Supreme Council of Ukraine;

7) take measures to ensure the defense capability and national security of Ukraine, public order, and the fight against crime;

8) organizes and ensures the implementation of foreign economic activity of Ukraine, customs;

9) directs and coordinates the work of ministries and other executive bodies;

10) form, reorganize and liquidate in accordance with the law of the Ministry and other central executive bodies, acting within the funds provided for the maintenance of executive bodies;

11) appoints and dismisses heads of central executive bodies that are not members of the Cabinet of Ministers of Ukraine on the proposal of the Prime Minister of Ukraine;

12) exercises other powers determined by the Constitution and laws of Ukraine [39].

That is, it is quite possible to agree with the opinion of I. Pakhomov that the long-term responsibility of the Cabinet of Ministers of Ukraine is twofold. First, it is about responsibility to the Head of State, and secondly, about the control and accountability of the Supreme Council of Ukraine [44, p. 39].

Art. 87 of the Constitution of Ukraine establishes retrospective liability, namely: the Supreme Council of Ukraine on the proposal of the President of Ukraine or at least one third of the deputies of the constitutional composition of the Supreme Council of Ukraine may

consider the responsibility of the Cabinet of Ministers of Ukraine and adopt a resolution of no confidence composition of the Supreme Council of Ukraine [39].

This constitutional norm refers to the collegial responsibility of the Cabinet of Ministers of Ukraine (as a collegial body). It should also be noted that the level of legislation defines such responsibilities, which have an individual character. In particular, according to Art. 18 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine", a member of the Cabinet of Ministers of Ukraine (except the Prime Minister of Ukraine) may be dismissed by the Supreme Council of Ukraine [45].

Local state administrations are also subject to constitutional and legal liability, both long-term and retrospective. In this case, it is a local aspect of this type of responsibility.

The responsibilities of these entities are collegial. In accordance with Part 6 and Part 7 of Art. 118 of the Constitution of Ukraine, local state administrations are accountable to and under the control of councils in terms of powers delegated to them by the relevant district or regional councils (horizontal responsibility), as well as accountable and controlled by higher executive bodies.

It is this constitutional norm that gives grounds for asserting that such a promising constitutional and legal responsibility can be both horizontal and vertical [46, p. 202].

Heads of local state administrations in accordance with Part 5 of Art. 118 of the Constitution endowed with positive constitutional and legal responsibility, which has an individual character, in the exercise of its powers and responsible to the President of Ukraine and the Cabinet of Ministers of Ukraine, accountable and controlled by higher executive bodies [39; 47, p. 195].

Negative constitutional and legal responsibilities of an individual nature may also be applied to the heads of local state administrations, namely:

1) for part 8 of Art. 118 of the Constitution of Ukraine, decisions of heads of local state administrations that contradict the Constitution and

laws of Ukraine, other acts of legislation of Ukraine may be revoked by the President of Ukraine or the head of the local state administration of higher level;

2) according to Part 9 of Art. 118 of the Constitution of Ukraine, the regional or district council may express a vote of no confidence in the head of the relevant local state administration, on the basis of which the President of Ukraine makes a decision and gives a reasoned response. If two thirds of deputies from the relevant council express distrust in the head of the district or regional state administration, the President of Ukraine decides on the resignation of the head of the local state administration [48, p. 14].

Everyone knows the principle of separation of powers, which is enshrined in Art. 6 of the Basic Law of Ukraine. It is noted here that state power in Ukraine is exercised on the basis of its division into legislative, executive and judicial. At the same time, the bodies of legislative, executive and judicial power exercise their powers within the limits established by this Constitution and in accordance with the laws of Ukraine [49, p. 52].

This makes it possible to conclude that the subjects of the judiciary are endowed with constitutional and legal responsibility. Proper performance by judges of tasks, functions and powers in the field of justice is a positive constitutional and legal responsibility. Promising responsibility is characterized by the following feature, which is fixed at two levels:

1) at the general level, ie in the Constitution of Ukraine, in particular, Section VIII "Justice" of the Basic Law of Ukraine;

2) at the special level, ie in the laws concerning the judiciary, namely, the Laws of Ukraine "On the Judiciary and the Status of Judges", "On the High Council of Justice", etc. [49, p. 54].

General functions and tasks of the judicial system are enshrined in Art. 124 of the Constitution of Ukraine. According to this article, justice in Ukraine is administered exclusively by courts. Delegation of court functions, as well as assignment of these functions to other bodies or

officials is not allowed. The jurisdiction of the courts extends to all legal relations arising in the state. Judicial proceedings are carried out by the Constitutional Court of Ukraine and courts of general jurisdiction.

The Law of Ukraine "On the Judiciary and the Status of Judges" is a specialized normative legal act, which defines in detail the competence of judges themselves, which serves as a basis for long-term constitutional liability in compliance with regulations and retrospective constitutional liability in violation of legislation. .

According to Art. 23 of the Law of Ukraine "On the Judiciary and the Status of Judges", a local court judge conducts proceedings in the manner prescribed by procedural law, as well as other powers defined by law [50].

In Art. 54 of the same Law defines the requirements for a judge. These include: In particular,

1) holding the position of a judge is incompatible with holding a position in any other body of state power, local self-government body and with a representative mandate.

2) a judge has no right to combine his / her activity with entrepreneurial or advocacy activity, any other paid work (except teaching, research and creative activity), as well as to be a member of the governing body or supervisory board of a for-profit enterprise or organization .

3) a judge may not belong to a political party or trade union, show support for them, participate in political rallies, rallies, strikes [50].

Failure to comply with such requirements may be grounds for bringing a judge to retrospective constitutional, legal or disciplinary responsibility.

Part 7 of Article 56 of the same law obliges judges:

1) fairly, impartially and timely consider and resolve court cases in accordance with the law in compliance with the principles and rules of procedure;

2) adhere to the rules of judicial ethics, including the detection and maintenance of high standards of conduct in any activity in order to

strengthen public confidence in the court, ensure public confidence in the honesty and integrity of judges;

3) submit a declaration of integrity of the judge and a declaration of family ties of the judge;

4) show respect for the participants in the process;

5) not to disclose information that constitutes a secret protected by law, including the secret of the deliberation room and closed court session;

6) comply with the requirements and comply with the restrictions established by the legislation in the field of prevention of corruption;

7) submit a declaration of a person authorized to perform the functions of the state or local self-government;

8) systematically develop professional skills (abilities), maintain their qualifications at the appropriate level necessary for the exercise of powers in the court where he holds office;

9) to notify the High Council of Justice and the Prosecutor General of the interference with his / her activities as a judge in the administration of justice within five days after he / she became aware of such interference;

10) confirm the legality of the source of property in connection with the qualification assessment or disciplinary proceedings against a judge, if circumstances that may result in disciplinary action against the judge raise doubts about the legality of the source of property or the integrity of the judge's conduct [50] .

As already mentioned, judges are subjects of retrospective constitutional liability. Namely, the Constitution of Ukraine in Art. 126 determines the grounds when the term of office of a judge may be terminated prematurely. These include:

a) violation by a judge of incompatibility requirements;

b) violation of the oath by a judge;

c) the entry into force of a conviction against him.

The violation of the oath by a judge is specific, because in this case we can talk not only about pure constitutional and legal responsibility, but

also about its symbiosis with disciplinary, moral, and in some cases even with criminal responsibility.

To such cases Knysh V. V. includes:

• the judge's actions that devalue the title of judge and may cast doubt on his objectivity, impartiality and independence, honesty and integrity of the judiciary;

• Illegal receipt by a judge of material benefits or incurrence of expenses in excess of the income of such judge and members of his family;

• intentional delay by a judge in the terms of consideration of the case beyond the deadlines established by law;

• violation of moral and ethical principles of judge's behavior [49, p. 56 - 57].

Comparing disciplinary and constitutional liability, we can see similarities in legal consequences. Disciplinary liability of judges is enshrined in the Law of Ukraine "On Judiciary and Status of Judges" in the form of possible disciplinary sanctions and provides for disciplinary proceedings against judges by the High Council of Justice, while negative constitutional liability provides for final loss of constitutional status.

At the same time, it should be noted that there is a difference in the sanctions for these types of liability. If the negative constitutional and legal responsibility entails the loss of the constitutional and legal status of a judge, then in turn disciplinary responsibility does not entail the final deprivation of the status of a judge, because it involves reprimand or demotion without losing the existing status of a judge.

If a conviction has been handed down against a particular judge and has entered into force, then it is a combination of criminal, disciplinary and constitutional liability. The application of criminal liability in such cases will be of preliminary importance. This is due to the fact that the basis for disciplinary action in the form of dismissal in the manner prescribed by the Law of Ukraine "On the High Council of Justice" is a conviction (which has already entered into force), and therefore it is the

basis for further retrospective constitutional -legal liability in the form of loss of constitutional status of a judge.

Thus, we can conclude that the constitutional and legal responsibility of judges has the following features: 1) such responsibility can be both long-term and retrospective; 2) it can be easily combined with disciplinary or criminal and even moral responsibility; 3) but at the same time can exist in a "pure" form, ie without the use of other types of liability.

Another subject of state-power relations, which is also subject to constitutional and legal responsibility, is the system of local self-government bodies. It is also worth noting that this system currently needs to be reformed in general and to improve constitutional and legal responsibility. This issue is very relevant and of practical importance.

These entities have their own peculiarity, namely that they essentially combine the features of the institution of the state (in the part of powers delegated to them by the executive) and the institution of civil society (in that part of self-government powers).

In order to determine the features and problematic issues of constitutional and legal responsibility of this subject, it is necessary to analyze both the Constitution of Ukraine and a special legal act - the Law of Ukraine "On Local Self-Government".

Analyzing the Constitution of Ukraine, as Knysh VV successfully noted, we can identify several groups of norms that directly establish the status of local self-government in Ukraine, as well as the basis of constitutional and legal responsibility of its bodies [51, p.32].

The first group is the norms-principles, which establish the basic provisions on the legal status of local self-government bodies and their constitutional and legal responsibility (ie such norms are basic and starting for other norms).

Examples of such norms are Article 7 of the Constitution of Ukraine, which states that local self-government is recognized and guaranteed in Ukraine, and Article 5 of the Law of Ukraine “On Local Self-Government in Ukraine” stipulates that the system of local self-

government includes: territorial community; village, settlement, city council; village, settlement, city mayor; executive bodies of village, settlement, city council; district and regional councils representing the common interests of territorial communities of villages, settlements, cities; bodies of self-organization of the population. in addition, in cities with district division by the decision of the territorial community of the city or city council may be formed district councils in the city. District councils in cities form their own executive bodies and elect the chairman of the council, who is also the chairman of its executive committee.

From the above, it is clear that in the structure of local self-government there are individual and collegial entities, which in turn distinguishes two forms of constitutional liability: 1) long-term and retrospective constitutional liability of individual entities such can be attributed to the heads); 2) perspective and retrospective constitutional and legal responsibility of collegial subjects (these include local councils and their commissions).

It is important to note that the constitutional and legal responsibility of individual and collegial local governments has a very close relationship and is interrelated. An example of this is Part 1 of Art. 141 of the Constitution of Ukraine, according to which the termination of the powers of the village, town, city, district, regional council has the effect of terminating the powers of the deputies of the relevant council.

Thus, in the event of termination of the powers of those entities that are considered collegial, the powers of those entities that are defined as individual will be terminated.

The second group consists of such norms that directly determine the constitutional and legal responsibility of individual subjects. Examples of such rules are:

1) Part 5 of Article 49 of the Law of Ukraine "On Local Self-Government" in case a deputy misses more than half of the plenary sessions of the council or meetings of the standing committee, failure to implement without good reason decisions and instructions of the council

and its bodies a proposal to recall such a deputy in the manner prescribed by law;

2) Part 5 of Article 50 of the same Law, the powers of the secretary of the village, settlement, city council may be prematurely terminated by the decision of the relevant council;

3) Part 3, 4 of Article 56 of this law the powers of the deputy chairman of the district in the city, district council, first deputy, deputy chairman of the regional council may be prematurely terminated without termination of powers of the deputy of the council by decision of the council. The issue of early termination of their powers may be submitted to the relevant council at the request of at least one third of the deputies from the general membership of the council or the chairman of the council. Powers of the deputy chairman of the district in the city, district council, first deputy, deputy chairman of the regional council are also considered prematurely terminated without termination of powers of the deputy of the relevant council in case of a personal application to the relevant council to resign as deputy (first deputy);

4) Part 4 and 5 of Article 55 determine the constitutional and legal responsibility of the chairman of the district, regional, district council in the city in its activities, the chairman of the council is accountable to the council and may be dismissed by secret ballot. The issue of dismissal of the chairman of the council may be submitted to the council at the request of at least one third of the deputies of the general membership of the council. The dismissal of a person from the position of the chairman of the council does not have the effect of terminating the powers of the deputy of this council. The powers of the chairman of the district, regional, district council in the city are also considered prematurely terminated without termination of the powers of the deputy of the council in case of a personal application to the relevant council to resign as chairman of the council [52].

The third group consists of such norms that directly determine the constitutional and legal responsibility of subjects that are collegial. Such norms include:

1) Part 14 of Art. 47 of the Law of Ukraine "On Local Self-Government in Ukraine" standing committees are accountable to the council and responsible to it;

2) Part 4 of Art. 48 of the same Law, the powers of the temporary control commission of the council are terminated from the moment the council makes a final decision on the results of this commission, as well as in case of termination of powers of the council that created this commission [52].

Thus, we can conclude about the peculiarities of the constitutional and legal responsibility of local governments:

1) normative legal acts that directly regulate the constitutional and legal responsibility of local governments are the Constitution of Ukraine, in particular, Chapter XI "Local Self-Government" and the Law of Ukraine "On Local Self-Government", which is a special legal act and details the Basic Law ;

2) the constitutional and legal responsibility of local self-government bodies is a merger of two components that are closely interrelated and may be interdependent - the responsibility of collegial and individual subjects of local self-government;

3) all norms concerning constitutional and legal responsibility can be conditionally divided into 3 groups: 1) norms-principles; 2) norms that directly determine the constitutional and legal responsibility of individual subjects; 3) norms that directly determine the constitutional and legal responsibility of collective entities;

4) the state of constitutional and legal responsibility of the named subject is far from ideal, and therefore must be improved.

On September 30, 2016, the Law of Ukraine “On Amendments to the Constitution of Ukraine (Regarding Justice)” of June 2, 2016 № 1401-VIII entered into force. This law excluded Chapter VII of the Constitution of Ukraine "Prosecutor's Office". And the main principles of functioning and activity of the prosecutor's office are enshrined in Article 1311 of the Constitution of Ukraine, which is contained in Chapter VIII, which deals with "Justice".

It is important to emphasize that the exclusion of this section from the Constitution of Ukraine does not mean that the subjects of constitutional liability can not be the prosecutor's office.

Analyzing the features of the constitutional and legal responsibility of such a subject, it is necessary to consider 2 aspects:

1) long-term responsibility, which arises from the moment of acquiring a special (constitutional) status and is reduced to the proper performance of the duties imposed by law;

2) retrospective liability, which is characterized by the imposition of constitutional sanctions in case of a constitutional tort.

Prior to the entry into force of the Law of Ukraine "On Amendments to the Constitution of Ukraine (on Justice)", Article 121 contained the following provisions: that the Prosecutor's Office of Ukraine is the only system relied on: 1) support for public prosecution in court; 2) representation of the interests of a citizen or the state in court in cases specified by law; 3) supervision over observance of laws by bodies conducting operative-search activity, inquiry, pre-trial investigation; 4) supervision over the observance of the law in the execution of court decisions in criminal cases, as well as in the application of other coercive measures related to the restriction of personal liberty of citizens.

That is, this is how the long-term constitutional and legal responsibility of the prosecutor's office was determined.

At the moment, the main normative legal act, which contains norms, which enshrine long-term constitutional and legal responsibility, is the Law of Ukraine "On the Prosecutor's Office". In particular, Article 2 specifies the functions of the prosecutor's office: 1) support for public prosecution in court; 2) representation of the interests of a citizen or the state in court in cases specified by this Law and Chapter 12 of Section III of the Civil Procedure Code of Ukraine; 3) supervision over observance of laws by bodies conducting operative-search activity, inquiry, pre-trial investigation; 4) supervision over the observance of the law in the execution of court decisions in criminal cases, as well as in the

application of other coercive measures related to the restriction of personal liberty of citizens.

Also, in order to implement its functions, the prosecutor's office carries out international cooperation [53].

Analyzing the provisions of the Law of Ukraine "On the Prosecutor's Office", we can see that it also determines the sole constitutional and legal responsibility. In particular, Art. 9 of this law stipulates that the Prosecutor General:

1) represents the prosecutor's office in relations with public authorities, other state bodies, local self-government bodies, persons, enterprises, institutions and organizations, as well as prosecutor's offices of other states and international organizations;

2) organize the activities of the bodies of the Prosecutor's Office of Ukraine, including determining the limits of authority of the Office of the Prosecutor General, regional and district prosecutor's offices in terms of performing constitutional functions;

3) appoint prosecutors to administrative positions and dismiss them from administrative positions in the cases and in accordance with the procedure established by this Law;

4) in accordance with the established procedure on the basis of the decision of the relevant body to bring the prosecutor to disciplinary responsibility decides on the application of the Prosecutor General's Office, the prosecutor of the regional prosecutor's office disciplinary action or the impossibility of such a person;

5) appoints and dismisses prosecutors of the Office of the Prosecutor General in the cases and in accordance with the procedure established by this Law;

6-1) distributes responsibilities between the First Deputy and Deputy Attorneys General;

7) approve acts on issues related to the internal organization of the activities of the prosecutor's office, including on electronic document management;

7-1) approves the strategy for the development of the prosecutor's office;

7-2) approve the provisions on the system of individual evaluation of the quality of work of prosecutors and the system of evaluation of the quality of work of prosecutors;

7-3) approve the procedure for measuring and regulating the burden on prosecutors;

8) ensure compliance with the requirements for professional development of prosecutors of the Office of the Prosecutor General;

9) approve general methodological recommendations for prosecutors in order to ensure uniform application of the norms of the legislation of Ukraine during the implementation of prosecutorial activities;

9-1) at the request of the General Inspectorate sends materials to the State Bureau of Investigation;

9-2) determine the procedure for consideration of appeals regarding improper performance by the prosecutor holding an administrative position of the official duties established for the relevant administrative position;

10) performs other powers provided by this and other laws of Ukraine [53].

You can also mention Art. 11 (powers of the head of the regional prosecutor's office):

1) represents the regional prosecutor's office in relations with state authorities, other state bodies, local self-government bodies, persons, enterprises, institutions and organizations;

2) organizes the activities of the regional prosecutor's office;

3) appoints and dismisses prosecutors of regional and district prosecutor's offices in accordance with the procedure established by this Law;

4) approve acts on issues related to the organization of the regional prosecutor's office;

6) ensures compliance with the requirements for professional development of prosecutors of the regional prosecutor's office;

7) appoints prosecutors to administrative positions and dismisses prosecutors from administrative positions in the cases and in accordance with the procedure established by this Law;

8) in accordance with the established procedure and on the basis of the decision of the relevant body on bringing the prosecutor to disciplinary responsibility, decides on the application of a disciplinary sanction to the prosecutor of the district prosecutor's office or the impossibility of his further position as prosecutor;

9) control the maintenance and analysis of statistical data, organize the study and generalization of the practice of application of legislation and information and analytical support of prosecutors in order to improve the quality of their functions;

10) performs other powers provided by this and other laws of Ukraine [53];

and Article 13 (powers of the head of the district prosecutor's office):

1) represents the district prosecutor's office in relations with state authorities, other state bodies, local self-government bodies, persons, enterprises, institutions and organizations;

2) organizes the activities of the district prosecutor's office;

4) ensures compliance with the requirements for professional development of prosecutors of the district prosecutor's office;

4-2) control the maintenance and analysis of statistical data, organize the study and generalization of the practice of application of legislation, information and analytical support of prosecutors in order to improve the quality of their functions;

5) performs other powers provided by this and other laws of Ukraine [53].

These norms contain provisions on the proper implementation of the responsibilities assigned to the prosecutor's office.

Another positive constitutional and legal responsibility is determined by Article 6 of the same law, which stipulates that the Prosecutor General personally reports on the activities of the prosecutor's office to the Verkhovna Rada of Ukraine at its plenary session. Heads of regional and district prosecutor's offices at an open plenary meeting of the relevant council, to which media representatives are invited, at least twice a year inform the population of the relevant administrative-territorial unit about the results of activities in this area by providing generalized statistics and analytical data [53].

In contrast to these norms, Article 42 of the Law of Ukraine “On the Prosecutor's Office” defines retrospective constitutional and legal liability.

The Prosecutor General shall be dismissed from office by the President of Ukraine with the consent of the Verkhovna Rada of Ukraine upon submission of the relevant disciplinary body or the High Council of Justice, as well as in the case of child support arrears exceeding twelve months from the date of presentation of the executive document for enforcement.

The powers of the Prosecutor General in an administrative position are terminated if the Verkhovna Rada of Ukraine expresses no confidence in the Prosecutor General, which results in his resignation from this administrative position [53].

Summing up, we can conclude that:

1) the exclusion of Chapter VII of the Constitution of Ukraine "Prosecutor's Office" does not exclude from the list of subjects of constitutional and legal responsibility of the prosecutor's office;

2) the constitutional and legal responsibility of the prosecutor's office can be both long-term and retrospective;

3) the law itself stipulates that the constitutional and legal responsibility of the prosecutor's office may be individual or collective.

Thus, the existence of a constitutional or legal liability is not a prerequisite for the existence of a constitution or other constitutional acts, as is usually the case in legal science. This is primarily due to the fact that

at different stages of historical development there were other regulators of social relations, which performed functions belonging to constitutional norms, as well as subjects of administrative (state-government) relations existed in previous centuries, regardless of whether constitutional acts, and between them still formed a system of mutual responsibility.

The existence of constitutional and legal responsibility in the Ukrainian lands can be observed at different historical stages (during the times of Kievan Rus, Galicia-Volyn principality, constitutional and legal responsibility was enshrined in the Constitution of Philip Orlyk in 1710 and during the UPR and USSR).

The application of measures of constitutional and legal responsibility to the subjects of constitutional relations (primarily to public authorities and their officials and officials) can effectively promote the implementation of their tasks and functions, the proper performance of powers by the above entities.

Constitutional and legal responsibility is a specific type of legal (social) responsibility, which is determined by constitutional norms and provides for the appropriate and proper performance of certain subjects of duties that they received as a result of their special constitutional status, as well as provides for constitutional and legal sanctions (as a negative consequence) in case of commission of a constitutional tort by these subjects.

However, it should be noted that not only the general understanding of constitutional and legal responsibility in general, but also the allocation of long-term and retrospective responsibility in its structure is important.

Positive (perspective) legal responsibility is not a mechanical submission of an individual to the law, caused by fear of punishment, but voluntary implementation of laws based on a high legal and political culture of the citizen. That is, "legal responsibility cannot be reduced only to state coercion, as well as state coercion to legal responsibility, because the state on the basis of current legislation can not only coerce but also encourage the subjects of legal relations." Only the constitutional and

legal responsibility of the state, public authorities and officials can be "positive".

The "positivity" of the constitutional and legal responsibility of these subjects is due to the specifics of their legal status, which is characterized by imperative. It is manifested mainly in the directed influence - as a responsible attitude of the subjects to their constitutional competencies and effective socially useful implementation.

Negative (retrospective) constitutional liability involves the emergence of public relations, which is a negative reaction of the state to the already committed constitutional offense, and is that the subject of this offense suffers from personal and property damage. That is, in this aspect, constitutional and legal responsibility is directed in retrospect - constitutional and legal responsibility as a type of social relations arises after another type of social relations - a constitutional offense and is the state's response to this offense.

If negative (retrospective) responsibility performs protective functions, then positive (perspective) responsibility expresses its democratic character and creative role.

The following signs of constitutional and legal responsibility can be distinguished:

a) it is a kind of social and legal, not purely legal responsibility;

b) determined by the norms of the Constitution and constitutional laws of Ukraine;

c) belongs to the institutions of public law;

d) is political in nature, has special grounds for application.

Analyzing the Constitution of Ukraine and special legal acts, we can say that in case of non-compliance or improper execution of positive constitutional and legal responsibility by legislative, executive and judicial bodies and the President of Ukraine, negative constitutional responsibility will be applied to these entities.

However, such liability contains some shortcomings that need to be addressed by amending the Constitution of Ukraine and adopting a separate Law of Ukraine "On Constitutional and Legal Liability".

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Main directions of codification of Ukrainian legislation on healthcare

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According to Art. 3 of the Constitution of Ukraine, man, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value. According to the content of this article, human health is one of the most important social values that are subject to special legal protection by the state and society. That is why health care is an integral and important area of public administration in general and an element of a special part of administrative regulatory law in particular, which is externally expressed through a set of legal norms integrated into medical law.

It should also be noted that health care and effective legal regulation in this area cannot be ensured without an adequate level of systemic legal norms. This level of systematization can be ensured only by systematization in the form of codification of medical legislation of Ukraine within the new codified act (comprehensive law, new foundations of medical legislation or the Medical Code of Ukraine).

This issue at the general theoretical level was previously partially covered by scientific research of O. Zaychuk, V. Zabigail, V. Kolodiy, N. Onishchenko and others. At the sectoral level, the problems of systematization and codification of medical legislation are to some extent devoted to the works of Z. Gladun, S. Istomin, O. Klymenko, R. Maidanyk, V. Pashkov, I. Senyuta, S. Stetsenko, V. Soroka, O. Tsiborovsky.

However, in addition to regulating public relations in the field of health care under normal circumstances, given the situation with various pandemics (Ebola virus, and especially – "Covid-19") at the present stage of development of society, the content of modern codified medical

legislation should take into account the specifics of these relations and in emergency conditions – pandemics and other circumstances that complicate the organization of health care, management and legal regulation in this area.

Legislation, as a specific system of interrelated regulations, is also a source of law in the field of health care in Ukraine. However, the medical legislation of Ukraine is only a legal form that to some extent adequately reflects the legal content – the essence of medical law of Ukraine.

It is also worth noting that the concept of "medical law" is used to define the relevant subjective rights of an individual (patient), as well as defines it as a system of legal norms in the field of health care.

However, in our opinion, medical law should be considered in the following senses:

1) objective medical law – a set of legal norms that determine the principles of realization of the right to health care and regulate the procedure for providing medical services;

2) subjective medical law – real opportunities of citizens of Ukraine in the field of health care and provision of medical services.

Given these approaches, it is worth noting that the current practice of using the term "medical law" in the legal doctrine of Ukraine makes it possible to state the following aspects:

1) as a system of legal norms – a sub-branch of administrative law, which determines the principles, grounds and procedure for exercising the right to health care and medical services, as well as features of management in this area;

2) as a system of legislation – a set of regulations governing the principles of management and features of medical services in Ukraine;

3) as a science – the field of knowledge about the main trends in the development of medical law of Ukraine, as well as ways to solve the main problems of legal regulation in this area;

4) as an academic discipline, which aims to form students' knowledge of medical law and medical legislation (especially – students of law and medical specialties).

Thus, medical law is a sub-branch of administrative law that regulates managerial, organizational and other related relations in the field of the right to health care and the provision of medical services.

As an integral element of the Ukrainian law system, medical law is a complex legal entity that is a relatively independent field of law in the domestic law system and includes a set of legal norms designed to regulate public relations related to the implementation of human rights in the field of protection health.

The complex nature of medical law, due to the existence of private and public legal relations, which are the subject of this legal entity, allows the extension of these relations of fundamental branches of law governing homogeneous relations (civil, administrative, financial, criminal, procedural law). However, this does not prevent its definition as a sub-branch of administrative law of Ukraine.

Norms of medical law must comply with the provisions of the basic branches of law, which are usually correlated as special (medical law) and general (civil law, administrative law, etc.).

The external form of expression (legal form) of medical law is medical legislation, which, unfortunately, does not sufficiently reflect the legal matter. In this regard, it should be noted that medical legislation includes four main groups (levels) of regulations:

1) constitutional level - the Constitution of Ukraine of June 28, 1996, with the following changes and additions. (Article 49 - the right to health care, medical assistance and medical insurance);

2) general codified level, covering sectoral codes that are directly or indirectly applied in the medical field (Civil Code of Ukraine, Criminal Code of Ukraine, etc.);

3) specialized codification level - is expressed in the Fundamentals of the legislation of Ukraine on health care as a special codified act in the field of health care;

4) specialized legislative and by-law level (level of special laws and by-laws that regulate certain areas of medical activity, in particular, donation, mental health care, certain infectious diseases, etc.).

At the first (constitutional) level, the normative principles of the right to health care are determined by the following articles:

1) general principles of medical law - defined in Art. 3 of the Basic Law of Ukraine, according to which a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value;

2) ensuring the equality of citizens in all spheres of public life, including health care - determined in Part 2 of Art. 24 of the Constitution of Ukraine, according to which equality of rights of women and men is ensured by: providing women with equal opportunities with men in socio-political and cultural activities, in education and training, in work and remuneration for it; special measures for the protection of women's labor and health, the establishment of pension benefits; creating conditions that enable women to combine work with motherhood; legal protection, material and moral support of motherhood and childhood, including the provision of paid leave and other benefits to pregnant women and mothers;

3) medical and social rights of the person provided for in Art. 49 of the Constitution of Ukraine. Under this rule, everyone has the right to health care, medical assistance and medical insurance. This right is guaranteed by the free provision of medical care by state and municipal health care facilities and is provided at the constitutional level.

The second, the general codified level of definition of the right to health and medical law, includes:

1) the provisions of the Central Committee of Ukraine. In particular, the civil law framework for the regulation of human rights in the field of health care is defined in Art. 281-287 of the Civil Code of Ukraine, the rules of which determine the basic personal inalienable human rights in the field of health (Article 281 "right to life", Article 282 "right to eliminate the danger to life and health", Article Article 283 "Right to health care", Article 284 "Right to medical care", Article 285 "Right to information about one's health", Articles 286, 289-290 "Right to secrecy

about one's health" "I", Article 287 "rights of an individual who is in inpatient treatment in a health care institution" CC);

2) medical principles of the Criminal Code of Ukraine. These include Art. 139, 140, 145, 184 of the Criminal Code of Ukraine, which determine the composition of crimes against life and health, personal rights of citizens (Article 139 "Failure to provide care to a sick medical worker", Article 140 "Improper performance of professional duties by medical or pharmaceutical employee ", Article 145" Illegal disclosure of medical secrets ", Article 184" violation of the right to free medical care").

The third, specialized codification level of legal regulation in the research area is the "Fundamentals of the legislation of Ukraine on health care" from 19.11.1992, which is the basic special legislation in Ukraine in this area and determines the legal basis of health care, ensuring healthy and safe living conditions, medical and preventive care. However, they do not regulate all areas of health care, as a result of which the latter are regulated by special laws (on donation, mental health, certain infectious and non-infectious diseases, etc.) [46, p. 62–85; 52, p. 84–88].

The fourth level (specialized legislative and by-law level) of legal regulation of medical relations can be divided into the following subgroups:

1) a subgroup of acts that determine the provision of medical care (legislation on donation, organ transplantation, organ implantation, implantation of pacemakers, psychiatric care and combating tuberculosis);

2) acts on the legal status of patients (Law of Ukraine "On Consumer Protection" of December 1, 2005, acts on patients' rights, as well as draft regulations in this area);

3) acts on the legal status of medical and pharmaceutical workers (for example, certain provisions of the laws of Ukraine (On combating the spread of diseases caused by human immunodeficiency virus (HIV) and legal and social protection of people living with HIV) and "On psychiatric care") ;

4) acts in the field of health care financing of the Budget Code of Ukraine of July 8, 2010, the Law of Ukraine "On Insurance" of March 7, 1996, the basics of the legislation of Ukraine on compulsory state and social insurance of January 14, 1998, annual Laws of Ukraine on the State Budget of Ukraine, etc.);

5) acts on health and prevention activities "Laws of Ukraine" On AIDS Prevention and Social Protection "of 12.12.1991," On Physical Culture and Sports "of 24.12.1993," On the circulation of narcotic drugs in Ukraine , psychotropic substances, their analogues and precursors "of 15.02.1995;" On state regulation of production and circulation of ethyl alcohol, cognac and fruit, alcoholic beverages and tobacco products "of 19.12.1995," On protection of the population from infectious diseases " "From 06.04.2000;" About resorts "from 05.10.2000;" About counteraction to tuberculosis "from 05.07.2001);

6) acts in the field of ensuring safe living conditions (in particular, the Laws of Ukraine "On Environmental Protection" of 25.06.1991; "On Protection of Atmospheric Air" of 16.10.1992; "On the Quality and Safety of Food and Food"). raw materials "from 23.12.1997;" About protection of the person against influence of ionizing radiation "from 14.01.1998;" About maintenance of sanitary and epidemic well-being of the population "from 07.02.2002);

7) acts on the organization and management of health care, as well as on economic activities in the field of medicine. This area of acts is the least developed, includes hundreds of bylaws in this area. Among the laws here we can mention the Law of Ukraine "On Medicinal Products" of 04.04.1996, which regulates legal relations related to the creation, registration, production, quality control and sale of medicines, defines the rights and obligations of enterprises and institutions , organizations and citizens, as well as the powers in this area of state executive bodies and officials, albeit partially, but regulates the organization and management of health care.

In the scientific literature, given the need to take into account all the features and regulation of economic activity in the field of health care, the

proposal substantiated in the literature on the feasibility of adopting the Law of Ukraine "On economic activity in the field of health care" [46, p. 81; 52, p. 88];

It is also worth noting that there are no systemic laws on the organization and management of health care in Ukraine. The eighth group is proposed to include laws that regulate bioethics, ie moral and ethical, legal, socio-economic and philosophical issues of health and disease, human life and death and finding decent moral ways out of such situations [47, p. 45]. Ukraine has already developed a draft law "On the legal basis of bioethics and guarantees of its provision", which was registered on 08.06.2005 for № 7625 [38], but remained a draft.

Before defining the directions of codification as a species concept, it would be appropriate to characterize systematization as a general concept and as a form of further streamlining and improving the content and form of regulations, bringing them to a certain internal consistency by creating uniform regulations in the field of security regulation –health and medical relations.

It should be noted that the current medical legislation of Ukraine is not able to address the issue of a comprehensive approach to the regulation of public relations in this area. Unfortunately, in Ukraine there has been no quantitative transition of legislative acts to their qualitative and effective impact on the stability of legal security and public health.

The following blocks of problems should be singled out in this area: 1) modern medical legislation of Ukraine is complicated by a number of bylaws of sectoral, intersectoral and departmental nature; 2) medical legislation of Ukraine is not systemic in nature, which creates gaps in the legislation; 3) the medical legislation of Ukraine is characterized by the presence of outdated (including Soviet) contradictory regulations of different legal force, which are not always high quality draft law and do not take into account trends in modern legislation and health problems. I am in Ukraine and the world.

Traditionally, the systematization of legislation is mainly understood as the activity of streamlining existing laws, all regulations, bringing legal norms into an orderly and coherent system [7].

Given the above common definition, the main tasks of systematization of Ukrainian legislation in the study area are: 1) progressive development of relevant sectoral legislation, as analysis and elaboration of existing regulations, grouping of legal regulations according to the scheme activities, as well as contributes to the elimination of gaps, archaisms and inconsistencies in current legislation; 2) effective and balanced revision of the accumulated blocks of normative acts of medical legislation, as well as further revision of the current legal system; 3) the possibility of proper orientation in the legislation and operational search, interpretation and effective implementation of all necessary rules; 4) creating the preconditions for purposeful and effective legal education and upbringing, research and teaching students [48].

The process of systematization of medical legislation should be guided by the achievement of the above tasks.

In our opinion, there are a number of obstacles to the creation of a high-quality regulatory framework in the field of health care, in particular: 1) insufficiently expressed state policy in the field of health care, in particular its legislative support; 2) lack of scientifically sound strategy of legislative activity in the field of health care; 3) low legislative activity of the subjects of legislative initiative; 4) the difficulty of passing bills on health care in the Verkhovna Rada of Ukraine; 5) a small number of specialists who have the necessary knowledge in both law and medicine; 6) non-consolidation of the activities of representatives of legal and medical science; 7) insufficient consideration of international legal standards in the field of health care and inefficient use of positive foreign experience in health care regulation; 8) ambiguity of the legal framework in the field of health care, legislative conflicts and problems that arise in practice, when the rules of various acts regulating health care contradict each other; 9) excessive dispersion of health care norms throughout Ukrainian legislation [53].

In the general theory of law there are four main forms of systematization: 1) organization and accounting of regulations; 2) incorporation; 3) consolidation; 4) codification [36]. Without dwelling on the characteristics of each of the forms of systematization, it should be emphasized that the vast majority of them have already been successfully implemented in the modern legal system of Ukraine, in particular with regard to medical legislation. Thus, in almost every legal department or other structural unit of health care institutions responsible for legal services, accounting of regulations is carried out, which are adopted both at the legislative level and at the level of issuing bylaws, the predominant place among them belongs to the orders of the Ministry of Health of Ukraine. Regarding the preparation and publication of various collections and collections of regulations in the field of medical activities (incorporation), they also took place with different levels of completeness and quality, both at the official [16] and at the informal (doctrinal) levels [30, p. 15].

Separate issues of systematization of medical legislation through consolidation were also raised, but it mainly concerned the adoption of narrowly specialized legislation based on previous bylaws, for example, through consolidation was created and adopted the Law of Ukraine "On Psychiatric Care".

A special, most perfect and highest form of systematization of legislation is, of course, codification, ie the streamlining of legislative material, which aims to rework by eliminating repetitions, contradictions, filling gaps, transforming the nature and direction of the material. This ensures the internal coherence, integrity, system and completeness of legal regulation of modern social relations [20]. A sign of codification is the creation of a new consolidated legislative act of stable content, which replaces the previous regulations on a particular issue [48].

Modern medical legislation also provides for a codification approach to the systematization of its norms, which found a place in the above-mentioned Fundamentals of Ukrainian legislation on health care [39, p. 25].

The concept of "codification" was first proposed by I. Bentan (XIX century), who believed that legislation in its content should be universal, accessible and understandable to everyone. This can be achieved only if we bring all the laws into a single codified act, code.

Sources in the theory of law also contain various definitions of codification - mainly as "a way of streamlining legislation, ensuring its systemicity and consistency; one of the forms of systematization of legislation, in the process of which the draft of the created act includes current norms and new norms that make changes in the regulation of a certain sphere of public relations "[56, p. 275].

In modern encyclopedic reference books, codification is defined as "a special kind of systematization of legislation, carried out by reworking and compiling in the process of rule-making rules of law contained in various legal acts, in a logically consistent, scientifically based system and creating on this basis new single legal act.

E. Hetman understands codification as "a form of systematization carried out by authorized public authorities in the process of lawmaking and bylaw regulation, resulting in the adoption of a new, both in form and content of the codified legal act" [12, p. 8].

O. Skakun considers codification as "a way of systematization, which consists in creating a new, improved, united by a common subject of legal regulation of a legal act on the basis of old regulations by partial or significant change in their content" [49, p. 386-387].

O. Blazhkivska, in turn, provides a fairly thorough definition: codification of legislation – "this is a form of systematization, which consists in streamlining the regulatory framework governing a particular area of public relations, carried out in the process and as a result of competent authorities, usually Parliament, by purposefully influencing the disordered or insufficiently regulated and interacting set of legal acts and legal norms in force in a certain sphere of public relations, in order to repeal, amend, supplement existing legal norms and establish new ones, eliminate legislative defects (fill gaps in legislation). law, eliminating duplication of legal norms, contradictions between them, reducing the

number of regulations on the same issue), which consists in a radical (external and internal) revision of existing legislation by preparing and adopting a single, sustainable, logically coherent and systematic regulatory framework act (basics of law legislation, code, statute, regulations, code of laws, etc.), which as a result replaces a significant part of the regulatory framework within a particular branch of law and implements the sectoral function "[10].

A. Brintsov, considering the codification of agricultural legislation, comparing the existing theoretical provisions on this issue, concluded that codification - "is an independent complete complex legal phenomenon that organically combines features of both systematization and rule-making. At the same time, he considers codification as a set of actions with a certain result "[11, p. 35].

This concept is quite generalized and does not define the features of this type of systematization of legislation. Paying attention to the presence of signs of both systematization and rule-making, the author, unfortunately, does not pay attention to the presence of such a combination of features that, for example, distinguish codification of legislation from, say, consolidation, which also has certain signs of rule-making.

O. Rohach considered the category of "codification" in two senses: "as an independent branch of science that develops at the empirical level, and as a type, form of lawmaking, which is carried out on a scientific basis" [44, p. 9].

There is also an interpretation of codification as "a type of lawmaking carried out in the form of state activity carried out by the competent authorities, aimed at systematic processing of the form and content of regulations by creating new rules, as well as editing old ones – making changes, additions or cancellation if they are outdated and ineffective ”[27, p. 164-165].

S. Alekseev argued that codification is "a type of lawmaking that provides systematic regulation of public relations by issuing a single, legally and logically coherent, internally consistent normative act that

reflects the content and legal structure of a separate unit of the legal system" [6, p. 254].

Thus, the codification of legislation should really be considered as a kind of activity of authorized entities, as a targeted activity to regulate regulations, as a result of such activities - the creation of a single, structural, systemic act governing a set of social relations, as praxeological activity aimed at improving the effectiveness of legal regulation of a set of social relations. Given that public relations in the field of health care, which are governed by administrative law, form a certain unity, it is logical to talk about the features and, consequently, the resource of the species variety of codification of administrative legislation in the field of health care.

However, despite some differences in approaches to defining the concept of codification of legislation common to the vast majority of scholars is to highlight the following features (characteristics): 1) it is the activity of only competent government agencies, which has a legal nature; 2) the end result of codification – the creation of a new legal act, which in its content differs significantly from the previous ones; 3) in essence, the codification act is a consolidated act, as it covers the rules that were previously contained in various regulations, although they regulated a homogeneous sphere of public relations; 4) the codification act is the main among the acts that operate in a particular area of public life; 5) normative legal acts created as a result of codification are designed for a long time to regulate public relations. They take into account possible changes in life and are able to regulate social relations that will arise in the future [4, p. 85–86; 9, p. 13–14].

E. V. Pogorelov complements this list with two more features (characteristic features), which are that the codification: 1) regulates not only the form of legislation, but its content; in the process of codification the current legal norms are abolished, changed, supplemented, new ones are established, in connection with which it is considered both as a form of systematization of legislation and as a type of law-making (law-making); 2) eliminates defects in the law: fills in the gaps in the law,

eliminates duplication of legal norms, contradictions between them, reduces the number of regulations on the same issue [8, p. 48].

In any country, the issue of codification of health care legislation has always been under the scrutiny not only of scientists but also of lawmakers.

It is worth noting that in the history of different countries, the codification of public relations in the field of health care has resulted in various acts, including: the code, the code of laws, the statute, the basics of legislation, and so on. Ukraine is no exception, where the codification of legislation governing public relations in the field of health care also has its results. This applies to both legislation in the field of health care in general and administrative legislation in this area of public relations in particular. It is necessary to dwell on its characteristics in order to clarify the effectiveness of the codification already carried out and determine the feasibility of using the codification of administrative legislation in the field of health care in Ukraine for the future and in case of a positive answer – outlining its priorities.

In the field of health care in Ukraine, the result of codification is the Fundamentals of the legislation of Ukraine on health care. The Fundamentals of Legislation became the first and so far the only codified act in the field of health care. It should be noted that the legislation on health care in general, not a separate part of it.

In addition, the legislator's position on the use of the name "health care" rather than medicine, organization of health care, etc. is quite indicative in this aspect. In particular, T. Kolomoyets, analyzing the administrative and legal regulation in the field of public health in Ukraine, draws attention to the Fundamentals of Ukrainian legislation on health care with an emphasis on the fact that this act fixes "basic principles of state policy in this area »[24, p. 498], as well as the fact that this act is a "consolidated legislative act, which comprehensively covers the most important relations in the field of health care, serves as a basic systematizing legislative act on which health legislation is based" [24, c. 499].

The authors of the textbook “General Administrative Law, edited by I. Hrytsenko” point to the title “Fundamentals” in the aspect of a codified source of administrative law, noting its “basic role in legislation” [14, p. 109].

S. Stetsenko draws attention to the peculiarity of the content of the Fundamentals as a kind of codification act in his educational sources [53, p. 450], as well as the authors of the textbook "Administrative Law of Ukraine. Full course "as a" basic "legislative act in this area of relations, recognizing its codifying nature [5, p. 357].

The authors of the dictionary of terms "Administrative Law of Ukraine" edited by T. Kolomoyets and V. Kolpakov also point out the specifics of the Fundamentals of Legislation of Ukraine on Health Care, namely: part, sections and articles. They (Fundamentals) have the force of law… and are adopted in the same order as laws "[3, p. 289].

These Fundamentals of the legislation of Ukraine on health care were enacted by the Resolution of the Verkhovna Rada of Ukraine of November 19, 1992 № 2802-XII. The first edition of the Fundamentals contained 80 articles and aimed at defining the legal, organizational, economic and social principles of health care in Ukraine, taking into account the realities of life that emerged at the beginning of Ukraine's independence. However, one should also pay attention to their imperfections. This is due to the fact that from 1992 to 2020 they were amended 49 times, which clearly demonstrates the need to revise the state approach to this document and the adoption of a new codified act.

As R. Stefanchuk rightly points out, "Fundamentals are not the only legislative act in the field of legal regulation of medical activities and the vast majority of legislative acts are aimed at detailing and special regulation of relations in the medical field" [51, p. 39]. This can be confirmed by a generalized list of those basic codified acts that regulate relations in the field of health care (and therefore those that contain, including administrative and legal norms). These include: 1) the Constitution of Ukraine (1996) (Article 49); 2) Civil Code of Ukraine (2003); 3) Criminal Code of Ukraine (2001); 4) Code of Ukraine on

Administrative Offenses (1984); 5) Law of Ukraine "Fundamentals of the legislation of Ukraine on health care" (1992) [34].

Relevant codified acts that contain norms in the field of health care include the Code of Administrative Procedure of Ukraine, the Family Code of Ukraine, the Commercial Code of Ukraine, the Budget Code of Ukraine, the Labor Code of Ukraine, the Civil Protection Code, etc. "For the most part, these acts detail and expand the thesis, which is enshrined in Art. 49 of the Constitution of Ukraine "[13, p. 9].

A group of legal scholars has even tried to classify these acts into groups that regulate a particular field of health care (the most common is the division into the following categories: medical care; legal status of patients; legal status of medical and pharmaceutical workers; funding for health care health, health and prevention activities, ensuring the safety of living conditions, organization and management of health care) [31; 28].

Thus, R. Maidanyk and S. Stetsenko classify all current regulations in the field of health care into groups depending on the subject of regulation and came to the conclusion that “there are no systemic laws on the organization and management of health care in Ukraine. »[28, p. 63-74].

In fact, this is an extremely large circulation of legal documents that regulate the relationship in health care in Ukraine. This is also confirmed by other Ukrainian researchers. Thus, V. Tretyakov and E. Mahmudov rightly argue that "most of the regulations of the domestic health care system are bylaws, which indicates a certain weakness, uncertainty and, worst of all, the instability of the legal status of the industry, which these regulations acts regulate "[55, p. 16-18]. Thus, they emphasize that “the presence of a large number of administrative, sectoral and departmental documents in the field of health care in Ukraine leads to the fact that these acts often duplicate or contradict each other, complicate their application and, consequently, do not promote progressive development of health care systems, and also cause negative consequences, inhibiting and hindering its development "[55, p. 16-18].

Thus, taking into account all the above, the relevance of the Medical Code of Ukraine is explained by the following factors: 1) the need for comprehensive reform of domestic health care, including its legal support; 2) the lack of currently scientifically developed strategy in law in the field of medicine; 3) inconsistency of the regulatory framework of health care of the republican scale, regional and municipal level; 4) the desire to ensure an increase in the level of legal knowledge and legal culture of health professionals; 5) the emergence of most of the current laws on health care before the adoption of the Constitution of Ukraine, the entry into force of the Civil Code of Ukraine and the Criminal Code of Ukraine; 6) the need for clear legal regulation of various health care systems (public, municipal and private), etc.

O. Adamchuk and A. Markina also argue about the need to adopt the Medical Code of Ukraine, arguing that "the allocation of medical law as a separate field and the presence in the field of health administration a huge number of regulations that require some systematization, namely codification» [2, p. 88].

According to O. Klymenko, the most promising way to systematize legislation is to create the Medical Code of Ukraine, as codification, "as the most perfect and complex systematization of regulations, is aimed at radical quality regulation of legislation, ensuring its coherence and compactness" [22].

We believe that the structure of the Medical Code of Ukraine should include the following elements:

GENERAL PART

Section 1. General provisions.

Section 2. Human and civil rights in the field of health care.

Section 3. Legal principles of bioethics, biosafety and medical deontology.

Section 4. Legal principles of the health care system (model).

Section 5. State regulation (management) in the field of health care.

Section 6. Financing the health care system.

Section 7. Medical care and medical services. Standardization of medical activities.

Section 8. Rights of the medical worker.

Section 9. Health control and supervision.

Section 10. International cooperation in the field of health care.

SPECIAL PART

Section 11. Legal regulation of medical care in the exercise of the human right to life.

Section 12. Legal regulation of the implementation of reproductive rights and the use of assisted reproductive technologies.

Section 13. Legal regulation of prevention and treatment of infectious and venereal diseases.

Section 14. Legal regulation of transplantation of organs and other human anatomical materials.

Section 15. Legal regulation of blood donation and its components.

Section 16. Legal regulation of psychiatric care.

Section 17. Legal regulation of pharmaceutical activities. Provision of medicines and medical supplies for certain categories of the population.

Section 18. Legal regulation of medical and biological experiments.

Section 19. Legal regulation of folk and alternative medicine.

Section 20. Legal regulation of palliative and hospice care.

Section 21. Legal regulation of medical care for certain physically and socially vulnerable groups.

Section 22. Legal regulation of plastic, reconstructive care (cosmetology, sports medicine, etc.).

Section 23. Legal regulation of sanitary and epidemiological well-being.

Section 24. Legal regulation of sanatorium activities.

Section 25. Legal regulation of medical examinations.

Section 26. Legal classification of defects in medical care. Medical error. Iatrogenic pathologies.

Section 27. Legal regulation of medical care in emergencies (due to a pandemic).

Section 28. Social protection of medical workers.

Chapter 29. Self-government in the field of health care.

Chapter 30. Liability for Violations of Health Care Legislation.

Section 31. Final Provisions.

EXTRAORDINARY PART

Section 32. Definition and application of basic concepts in the field of emergency health care.

Section 33. Human and civil rights in the field of emergency health care.

Section 34. State regulation (management) in the field of health care in emergency situations.

Section 35. Provision of medical care and medical services in emergency conditions and in case of emergencies.

Based on the results of the study of the peculiarities of the codification of medical legislation, we have made the following conclusions:

1. Medical law, as a sub-branch of administrative law, should be considered in the following senses: a) objective medical law - a set of legal norms that determine the principles of the right to health care and regulate the provision of medical services; b) subjective medical law - real opportunities of Ukrainian citizens in the field of health care and provision of medical services.

2. Medical legislation includes four main groups (levels) of normative legal acts: a) constitutional level - the Constitution of Ukraine of June 28, 1996, with the following changes and additions; b) general codified level, covering sectoral codes that are directly or indirectly applied in the medical field (Civil Code of Ukraine, Criminal Code of Ukraine, etc.); c) specialized codification level - is expressed in the Fundamentals of the legislation of Ukraine on health care as a special codified act in the field of health care; d) specialized legislative and by-law level (level of special laws and by-laws that regulate certain areas of

medical activity, in particular, donation, mental health care, certain infectious diseases, etc.).

3. Codification of administrative legislation in the field of health care is a type of systematization, which is directly related to the radical revision of the content of existing regulations, which contain administrative and legal norms designed to regulate relations in the field of health care. This is a special type of systematization carried out by a specially authorized entity in the manner prescribed by applicable law by processing and compiling in the process of rule-making rules of law contained in various regulations, in a logically constructed, agreed codification act. This is a kind of national, serious (maximum), intra-industry codification. Its purpose is to bring the form and content of administrative legislation in the field of health care in line with the requirements of society, to improve legislation through the development and adoption of a single codified act.

4. The following blocks of problems of codification of medical legislation in Ukraine should be singled out: a)) modern medical legislation of Ukraine is complicated by a number of bylaws of sectoral, intersectoral and departmental nature; b) medical legislation of Ukraine is not systemic in nature, which creates gaps in the legislation; c) the medical legislation of Ukraine is characterized by the presence of outdated (including Soviet) contradictory regulations of various legal force, which are not always high quality draft law and do not take into account trends in modern legislation and problems related to health care. I am in Ukraine and the world.

5. The structure of the Medical Code of Ukraine, in our opinion, should include three parts (general, special and extraordinary), which, in turn, integrate 35 sections, which are further divided into sections and chapters.

6. Supporting various scientists and scientists, we propose to add another section to the Medical Code, which will define the mechanism of action of health authorities in emergencies and pandemics. This section should outline the rights and responsibilities of the population and the

authorities in such situations, define the functions of the authorities with powers in this area. Such a schedule will help in the future to quickly prevent the spread of epidemics, epizootics and other mass diseases.

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PART 2
ELECTIONS AND REFERENDUMS AS THE MAIN INSTITUTIONS OF DIRECT DEMOCRACY

European experience of holding elections in a pandemic

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As periodic elections are a fundamental right and critical to ensuring a peaceful and democratic transition of power, the pandemic electoral process needs to change. However, to date, the main reaction of many countries with the planned elections has been to postpone them - sometimes indefinitely [1]. In connection with the COVID-19 pandemic, discussions have begun on the introduction of new forms of voting. In particular, the possibility of voting via the Internet or mail.

France has introduced a "health emergency" to provide more flexibility in dealing with the crisis while preserving fundamental freedoms. This appears to be a form of intermediate status between a state of emergency and the absence of a state of emergency, which may help the authorities resolve the dilemma – or (a) postpone the election for a traditional state of emergency, or (b) compel the OAC to conduct elections in accordance with standard procedures as soon as the state of emergency is lifted, without any intermediate measures that would allow election commissions to consider and implement amendments and modifications.

In some situations, there may be no legal basis for postponing the election, so a new law will need to be passed. The UK has had to pass a state of emergency to create a legal basis for postponing the May 2020 local elections for a year due to the COVID pandemic 19.32 [2] any of the legal votes scheduled for May 7. There are some powers to postpone

the voting dates in the bylaws, but it is a matter of considerable prematureness, so it is too late to apply them to the vote on May 7. " The new bill stipulates that the current deputies of local councils will work for another year, and those elected in 2021 will work for three years instead of the usual four-year term, so that a normal election cycle can be resumed after the current crisis. It is important that the new law clearly provides for a return to the legal status quo after a state of emergency, given that the potential for a legal extension of power will be a precedent. Finally, depending on the specific circumstances in the country and the type of gap or lack of clarity in the law, constitutional interpretation, political consultation and arrangements or legal changes may be required. Regardless of the decision chosen, the international principles set out above should be the basis for decision-making, and the decision-making process should be transparent and consultative.

In Spain, local elections were initially "suspended" in two regions - Galicia and the Basque Country – in response to national and regional emergency orders. However, as it was considered that there was no clear legal basis for suspending the elections in the middle of the process, and such an action would have negative consequences for the fundamental rights affected by the suspension, both regions later canceled the election process. The decision was also based on the fact that the national state of emergency decree did not provide some certainty as to when it would be possible to vote, so the repeal decrees did not set an alternative date. Since then, the national decree has been amended to distinguish between the electoral process and the state of emergency, and elections are now scheduled for July 12, 2020.

On April 6, the Polish Sejm passed legislative changes that provided for a new procedure for voting in the presidential election, namely: the possibility of voting in the COVID-19 pandemic by mail. According to the bill, voters do not need to submit a special application to vote by mail. Voting was to take place on the specified day without a break, from 6.00 to 20.00, according to the following algorithm: the situation with coronavirus COVID-19 has directly affected the organization of electoral

processes and elections around the world. During the peak period of COVID-19 (March-May 2020), national, local elections or referendums were planned in dozens of countries. As a result, national governments had to deal with the issue of holding elections during the pandemic manually.

Thus, the deployment of the COVID-19 coronavirus pandemic has significantly affected the organization and conduct of elections around the world. More than 50 states have postponed voting to a later date. In particular, the parliamentary elections in Serbia, Ethiopia, Sri Lanka, the presidential elections in Poland and Bolivia were postponed. Local elections have been postponed in the United Kingdom and Romania. A number of referendums have been postponed in the Russian Federation, Italy, and Chile. Presidential primaries have been postponed in the United States.

Postponement of the elections calls into question the implementation of the international principle of periodicity of elections, as it is a question of extending the term of office of previously elected persons. At the same time, conducting elections should not only adhere to the principle of periodicity, but also promote the implementation of other basic electoral standards, namely: to implement the principles of free, fair elections, which take place on the basis of universal, equal, secret suffrage. Periodic elections, which are held without observance of other basic standards, cannot be considered a full-fledged vote of citizens and are not a real expression of the will of the people. In view of this, elections should be held not only at reasonable intervals, but also in conditions that provide opportunities for free voting, and the election process should be as safe as possible for all subjects of the election process and should not pose a threat to their health.

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Legal regulation of the institute of referendum in Ukraine

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Legal regulation of the institute of referendum in independent Ukraine began on July 3, 1991 with the adoption of the Law of Ukraine "On All-Ukrainian and Local Referendums" [1]. On the basis of this Law, the first all-Ukrainian referendum was held on December 1, 1991, in which the majority of Ukrainian citizens (90.3%) voted to confirm the supreme legal force of the Act of Independence of Ukraine adopted by the Verkhovna Rada of Ukraine on August 24, 1991. It did not directly concern the Basic Law of the state, but the Act of Proclamation of Independence of Ukraine became the ideological basis of the current Constitution of Ukraine. We consider this event an important step on the path to democracy in Ukraine.

The next referendum was held in Ukraine on April 16, 2000. The referendum was attended by 29,728,575 citizens, which was 81.15% of the total number of citizens who had the right to vote.

Despite the four issues submitted to the public, it should be noted that it did not bring the desired result, because, despite popular support by a majority of voters, such issues as the lifting of parliamentary immunity; reduction of the total number of deputies of the Verkhovna Rada of Ukraine from 450 to 300; formation of a bicameral parliament; on the possibility of early termination of the powers of the Verkhovna Rada of Ukraine by the President of Ukraine if the parliament does not form an effective parliamentary majority within a month or does not approve the draft law of Ukraine "On the State Budget" within three months, the very way the referendum was conducted (voting procedure, nature and formulation of referendum issues) called into question its results.

Some issues put to the referendum were implemented much later, but in a different way. Thus, on January 1, 2020, the Law of Ukraine “On Amendments to Article 80 of the Constitution of Ukraine” (concerning the inviolability of people's deputies of Ukraine) entered into force in Ukraine. At the same time, some issues put to a referendum have remained unresolved and are still relevant, even twenty years later. In this case, the question arises: why ask the opinion of the people of the country, if their will is not implemented? According to the drafters of the draft law "On All-Ukrainian and Local Referendums", the results of the all-Ukrainian referendum in 2000 were not implemented due to the fact that a number of its provisions were no longer in line with the provisions of the Basic Law.

Referendum as one of the forms of direct democracy is mentioned in Section III of the Constitution of Ukraine “Elections. Referendum".

The Law of Ukraine “On All-Ukrainian and Local Referendums” of July 3, 1991, due to its own imperfections and obsolescence, for a long time did not create proper legal mechanisms for implementing the constitutional provisions on people's sovereignty and its implementation through an all-Ukrainian referendum. These problems were partially resolved in 2012, when the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On All-Ukrainian Referendum" [2]. This law was adopted during the presidency of Yanukovych VF It contained provisions that created the preconditions for legitimizing the change of the vector of development of the country to pro-Russian. However, the issue of legal regulation of local referendums remained open. Due to the lack of a relevant law, it is impossible to hold a local referendum as such, despite the fact that this right of territorial communities is provided by the Constitution of Ukraine (June 28, 1996) and the Law of Ukraine "On Local Self-Government in Ukraine" (May 21, 1997).

By the decision of the Constitutional Court of Ukraine № 4-r / 2018 of April 26, 2018, the Law of Ukraine “On the All-Ukrainian Referendum” was declared unconstitutional. As a result, a gap has been

created in the legislation in the legal regulation of the institution of an all-Ukrainian referendum.

In 2020, President of Ukraine Volodymyr Zelensky submitted his draft law on the referendum to the Verkhovna Rada. This draft stipulates that the results of the referendum are mandatory for the Verkhovna Rada and the President.

In the same year, the pro-Russian political party OPZZH also submitted its draft law on the referendum, but it did not pass the Verkhovna Rada committee, as according to the bill, referendums were to be held outside public procurement procedures and "ORDLO is easily legalized by this referendum."

On January 26, 2021, the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On the All-Ukrainian Referendum", which was submitted by the President of Ukraine. This law made it possible to implement the provisions of the Constitution of Ukraine, which provide for the possibility of holding an all-Ukrainian referendum.

According to Art. 1 of the Law of Ukraine "On All-Ukrainian Referendum" all-Ukrainian referendum is a form of direct democracy in Ukraine, a way of exercising power directly by the Ukrainian people, which consists in making (approval) of Ukrainian citizens by voting in cases and procedures established by the Constitution of Ukraine and this Law [3].

It is worth noting that the referendum does not replace the work of the Verkhovna Rada on the adoption of laws, on the contrary, citizens have a tool to directly influence decision-making in the state. The referendum provides an opportunity to speak the decisive word without the mediation of politicians, as a result of which many of them will lose their influence in society. It is the people who are the driving force of the necessary changes in society and the state.

On the other hand, the idea of the people making strategically important decisions instead of their elected representatives seems like an extremely tempting proposition for any politician, as a referendum relieves the burden of political responsibility for making unpopular or

controversial decisions by appealing to the people's supreme will. the only source of power in Ukraine [4].

According to Art. 3 of the Law of Ukraine "On All-Ukrainian Referendum" the subject of all-Ukrainian referendum may be:

1) approval of the law on amendments to sections I, III, XIII of the Constitution of Ukraine;

2) of national importance;

3) on the change of the territory of Ukraine;

4) on the expiration of the law of Ukraine or its separate provisions [3].

In view of the above, the issue of holding an all-Ukrainian referendum on the adoption of laws on the people's initiative is interesting. It should be noted that the norms concerning the law-making process are placed mainly in another section of the Constitution (Section IV. The Verkhovna Rada of Ukraine of the Constitution of Ukraine), which determines the legal status of the parliament. The Verkhovna Rada is called the only body of legislative power in Ukraine (Article 76 of the Constitution of Ukraine), whose powers include the adoption of laws (paragraph 3 of Part 1 of Article 85, Article 91 of the Constitution of Ukraine).

Adoption of new laws in a non-parliamentary manner raises a number of legal issues and questions. First, what will be the ratio of the laws adopted in the all-Ukrainian referendum and the laws adopted by the Verkhovna Rada and signed by the President within the general procedure (Article 94)? Does the Verkhovna Rada have the right to repeal or change the laws adopted in the all-Ukrainian referendum over time, or, conversely, can the laws adopted in the all-Ukrainian referendum on the people's initiative be changed or repealed only by the next all-Ukrainian referendum on the same issue? [4]

In our opinion, this issue requires a separate scientific study of the essence and relationship between the referendum and the legislative function of parliament.

With regard to local referendums, it should be noted that in connection with the democratic reforms in Ukraine, which resulted in the creation of united territorial communities, the issue of holding a referendum is more acute than ever, because it is the community that wants and can solve all pressing issues. on the ground. However, to date, this issue remains unresolved at the legislative level.

It should be noted that during the long period of development of our state the legal regulation of the referendum in Ukraine remained imperfect, the legal acts that ensured the functioning of the referendum institution in Ukraine were repealed or declared unconstitutional. We believe that today is the time to rectify the situation and adopt the Law of Ukraine "On Local Referendum", as the people more than ever want to participate in the life of the country and get better in all spheres of society.

Improving the institute of referendum in Ukraine can take place in other areas: to hold public consultations to develop a mechanism for implementing the institute of referendum in Ukraine; to develop relevant bills on the development of the institute of referendum in Ukraine on the basis of foreign experience; introduce the practice of holding an all-Ukrainian referendum once a year; use the system of electronic signature and electronic cabinet for organizing and conducting referendums [5, p. 187].

Summarizing the above, we can conclude that the referendum is a tool that can be used with both good and bad intentions. The main purpose of the establishment and functioning of the referendum institution should be the expression of the people's will, the embodiment of democratic ideas and values. In view of the above, the referendum cannot be used by various political groups or the President of Ukraine to achieve political goals or increase one's own rating. The procedure for holding a referendum should be clearly regulated at the legislative level.

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Introduction of electronic electoral process as the main direction of improving the electoral system of Ukraine

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The development of states in the field of introduction of new technologies requires a complete transformation of the legal system on the basis of principles, standards and requirements that are formed at the global level. This poses new challenges for experts in the field of suffrage. Significant results have been achieved through electronic voting, as well as through a combination of different types and types of electoral systems. However, the lack of effective guarantees to prevent corruption during the voting, the unprofessionalism of election officials, and the technical obsolescence of the election procedure undermine the effectiveness of suffrage. Given the successful experience of foreign countries in the introduction of electronic electoral process and the gradual introduction of electronic technology in some elements of electoral procedures, the study of the possibility of introducing electronic electoral process as the main direction of improving Ukraine's electoral system is extremely important. In addition, the situation with Covid-19 necessitates the acceleration of e-democracy mechanisms, an element of which is e-voting.

In this area, in our opinion, there are three main groups of scientific categories and concepts in the field of electronic voting, in particular:

1) general categories and concepts related to democracy in general;

2) categories and concepts related to direct democracy;

3) categories and concepts related to indirect (representative) democracy.

The general categories and concepts related to democracy in general include the following:

1) democracy is the principle of constitutionalism, which means the right of the people provided by the Constitution and laws to make binding decisions in the field of public administration;

2) e-government is a modernized form of organization of sovereign public power, which aims to provide electronic services to civil society;

3) e-democracy is the use of information and communication technologies in the work of public administration, informatization of all spheres of public life, as well as a purposeful process of effective bilateral interaction of citizens, society and the state in influencing all processes of public and state life.

With regard to categories and concepts in the field of direct democracy, the following concepts and key terms in this field should be highlighted:

1) direct democracy - is a set of various forms of public authority, in the process of which the main decisions on the management of public and state affairs are made directly by all citizens through various forms of democracy;

2) electronic referendum is a type of national or local referendum, accompanied by the use of specific information and communication technologies, electronic means for citizens to make decisions on important public affairs of society and the state;

3) electronic elections - a form of direct democracy, which consists in the formation of representative bodies of public authority through the use of a special system of electronic voting;

4) electronic voting is a form of direct (direct) democracy, which provides for the process of voting and the process of automatic counting of votes using electronic means and technological devices from special software.

Categories and concepts related to indirect (representative) democracy include the following:

1) representative democracy is a form of democracy in which the right to make managerial decisions is exercised by the people, the community and the individual through elected representatives;

2) electronic parliament is a body of legislative power aimed at ensuring effective interaction between parliamentarians and civil society, its institutions and individuals using the latest information and communication technologies;

3) e-government is the only infrastructure of information and communication interaction of public administration with all representatives of civil society using information and communication technologies to increase political participation of social institutions in this area, as well as the quality of information and other services for legal entities. also for the purpose of internal ensuring the functioning of public authorities;

4) e-court is a form of representative (indirect) e-democracy, which refers to the introduction of information and communication technologies in the judiciary and in the judicial process to further ensure the efficiency of justice and public (public and state) interest.

It should be noted that e-government and the categories of e-parliament and court are such that coexist and reflect the features of the electronic tools of the executive, legislative and judicial branches of government.

However, it should be borne in mind that the introduction and practical implementation of categories related to e-democracy in general and e-voting in particular must take into account different spheres of public life.

In the legal sphere, the legalization of the main categories of e-democracy in general and e-voting in particular have been expressed at the constitutional level. According to Art. 69 of the Constitution of Ukraine, the people's will is carried out through elections, referendums and other forms of direct democracy, and under Part 1 of Art. 38 of the Constitution of Ukraine gives citizens the right to participate in all-Ukrainian and local referendums.

In the context of the researched issues, it is worth noting that Yu. Klyuchkovsky and D. Kovryzhenko consider elections as a state-administrative process carried out within the framework of clear legal

regulation, and practically identify it with the term "election process" [26].

Unlike domestic lawyers, political scientists J. Elklit and P. Svensson emphasize quality, free, fair elections. At the same time, in their understanding, freedom means the right and opportunity to choose the subjects you like. The opposite of freedom is coercion - the lack of such a choice or prohibition of alternatives, which, according to dictators, will have significant negative consequences for the security, welfare, social status of the person who made it. At the same time, justice presupposes impartiality.

The opposite of justice is unequal treatment of equals, in which some people or groups receive too many benefits. Thus, fairness implies regular application of rules and their rationality, more even distribution of relevant resources among the parties to the competition. All stages of the electoral process must meet the criteria of freedom and justice.

An important factor in political stability and the most important part of organizing and conducting elections is the electoral process. Although the concept of "electoral process" has recently entered the categorical apparatus of legislators and researchers.

The current legislation of Ukraine considers the election process as the implementation during the period of time of the subjects of election procedures related to the preparation and conduct of relevant elections, the establishment and official announcement (official publication) of their results.

Adherence to the principles of the electoral process is a guarantee of ensuring the implementation of the principles of citizens' suffrage. All elections in Ukraine are held on the basis of the Constitution of Ukraine and the relevant electoral legislation of Ukraine, which provides the basic principles of the electoral process, namely: 1) compliance with the principles of suffrage; 2) legality and prohibition of illegal interference of anyone in this process; 3) political pluralism and multiparty system; 4) publicity and openness; 5) freedom of campaigning, equal access of all candidates to the media; 6) impartiality to parties, presidential candidates

and deputies on the part of state authorities, local self-government bodies, their officials and officials and heads of enterprises, institutions and organizations.

In the political sphere, one of the systemic elements of the democratic political process is the institution of political elections. The formation of this institute reproduces the historical path of society's long and controversial search for a better model of public administration. At the same time, political competition for the modern Ukrainian political establishment poses some danger, because the competitive political environment is unpredictable, and this, at this stage of political development of our state is unfavorable to the authorities. In the course of such competition, it is possible to compare and select certain candidates and their election programs. It is the competitive nature of elections, according to R. Aron, gives the opportunity for real choice. He believes that elections mean nothing if they do not have the opportunity to choose "[12].

The term "elections" from the standpoint of law, sociology and political science is traditionally considered for some reason as a state-legal institution. In particular, K. Sheremet and G. Barabashev interpreted it as: "elections to the councils of people's deputies as the most widespread form of citizen participation in public administration" [22].

As a political and legal mechanism, they are not only an act of popular will, but also a set of administrative procedures, where the term "elections" is often identified with the terms "election process" or "electoral process".

The main function of any political institution, including the institution of elections, is to ensure political stability. In this context, the institution of elections plays a particularly important role in building a democratic political regime, as it forms the majority of political institutions in the state, regulates their activities, it is a means of legitimizing government institutions.

The crucial role of the institution of elections in the formation of a democratic political regime is emphasized by the modern French political scientist F. Loveux:

In developing his own theory of elitist democracy, the Austrian political theorist Professor J. Schumpeter saw elections as "an institutional system for political decision-making in which individuals gain power to make decisions by competing for votes" and "free competition between potential leaders for votes." .

In the social sphere, one of the most important factors influencing the formation of a competitive society and political competition is civil society, because it is within its framework that the type of political culture necessary for political competition is formed.

From the standpoint of the spiritual (cultural) sphere, elections are an extremely complex phenomenon, based not only on legislation, reception of international norms and a strong judicial system, but also on the mass psychology of voters, historical traditions, political culture in the country, economic and political situation. , religious and moral layers, democratic values in the electoral process, etc.

However, in the scientific and journalistic literature there are different definitions of democracy and its values. But given that elections are an instrument of democracy (although democracy is not limited to elections), it is worth focusing on some democratic values that point to their importance and bindingness in the electoral process, combined and embodied with appropriate electoral completeness. , namely: 1) citizenship and developed civil status - elevate a person, civilize him, form an order based on freedom and responsibility; 2) human rights and freedoms - protected by the Constitution, which should also limit the power of the government in an attempt to violate them; 3) freedom of conscience (or religious preferences and beliefs) - indicates the individual choice of man and the prohibition of any interference by the state or other people; 4) human dignity, as a component of the authority of the citizen, his self-esteem and respect for others, the birth and condition of freedom of free man. It forces us to oppose any oppression of freedom, to stand in

the way of violating the principles and foundations of democracy; 5) free and unbiased human self-determination - the absence of any influence on ideological, religious or other human preferences; 6) privacy of a person's personal life - the ability to determine one's own life and existence independently of others, no one has the right to interfere in private affairs that do not relate to public activities; 7) civil association - trust, mutual support, willingness to act together and in concert to protect social interests - is a solid foundation for the existence of a democratic society; 8) social order - stability, order, security, welfare - the need of most people to improve their quality of life.

However, frequent changes in Ukrainian election legislation, which lead to changes in electoral procedures, reduce the legitimacy of elections and are a prerequisite for political instability. Opinions, judgments, and conclusions of foreign researchers are valid about the importance of the institution of elections.

Thus, all the above principles of e-democracy, e-elections and e-voting, taking into account the specifics of various spheres of public life (legal, political, social and spiritual (cultural) can be implemented through an electronic system of expression, which can be used as usual). and in emergency situations (including the Covid-19 pandemic).

First, it is advisable to pay attention to the level of legal support for electronic elections and electronic voting.

The constitutional level of legal support for electronic voting is the Constitution of Ukraine. This primarily applies to Article 71 of the Basic Law of Ukraine, according to which elections to public authorities and local governments are free and take place on the basis of universal, equal and direct suffrage by secret ballot. At the same time, voters are guaranteed free will.

In this regard, it should be noted that in this case, the electronic voting system is just able to optimally ensure universal, equal and direct suffrage with free will and regardless of location.

The codification level of legal support for electronic voting is covered by the Electoral Code of Ukraine. Here an important role is

played by Art. 18 of the Electoral Code of Ukraine, according to which the Central Election Commission may decide on the introduction of innovative technologies, hardware and software during the organization and conduct of elections in the form of an experiment or pilot project on: 1) voting at the polling station means (machine voting); 2) counting of votes with the help of technical means for electronic counting of votes; 3) drawing up protocols on the counting of votes, results and results of voting using the information-analytical system.

However, in the case of submission to election commissions of documents provided for in this Code, through electronic services, such documents must meet the requirements of the laws of Ukraine "On electronic documents and electronic document management" and "On electronic trust services". Documents provided for in the Electoral Code may be submitted to the election commission in the form of an electronic document, taking into account the features provided for in this Code. In this case, the documents must meet the requirements of the laws of Ukraine "On electronic documents and electronic document management" and "On electronic trust services". The person who certifies the document with his / her qualified electronic signature is responsible for the authenticity of copies of documents submitted to election commissions in electronic form.

The legislative level of legal support for electronic elections includes:

1) legislative acts of organizational nature - acts that determine the principles of elections of deputies, president, local elections. These include the Laws of Ukraine "On the Central Election Commission", "On the State Register of Voters";

2) legislative acts of a humanitarian nature - those that determine the legal status of a person, including electoral and other related rights of citizens. The election process is also influenced by acts of constitutional legislation, including the Laws of Ukraine "On Citizenship of Ukraine", "On National Minorities in Ukraine", "On Freedom of Conscience and Religious Organizations". In addition to the above, the following is also

important: the Law of Ukraine "On Citizens' Appeals", which regulates the practical implementation of the citizens of Ukraine the right to contribute to public authorities, associations of citizens in accordance with their statutes work, to challenge the actions of officials, state and public bodies;

3) legislative acts of an institutional nature - those that determine the legal status of institutions indirectly related to elections. These include the Laws of Ukraine "On Public Associations", "On Local Self-Government in Ukraine", "On Political Parties in Ukraine", etc.

4) legislative acts devoted to information and electronic support of elections and the election process. Here we should pay attention to the laws of Ukraine "On Information", "On Access to Public Information", "On Electronic Documents and Electronic Document Management" and "On Electronic Trust Services".

The Law of Ukraine "On Information" gives every citizen the right to information that provides for the possibility of free receipt, use, dissemination, storage and protection of information necessary for the exercise of their rights, freedoms and legitimate interests. And the exercise of the right to information should not violate civil, political, economic, social, spiritual, environmental and other rights, freedoms and legitimate interests of other citizens, the rights and interests of legal entities.

The Law of Ukraine "On Access to Public Information" emphasizes the right of every citizen to access information that is reflected and documented by any means on any media, which was obtained or created in the process of performing their duties by subjects of power , provided by the current legislation, or which is in the possession of subjects of power, other managers of public information, defined by this Law.

Protecting the voting rights of citizens is the key to holding free democratic elections. Therefore, extremely important legislative acts during the election process are those that provide for legal liability for violating the laws of Ukraine on elections of the President of Ukraine,

People's Deputies of Ukraine, local elections, legislation on the all-Ukrainian referendum and more.

Such responsibilities include: constitutional and legal (warning of election commissions of candidates, denial of registration or cancellation of decisions on their registration; recognition of voting and elections invalid, termination of the referendum initiative group; early termination of the election commission or individual member); disciplinary (members of electoral bodies are involved), civil law (used as an additional type of liability in parallel with others, is to compensate for moral and material damage), administrative and criminal (considered the most effective means of combating crime).

Ukrainian legislation in various areas of law provides sufficient rules on liability for violations during the election process, but, as practice shows, its effectiveness depends not on the number but on the activities of law enforcement agencies and courts and law enforcement practice.

National electoral legislation has a sufficient legal framework necessary for the proper regulation of the preparation and conduct of all types of elections. One of the election standards is that the election legislation cannot be significantly changed later than a year before the election.

Ukrainian election legislation is an exception in this context, and, unfortunately, has the opposite tendency, which poses threats to the crisis and requires anti-crisis management.

This thesis is confirmed, in particular, by the offenses that took place in the early elections of people's deputies in 2019 and are observed in the local elections that are taking place to date and remain unanswered (both by election organizers, law enforcement and judicial authorities, candidates and individual voters).) and bringing the perpetrators to justice, which indicates a crisis in the management of the election process.

It should also be noted that the problem of all elections in Ukraine, without exception, is primarily related not so much to the quality of the

law, but to the legal culture of voters and all participants in the election process, the willingness of civil society to violate), support them, and accept the outcome of the election. Irresponsibility, inaction of the principle of inevitability of criminal responsibility, impunity for offenses creates a temptation to improve the manipulative technologies of public consciousness by some political forces (parties, politicians) during the election process, which led to the crisis we observe since 2014.

According to the generally accepted classical understanding, the electoral system is a constitutional and legal relationship between the state and society, which determines the formation of elected (representative) bodies of the state and the exercise of citizens' voting rights.

Democratization of the electoral process is an integral part of the overall process of democratization of society, where the type of electoral system is increasingly recognized as one of the main organizational solutions for democracy.

The main role in the election process is played by the type of electoral system. In this regard, we should agree with Doctor of Law, Professor M. Afanasieva, whose monograph states that there are many options for the electoral system, so its constitutional and legal design should begin with defining the criteria to be met by a democratic electoral system and summarizing what the legislator wants to achieve and what to avoid, and what he prefers to see the electoral body [16].

There are more than 150 types of electoral systems in the world, which differ from each other in the order of determining the election results and the method of nominating candidates.

According to this feature, the following types of electoral systems can be distinguished: majority, proportional and mixed.

Analyzing international election legislation, research, articles, reports of international organizations on elections, the electoral systems that are mostly practiced in the world include:

1) plural (majority) electoral system, which has the following types:

- majority system of relative majority, which is used in 213 countries, including Great Britain, Canada, India, the United States, etc. This system is easy to use, voters vote for a particular candidate in a single-member constituency, the one who receives the majority of votes wins, and promotes the formation of bipartisan parliaments and one-party governments. However, it has certain shortcomings, namely that it is unfavorable for new and small parties, women and, depending on the constituencies formed, for national minorities. When voting for one elected candidate, the voter must find a balance between him and the party that nominated him, but which the voter does not support. The interests of voters in small and large constituencies are often ignored. Voter turnout on election day is sometimes lower than their turnout during proportional elections;

- Bloc system is a majority system of relative majority in multi-member constituencies, which is common in countries where there are weak political parties or where they do not exist. This system has been used, in particular, in Jordan (1989), Mongolia (1992), Thailand and the Philippines (1997), Lebanon, Palestine, and the Syrian Arab Republic (2004). In the bloc system, voters have as many votes as there are seats in their constituencies, can vote for any candidate regardless of his party affiliation, and decide for themselves how many votes to cast in the election. The value of the system is that voters vote for individual candidates within reasonable constituencies, while increasing the role of parties that are more cohesive and organized. The disadvantage is that this system allows the voter to vote for more than one party in the same constituency, which contributes to intra-party fragmentation. In countries where this system has led to negative results, and in order to combat voter bribery and the need to strengthen political parties, it has been replaced by a mixed electoral system;

- Voting by party blocs – was conducted in multi-member constituencies as a single electoral system or as its main component in four countries - Cameroon, Chad, Djibouti and Singapore, where voters have one vote and vote for party lists rather than individual candidates.

The party that gets the most votes gets all the seats in the constituency, and all the candidates on the list are considered elected, the winner does not have to get an absolute majority. Such a system promotes the formation of strong parties and allows them to put forward mixed lists of candidates in order to increase the representation of minorities, to ensure the balance of ethnic representation.

The main disadvantage is that when using this system, disproportionate results can be obtained when one party gets all the seats, having a relative majority of votes;

- Alternative or preferential voting - used in Australia, Fiji and Papua New Guinea, at the national level - in Oceania, in the presidential election - in the Republic of Ireland, is usually used in single-member constituencies. Compared to the majority system of relative majority, this type of voting gives voters the opportunity to give preference not only to one but to all candidates, indicating their weight in numbers (the first - 1, the second - 2, the third - 3, etc.).

This system allows to find out the preferences of voters and choose the most suitable candidate in one round of voting, promotes the renewal of political elites, increases the likelihood of forming multi-party (coalition) governments, while the majority system mainly encourages the formation of one-party government (UK). However, the voting process is very complex and lengthy, and election results can be unpredictable for both voters and political parties;

- majority system of absolute majority (two-round elections) - used during presidential elections, but more often - during parliamentary elections, in particular in France, which is most associated with this system, Egypt, Iran, Vietnam, post-Soviet bloc countries - Belarus, Kyrgyzstan, Turkmenistan, Uzbekistan. In some countries, such as Georgia, Kazakhstan and Tajikistan, two-round elections are used as part of a mixed electoral system to elect constituencies. The main feature of this system is that the elections are held in two rounds. If there is no victory in the first round with an absolute majority of votes, the second round is held in 1-2 weeks. The winner of the second round is announced.

This system helps to bring together different interests to support candidates who have overcome the barrier of the first round, and creates the preconditions for negotiations between candidates and parties to reach an agreement and compromise, allows parties and candidates to respond to changes in the political arena between the first and the second round of voting. Under an absolute majority system, opposition candidates are more likely to be elected in a constituency than if they hold elections based on a relative majority system.

At the same time, the system requires additional budget expenditures related to the election process and places an additional burden on the electorate, given the short time between elections and the announcement of results. This is also a burden on voters, which affects the decline in turnout in the second round. Since elections are held in single-member constituencies, this system has most of the shortcomings of a relative majority system.

2) proportional electoral system, which has the following types:

- system of proportional representation on party lists - provides for the distribution of seats between political parties in proportion to the number of votes they receive in elections. It is used in multi-member constituencies. This system is commonly used in young democracies, including Belgium, Denmark, Finland, Greece, Italy, the Netherlands, Norway, Portugal, Sweden and Switzerland. To this list can be added the former republics of the Soviet Union. Some forms and features of proportional representation are used in Poland, Romania and Slovakia.

The system encourages parties to compile balanced voter lists that target the full spectrum of voters, enabling minorities, candidates of different racial and ethnic backgrounds to be elected, and facilitates the election of women, focusing on politics rather than gender. Voters vote for the party that receives seats in the legislature as a result of the election in proportion to the total number of votes received in the constituency. Voters have the right to choose candidates within the party list, the opportunity to vote for both the candidate and the party, taking into

account the form of the list (open, closed or free), because it depends on what will be the ballot.

Among the shortcomings of this system are, in particular, the weak relationship between voters and their constituencies; difficulties for voters in removing an individual representative who is not performing his / her duties because there are no identified representatives from villages, cities, districts; the inability of voters to remove a party from power that does not keep its election promises and to hold them accountable; excessive concentration of power in the party leadership and its leaders, especially in systems with closed lists (in this case, the position of the candidate on the party list and his success depends on the commitment of the party leader, not the voters);

- system of single transitional vote (transmitted) - can be used only in multi-member constituencies. It formed the legislatures of Ireland and Malta, held elections to the Federal Senate of Australia and some Australian states, Northern Ireland, and the votes they received in elections. It is used in multi-member constituencies. This system is commonly used in young democracies, including Belgium, Denmark, Finland, Greece, Italy, the Netherlands, Norway, Portugal, Sweden and Switzerland. To this list can be added the former republics of the Soviet Union.

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The single transitional (transmitted) system can only be used in multi-member constituencies. It formed the legislatures of Ireland and Malta, held elections to the Federal Senate of Australia and some Australian states, Northern Ireland, and is used in Bolivia, Germany, Hungary, Lesotho, Mexico, New Zealand, and Romania.

In almost all countries, mandates are distributed by relative majority. Although this system was designed to produce proportional results, it is no exception that the disparity in results in single-member constituencies may be so great that it cannot be compensated for by seats obtained on a proportional basis.

This situation is possible in constituencies where elections are held on a proportional basis, not at the national level, but at the regional or local level. In this case, the party will get more majority seats in the district than it could get under the proportional system in the region;

3) mixed (parallel system) - has elements of both proportional and majority / plural systems, on the basis of which part of the members of the electoral representative body is elected. In this case, the election results are set independently and do not affect each other, ie exist in parallel. When using a parallel system, as in a system of mixed majority-proportional representation, a voter can receive either one ballot, which he uses to vote for the candidate and his party (South Korea), or two separate ballots: one to vote for the candidate under the majority system, the other - for voting according to the proportional system (Japan,

Lithuania). Parallel systems have been used in 19 countries around the world and have been the subject of a synthesis of electoral systems in recent decades, perhaps due to a combination of the advantages of proportional, majority or other systems.

One of the advantages of the system is that minority parties, with a sufficient number of seats distributed according to the proportional system and which did not succeed in the elections under the majority system of the relative majority, can be represented in the legislature from seats obtained on a proportional basis.

At the same time, the issue of finding the optimal electoral system for Ukraine today remains relevant and remains open. Ukraine's electoral legislation is constantly being improved to take into account the negative lessons of previous election campaigns and bring it closer to international standards for democratic elections. Therefore, given the relationship of the electoral system with the possibility of electronic elections and electronic voting, it is advisable to pay attention to the following aspects:

1) when introducing electronic voting within the framework of the majority system of elections, such voting is most effective during the organization and conduct of elections of the President of Ukraine, but may have certain problems during the organization of elections of village, town and city mayors. First of all, it is a question of entering data in the electronic bulletin about candidates for positions of such chairmen and checking of reliability of these data in the course of their entering;

2) during the introduction of electronic voting within the proportional electoral system, it will have significant advantages in the elections of deputies of Ukraine and a number of shortcomings in the process of organizing elections of deputies to local councils, especially in the formation of electronic ballots on October 25, 2020).

In order for Ukrainian electoral legislation and its application to meet international and European electoral standards, attention should also be paid to the organization of the electoral process in Ukraine itself, which has a number of unexplored issues that require more in-depth research, and electoral practice. which is characterized by systematic

violations of democratic principles of elections, which is a significant obstacle to the democratization of the political system and the integration of our country into the European and world community.

At the same time, despite the normative stipulation of numerous requirements for regulating the organizational and legal framework for the election process, the real situation in this area is constantly criticized by citizens, NGOs, political parties, politicians and the media, etc., which is usually unfounded.

The organization of elections is a complex process of demonstrating the level of legal awareness, political maturity, political and legal culture, civic consciousness, maturity of public institutions and government responsibility, etc., which can be combined with the concept of "political culture".

Therefore, one of the main problems of electoral management in Ukraine is the low political culture of society. In this context, the opinion of V. Lisov is correct, that in order to understand the political culture of Ukrainians it is necessary to understand more deeply such phenomena as "military democracy" and "chamber" [22, p. 126].

In ancient times, on the territory of modern Ukraine, the main opportunity for the people's will was the people's assembly (veche), which is the prototype of modern elections. The main issues of community life were resolved at the people's councils, while modern elections determine the direction of both domestic and foreign policy of Ukraine, and become a condition for choosing a certain ideology as a vector of political development. Ukraine has always been characterized by heterogeneous ideological preferences of citizens, the main reason for which is the belonging of Ukrainian territories to different empires (the eastern part - was part of the Russian Empire, the western - Austro-Hungarian).

Thus, the value field of Ukrainian political culture is formed by a set of multifaceted determinants: in the West there is a predominance of rational principles, while in the East is dominated by irrational, spontaneous, emotional and volitional components [21, p. 248].

Another important factor influencing the improvement of political culture and the efficiency of the electoral process is the presence of healthy political competition. One of the most important factors influencing the formation of a competitive society and political competition is civil society, which makes it possible to form the type of political culture necessary for political competition.

In Ukraine, the formation of healthy competition is a matter of the future, as the main democratic institutions are just passing the stage of their formation and institutionalization. Therefore, the most important political problem and task for modern Ukraine is the formation of truly "competitive" political elections.

Ukraine must also gain experience of democratic traditions of citizen participation in decision-making, socio-political processes, public organizations and associations to protect their rights and interests. Thus, in different periods of existence of the Ukrainian people, one can find a steady desire of Ukrainians for self-identification, an attempt to gain their own statehood. The democratic transition is hampered by a number of reasons: corruption in the political system, the absence of the middle class, geopolitical, cultural, religious differences, lack of basic political knowledge, manipulation of the impact of political technology on the minds of voters.

Thus, improving election campaigns and increasing their effectiveness requires taking into account national traditions, mentality of the Ukrainian people, use of new information technologies in the election campaign, voter awareness, development of political competition and political communication, development of mechanisms for managing 172 social conflicts during the election campaign. interest of citizens in the political life of the country, activates the electoral behavior of citizens and qualitatively improve their political culture [27].

After all, the level of political culture of citizens, their behavior and political consciousness has a direct impact on the organization and conduct of elections, on the management of the electoral process and is one of the factors preventing crises.

With the adoption of the Electoral Code in 2019, completely new rules for counting votes were established. These innovations were first put into practice in the October 2020 Missouri elections.

The main disadvantage of the new system is the counting of votes. Having personal experience in the precinct election commission, I would like to draw attention to the fact that the amendments to the election legislation, which regulated the possibility of a citizen to vote for the organization of a political party and at the same time for the candidate in the territorial constituency. self-government, where the number of voters is more than 10 thousand) are positive in terms of the fact that the community can choose its representative, but on the other hand in practice, the establishment of election results takes a very long time.

The duration of this process is determined by various factors, first of all, the fact that on October 25, 2020 4 types of local elections were held in Ukraine - regional council elections, district council elections, mayoral elections and city / village council elections. At each polling station, an average of about 1,800 people vote, including a turnout of 30-40 percent, and about 700 elections are cast in each polling station. This means that members of the precinct election commission process 2,800 ballots.

Secondly, each ballot paper must be processed several times, as the votes cast for the party's territorial list must be counted first, and then for a specific candidate.

First of all, it should be noted that it is necessary to understand the electronic election process. We have already noted that the election process in the sense of the Electoral Code is defined as a set of actions of election commissions on the preparation and conduct of local elections.

In our opinion, since the longest process is the calculation of election results, first of all, it is worth considering the possibility of introducing electronic technologies in this process.

It should be noted that on March 7, 2018 in the West African country of Sierra Leone, the presidential election was held for the first time using blockchain technology in the voting system.

A blockchain is a secure and distributed database in which information is represented by chains of consecutive blocks. These blocks are stored on the computers of all users involved in the creation of the database. In the blockchain, each new block stores information about the previous ones, which serves as a kind of protection of the chain of blocks from forgery.

The Swiss startup Agora, which provided a private blockchain, took part in the run-up to the election. According to the developer of the system Leonardo Gammar, "Voting using a blockchain is completely anonymous.

Anonymous votes / ballots are recorded on the Agora blockchain and made available to any party interested in reviewing, counting and verifying, a record of each vote kept in the blockchain, which will be available for download and study after the election.

Using the blockchain in elections further reduces the cost of paper ballots, reduces corruption in the voting process, eliminates human error and quick public access to election results (announce results more quickly), and helps make elections fair, transparent and verifiable. .

It is predicted that this system will be used in all elections. "We are the only company in the world that has built a full-featured voting platform, so we plan to expand the introduction of blockchain technology in electoral processes in other African countries, and then in the world" [25; 26].

Thus, in order to introduce electronic elections and electronic voting, we propose the following:

1. We consider it appropriate at the first stage of the reform to introduce electronic voting, as well as summarizing the results of voting in electronic form (ie at the penultimate and last stages of the election process).

2. In connection with the above, it is recommended to introduce into regulatory and electronic circulation the concepts of "electronic bulletin" and "electronic protocol".

3. In order to provide "online voting" and access to e-ballots, it is proposed to use such means as access to the electronic system "Elections" via smartphone, laptop, computer, ATM, payment terminal, and to vote at the place of residence - if possible portable portable device with access to the electronic system "Elections".

4. In our opinion, the electronic ballot paper should include the number of the territorial constituency and the number of the voter in the electronic voter register. The constituency number will be crucial in the local elections, as the list of candidates in the e-ballot will depend on it.

5. We believe that before voting, the voter should enter the above number in the appropriate device for electronic voting (smartphone, laptop, computer, ATM, payment terminal), as well as indicate your phone number, which can be used to establish that a person votes independently . This voter number must receive a three-digit code, which the voter enters into the system and then receives access to the e-newsletter.

6. The course of voting shall be covered through the electronic system "Elections" during the voting time, and the results (results) of voting shall be summarized in the electronic protocol.

Based on the results of the study on the introduction of electronic elections and electronic voting in Ukraine, we made the following conclusions, generalizations and recommendations:

1. There are three main groups of scientific categories and concepts in the field of electronic voting, in particular: a) general categories and concepts related to democracy in general (democracy, e-government, e-democracy); b) categories and concepts related to direct democracy (direct democracy, electronic referendum, electronic elections, electronic voting); 3) categories and concepts related to indirect (representative) democracy (representative democracy, e-parliament, e-government, e-court).

2. The levels of organizational and legal support of the stereotypical (ordinary) and electronic (latest) election process in Ukraine include: a) the constitutional level (Article 71 of the Constitution of Ukraine); b)

codification level (represented by the Electoral Code of Ukraine, and especially - Article 18 of the Electoral Code of Ukraine; c) legislative level, which includes: legislative acts of organizational nature; humanitarian legislation; legislative acts of institutional nature; legislation on information and electronic support of elections and the election process.

3. Taking into account the interrelation of the electoral system with the possibilities of electronic elections and electronic voting, it is expedient to pay attention to the following aspects: a) to have certain problems during the organization of elections of village, settlement, city mayors. First of all, it is a question of entering data in the electronic bulletin about candidates for positions of such chairmen and checking of reliability of these data in the course of their entering; b) during the introduction of electronic voting within the proportional system of elections, it will have significant advantages in the elections of deputies of Ukraine and a number of shortcomings in the process of organizing elections of deputies to local councils, especially in the formation of electronic ballots .).

4. We consider it appropriate at the first stage of the reform to introduce electronic voting, as well as summarizing the results of voting in electronic form (ie at the penultimate and last stages of the election process). In connection with the above, it is recommended to introduce the concept of "electronic bulletin" and "electronic protocol" into regulatory and electronic circulation.

5. To ensure "online voting" and access to e-ballots, it is proposed to use such means as access to the electronic system "Elections" via smartphone, laptop, computer, ATM, payment terminal, and to vote at the place of residence - if possible portable portable device with access to the electronic system "Elections". In our opinion, the electronic ballot paper should include the number of the territorial constituency and the number of the voter in the electronic voter register. The constituency number will be crucial in the local elections, as the list of candidates in the e-ballot will depend on it.

6. We believe that before voting, the voter should enter the above number in the appropriate device for electronic voting (smartphone, laptop, computer, ATM, payment terminal), as well as indicate your phone number, through which you can establish that the person votes independently . This voter number must receive a three-digit code, which the voter enters into the system and then receives access to the e-newsletter. The voting process should be covered through the electronic system "Elections" during the voting time, and the results (results) of the vote are summarized in the electronic protocol.

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Stages of legislative regulation of the institute of referendum in Ukraine

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First, a referendum is an institution inherent in developed democracies. The referendum is the main form of expression of direct democracy, which is based on the fundamental legal principle of popular sovereignty.

The institution of the referendum, as one of the foundations of the democratic structure of the state, must be based on the basic principles of law, be democratic and immutable. In Ukraine, over the years of independence, this institution has undergone significant and ambiguous changes, so its current state is not perfect.

In a classical institution, which is a referendum, each voter gets the opportunity to vote "for" or "against" this or socially important problem. Since the decision during a referendum is made by all the people, the referendum itself is considered a manifestation of popular sovereignty. In the scientific literature, a referendum is interpreted as an institution that provides a direct choice of the appropriate decision, which is the subject of voting.

The following characteristics are inherent in a referendum: direct participation of citizens in presenting their own position, the right to only one vote of each voter, and recognition of the will of the majority as a basis in the process of adopting legal acts. The general conditions for holding referendums are clear fixation of the problems with which they are conducted; on a general referendum, issues that have a national character are submitted. Citizens of the country who have the right to vote have the right to participate in referendums.

The presence of significant gaps in national legislation indicates that the issue is not well developed theoretically and the need to bring the

current legislation to a level that will provide the Ukrainian people with the opportunity to translate their rights into reality.

The forms of citizen participation in public life should be determined taking into account the political traditions that have already developed in society. Their normative consolidation is necessary not only in the Constitution, but also in laws, legal acts adopted in the system of local self-government, charters of territorial communities. Improvement of legislation in this area consists in creating conditions under which the possibility of direct expression of the will of citizens will not completely depend on the decisions of officials. A sufficient level of theoretical developments on the effectiveness of the institution of local referendum in our country, which would be consistent with European standards in the field of direct democracy at the local level, updating the legislation on local referendums, carrying out a large-scale reform of local self-government, ensuring an appropriate level of development of territorial communities and meeting their legitimate rights and interests, educational activities to raise awareness of residents about possible ways to directly resolve issues of local importance in local referendums and through other forms of local democracy will fully ensure the effective functioning of this institution in Ukraine.

It is important to improve the work of the institute of referendum in our state by mass informing the population about the features and essence of its functioning, the stages of initiation and preparation provided for by legislation, because the awareness of citizens on this issue is very low, Few of them have sufficient information about the method and procedure for implementing their will in life. It is necessary to involve specialists from higher educational institutions in such educational work, to create a certain distance-learning program, which necessarily included such educational materials as video lectures, which citizens could familiarize themselves with via the Internet. However, printed matter is also essential, as many citizens who have the right to vote do not have the ability to access the Internet.

According to the Constitution of Ukraine, an all-Ukrainian referendum is proclaimed on a popular initiative at the request of at least three million citizens of Ukraine who have the right to vote, if signatures regarding the appointment of a referendum are collected in at least two-thirds of regions and at least one hundred thousand signatures in each region.

It should be noted that the Ukraine train to independently solve the problem of the accessibility of direct government management, already now, when collecting signatures for the organization of an all-Ukrainian referendum, Ukrainian uses a simplified electronic form available on the Internet, where, by specifying an email address, reason for signing and some personal data, you can sign a petition. However, due to the imperfection of identifying such signatures, this problem requires further study. The solution could be the use of electronic digital signatures according to the law.

Equally important is the improvement of the work of the institute of referendum in our state by mass informing the population about the features and essence of its functioning, the stages of initiation and preparation provided for by law, articles, programs, conferences and round tables, citizen polls, printed explanatory products can raise the level of legal consciousness population.

Now, the legal regulation of the institution of referendum in Ukraine remains underdeveloped and needs to be improved. Without a perfect settlement of such a basic and inalienable form of direct democracy as a referendum, a proper settlement of other institutions of law associated with it is impossible. The main task of the legislator to ensure the effective functioning of the referendum is to introduce a model of the institution of the referendum, which would at the same time avoid unnecessary recourse to it in order to maintain a balance between the use of the referendum and the activities of representative democracy and would provide a mechanism in which the authorities could not ignore the holding and results of the referendum. In addition, it is necessary to

clearly define at the legislative level the procedure for the implementation of decisions adopted at a referendum.

Summarizing the above, it can be argued that a referendum will be an effective instrument for the implementation of the right of popular sovereignty only if a democratic society and political and economic stability dominate the state; if public opinion is not disoriented by manipulative slogans and appeals, as well as false social values; if there is sufficient information support that would allow citizens to clearly understand the advantages and disadvantages of the provisions that are submitted to the referendum; if all the necessary organizational, technical and other conditions are created for the preparation and conduct of national elections.

Limits of direct democracy under the Constitution of Ukraine

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The constitutional order of any country is a way and form of organization of the state, as well as basic constitutional values, which are enshrined in the Constitution. The history of the development of the state of Ukraine shows the uniqueness of the political processes that take place in it. Democracy for Ukraine, unlike Western countries, did not have historical roots and preconditions. Ukrainian democracy is a fairly new phenomenon that is developing rapidly, but nevertheless has a very low degree of influence on political processes in the country. According to the Constitution of Ukraine, the bearer of sovereignty and the only source of power in Ukraine is the people (Article 5 of the Constitution of Ukraine). The people exercise power directly and through state authorities and local self-government bodies (Article 69 of the Constitution of Ukraine).

Today in Ukraine, there are the following forms of direct democracy:

1. Referendum – the adoption by citizens of the country of decisions relating to constitutional, legislative, domestic or foreign policy issues, by voting. The possibility and conditions of holding a referendum are usually enshrined in the country's Constitution or special legislation.

2. Elections – a form of direct democracy provided by the constitution and laws, which consists in the formation of representative bodies of state power and local self-government by voting.

3. General meeting of citizens – a form of their direct participation in resolving issues of local importance, convened at the place of residence of citizens (meeting of residents of the entrance, house, neighbourhood, street, city as a whole) to discuss or address urban life. In cases when it is organizationally and technically impossible to hold a general meeting of

citizens, a meeting (conference) of representatives of citizens from the relevant territorial entities may be convened.

4. Local initiative - an opportunity for city residents to independently prepare a draft decision, which must be considered at a session of the local council. The legal basis is that citizens have the right to submit to the local council any issue that falls within the competence of the council (Article 9 of the Law "On Local Self-Government in Ukraine").

5. Public hearings – collective meetings of citizens with representatives of local authorities, which discuss and approve proposals to address pressing issues of the city. Such proposals are sent to local authorities and are subject to mandatory consideration.

6. Public consultations – are held in order to involve citizens in the management of public affairs, providing opportunities for their free access to information about the activities of executive bodies, as well as ensuring transparency, openness and transparency in the activities of these bodies. Public consultations should also contribute to the establishment of a systematic dialogue between the executive and the public; improve the quality of preparation and decision-making on important issues of state and public life, taking into account public opinion, creating conditions for citizen participation in drafting such decisions.

7. Recall of deputies of local councils is a form of democracy in which citizens of Ukraine have the right to recall a deputy in case of non-fulfilment of their duties or non-fulfilment of the Constitution and other laws of Ukraine.

These forms of direct citizen participation are used at the state and local levels.

With each year of our state's existence as an independent state, it becomes clear that direct democracy is only a model through which it seeks to integrate into the EU.

In our opinion, this right is improperly reflected in the Constitution and other normative acts, and therefore in fact the people of Ukraine are

deprived of this right. Here is an example of an all-Ukrainian referendum held on April 16, 2000, where 4 questions were put to the vote:

1. Abolition of parliamentary immunity;

2. Reduction of people's deputies from 450 to 300;

3. Should a bicameral parliament be formed?

4. Should the President have the right to dissolve the Supreme Council of Ukraine early?

Twenty years have passed since the vote, and parliamentary immunity was abolished on January 1, 2020, the number of deputies has not decreased, although the people supported these decisions and voted for their adoption. That is why Ukrainian democracy has a rather insignificant influence on the political processes in Ukraine.

Analysing the Constitutions of other states, we should pay attention to the experience of Switzerland, which held the first referendum in Europe in 1939.

We believe that direct democracy is not a phenomenon, not a religion, not a magical tool. It is a rational response to demand from the people, as they have the right to participate in the formation of the statehood of our country.

Today, 115 countries around the world use direct democracy in one form or another. To this end, the Venice Commission of the Council of Europe has developed a "Code of Good Practice on Referendums".

Thus, international standards of direct democracy in our country must be implemented. However, first of all, a joint compromise between the government and the people is needed in this aspect. The government must learn to trust its citizens, to create economic and socio-political conditions that will use the energy of popular law-making. In turn, the people must take on the difficult responsibility and courage to be free people on their land.

PART 3
LAW CREATING AND LAW MAKING IN THE SYSTEM OF DEMOCRATIC LEGAL VALUES OF UKRAINE

The problem of the relationship between the concepts of "law creating" and "law making"

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In the theory of law, there are two major social processes:

1) the origin or origin of law;

2) the development of law, when it has already formed as a holistic regulatory system. In the first case it is primarily about the beginning, which is self-organizing in the emergence of law – law creating (formation of law), in the second – about the organizational beginning in the development, improvement of existing law, about active, conscious activity of the state in the legal sphere. This historical process is defined by the theory of law as law-making [1, p. 88].

O. Skakun rightly states that law creating is a form of origin and existence of law, namely law making exists "... before law-making, along with it, in the form of law-making, after law-making in the form of realization of law" [2, p. 19–20].

Law making begins when a state decision is made to prepare a draft legal act. The main difference between law making and law creating is that law making is carried out by state bodies or with their sanction, permission. That is, law-making is, first of all, a form of power-volitional activity of the state, formal, normative consolidation of the measure of freedom and justice, which includes research, generalization and systematization of typical, specific legal relations arising in society and aimed at creating a normative legal act. Law creating is a form of origin and existence of law in a broad legal field: before law making, along with

it, in the form of law making, after law making, in the process of realization of law. Law creating takes place outside the law making of the state, within the framework of civil society – in legal consciousness, specific legal relations, lawful behaviour, legal theories, etc.

Law creating feeds law making with new legal ideas, rules of conduct, specific decisions, agreements that are studied, generalized, systematized by the state, and then formulated in the rules of law, externally expressed in regulations [3, p. 14–15].

Law making is closely linked to law making. The latter, however, is a narrower concept, as it applies only to the adoption of laws, and law making covers the process of adopting both laws and other regulations [4, p. 51].

O. Skakun also emphasizes that law making cannot be reduced to creation of legislation. Legislation is a monopoly of the highest representative bodies of the state (in Ukraine, the Supreme Council) in cases provided by law, creation of legislation is an important part of law making, which is ensured by the adoption of laws [2, p. 19–20].

International experience confirms that one of the main subjects of rule-making activities in developed democracies is the Ministry of Justice, which in accordance with its professional orientation deals daily with regulations at all levels and, conducting legal expertise, identifies shortcomings of draft acts, prevents the adoption of illegal norms, and also performs a significant amount of bill work.

The opinion of E. Hetman is noteworthy, who substantiates that it is necessary to use the term "rule-making" and not "law-making" activity of executive bodies. The author points out that the rule-making activity of executive bodies is the essence and content of the rule-making process, which is a kind of law making and consists in the activity of authorized bodies (state executive power of Ukraine and their officials) to create normative legal acts in accordance with the law (from the rule-making body and the type of normative legal act that is being created).

The goals of law making are to create quality legislation and ensure the effectiveness of its implementation in public relations; ensuring the clarity of the content of the legal act and its accessibility for citizens, etc.

Establishment of by-law in the process of public administration – is administrative law making, which is carried out in the form of publication by bodies and officials of public administration impersonal acts [5, p. 178–185].

Interesting opinion of A. Aparov, who calls the administrative-rule-making process rule-making activities to create (change, suspend, repeal) bylaws of executive bodies of public authority in order to create a legal basis for the implementation of laws [6, p. 35].

As a result, it can be noted that in the scientific literature the terms "law creating", "law making", "creation of legislation", "rule making" are used and interpreted in different ways. In our opinion, creation of legislation should not be equated with law-making, despite the fact that these processes are closely related. It is clear that the result of creation of legislation is the adoption of laws. In turn, the consequence of law making in a broad sense are regulations, legal precedents, treaties, legal customs, legal doctrines, principles of law and other sources of law.

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Criteria for the effectiveness of law making in Ukraine

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Law-making activity in legal regulation should be aimed at harmonizing the main factors of law-making, which means objectively created and functioning in society economic, political, demographic, socio-cultural and other factors that determine the need for legal regulation and thus influence the process of law making.

The main directions of development of law-making activity in Ukraine should be recognized:

1) establishing the procedure for carrying out delegated law-making activities by executive authorities, preparing and making decisions by them;

2) determination of the legal status of the government as the highest collegial body of law-making activity in the system of executive power and general principles and principles of its functioning;

3) organization of the Government's activities in the field of delegation and exercise of law-making powers;

4) determination of the mechanism of implementation of delegated powers by the Government, including settlement of legal aspects of preparation and adoption of normative legal acts of the government as a result of its law-making activity;

5) recognition of the competence of Government meetings in case of decision-making in the field of law-making activities (availability of more than half of the staff);

6) implementation of governmental law-making activities in resolutions and orders, their elaboration in accordance with the legislation of the European Union and European standards in the field of human rights;

7) conducting a legal examination of normative legal acts of the Government adopted as a result of exercising law-making powers;

8) delimitation and clear definition of the scope of law-making powers of the Government and other executive bodies;

9) control over compliance with the Constitution of Ukraine, over the legality of normative legal acts and actions of the Government, local self-government bodies in the sphere of delegated law-making activity;

10) elaboration of the corresponding strategy of delegated law-making activity of executive bodies;

11) use of an administrative agreement as a legal form of delegation of law-making powers between government bodies and local self-government bodies.

Public opinion is an important source of information that is needed to resolve controversial (controversial) issues that arise at this stage of the law-making process. It should be, for the authorities, first and foremost an indicator of the social needs and interests that need to be known and taken into account.

It is necessary to overcome the tradition of alienation from public opinion, which has deep roots in our reality and originates in the domination of the state over the individual. It is also appropriate after the entry into force of the normative legal act of delegated law-making activities to regularly receive information about the compliance of the act with public expectations, the degree of its effectiveness, the reasons for its ineffectiveness, and so on.

The most effective form of public opinion on the draft of the new normative act is the organization of discussion of the project among the representatives of those social groups and strata of society on which the effect of the developed norm is calculated. The effectiveness of the normative-legal act of delegation is the resultant characteristic of its action, which testifies to the ability of the act to solve the relevant social and legal problems. The effectiveness of the normative legal act of delegation should be understood as the relationship between the objectives of the legal norms contained in the normative legal act and the

result of their action, the degree of achievement of the objectives of the act during its implementation. The effectiveness of normative legal acts of delegated law making can be determined at two levels: legal and social. Legal efficiency is characterized by the compliance of the behaviour of the addressees with the normative legal act of delegation (the sample provided for in the norm of such an act). The standard of social efficiency assessment is, as a rule, a broader social goal: all social consequences of the application of the normative legal act of delegation should be envisaged, first of all socially desirable results, which are the social goal of such an act in a broad sense to assess its social effectiveness. With this approach, we can distinguish (evaluate, forecast) economic, political, general, socio-psychological, criminological, environmental effectiveness of the normative legal act of delegation.

Determining the effectiveness of the normative legal act of delegation should focus on identifying indicators of conflict, which characterize the degree of satisfaction of the legitimate interests of the participants in the regulated relations.

The degree of conflict of social relations regulated by this norm involves identifying and determining the optimal level (degree) of conflict for this area at the moment (taking into account the general socio-political, economic, moral or other situation). At the same time, it is obvious that the complete absence of any conflicts cannot be considered a criterion for the effectiveness of a normative legal act.

The problem of the principles and functions of law making at the present stage

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Law making is a phase of lawmaking that involves the activities of specially authorized entities to establish, amend or abolish legal rules, which is expressed in the preparation and adoption of a system of legal acts.

In modern legal science, the opinion has emerged that lawmaking is the process of knowing and evaluating the legal needs of society and the state, of forming and adopting normative acts by authorized entities within the relevant procedures. The main impetus for the creation of a law or other legal act is a socially significant problem, an unresolved issue that is of importance to a large number of people and the state as a whole.

In modern terms, lawmaking covers the following steps: a) identification of a legal motive caused by mature natural, socio-economic and other needs (law-making factors) in the legal regulation of certain types of social relations; b) forming on this basis the various wills of civil society of a concerted will, which requires a reduction to a normative, general rank; c) legal registration of the agreed will in the form of legal norms in the official legal sources by competent entities (people, state bodies, local self-governments); d) formally communicating the decision-making decision to the addressees.

To date, lawmaking in Ukraine as a process of creating norms of law is quite important and complex phenomenon, which requires some rethinking and developing effective, scientifically sound ways of its improvement. V. S. Nersesyants calls lawmaking "legal establishment" and defines it as a form (direction) of state activity, which is associated with the official expression and consolidation of rules of law, which constitute the legal content of all existing sources of positive law.

Replacing the term "lawmaking" with "legal establishment" the scientist considers it expedient, because the use of the word "law-making" gives the impression that the state does not enshrine or formulate the law in law, but actually creates it. In our view, the use of the proposed term should be considered very carefully, as this can lead to some confusion and misleading legal science and practice in terminology. Speaking of "legal establishment", V. S. Nersesyants draws attention to a number of principles on which it should be based. A characteristic feature of the conceptual opinion of the scientist is the separation of the principle of "legal progress", which "requires that the law-making activities of the state should be maximally aimed at further development and improvement of existing positive law in line with the general civilizational achievements in the field of human and civil rights and freedoms.

Lawmaking is not a completely separate activity of the state and civil society, but only one of the activities carried out by public authorities and civil society. In this aspect, it is logical to conclude that as one type of social activity, lawmaking is guided by the same general principles that determine the general principles of any activity of the state and society. Legally, these principles are enshrined in the Constitution. These include the principles of humanism, democracy, transparency and legitimacy. Each of them has been reflected both in the Constitution of Ukraine and in the current legislation.

Compliance with the principle of humanism means that normative acts must formulate, protect universal human values, natural human rights, create conditions and mechanisms for their implementation. In a democratic society, lawmaking must have a truly democratic basis, which is ensured by the participation of citizens in drafting legal acts. Each citizen, expressing his opinion, has the right to participate in this process individually or as part of a certain team. Citizens may be members of various working groups specially created for this purpose, participate in carrying out inspections, collecting materials for the preparation of draft

regulatory acts. Specialists in a particular field can be involved in drafting the texts.

The main thing for lawmaking is to develop and approve new legal rules. This primarily manifests the social purpose of this type of legal activity. Other manifestations of lawmaking (abolition and amendment of existing rules, improvement of their version) have subordinate, auxiliary importance for the formation of a comprehensive, clearly expressed and internally agreed system of legal rules.

The function of filling in the gaps in law plays a supporting role in current legislation. Normal functioning of law-enforcement bodies over a long period of time usually accumulates a lot of legal norms, which are sometimes placed in different regulations, although they have a homogeneous subject of regulation. Ultimately, this leads to some controversy in the regulatory array and makes it difficult to use them. Therefore, the organizing function is designed to eliminate these unwanted phenomena through organizational forms such as incorporation and codification.

Summing up, we emphasize that lawmaking is the result of objective development of social relations, directly aimed at their settlement. The purpose, content and results of law-making activity are determined by various factors that exist in society, in its various spheres, including: the level of development of state-legal institutions, legal culture of the population, the form of state system, government and regime, the nature of the mentality of society, etc. It should be noted that the effectiveness of law-making activity depends on the consideration of these factors, as well as the principles of law-making activity, the observance of which helps to avoid mistakes and creation of ineffective legal norms and, in addition, promotes the legal culture of individuals and legal entities, etc.

Also, it should be noted that the legal literature today is acutely lacking in scientific research on the nature, content and importance of law-making and law-making in particular.

People's law making as an element of the mechanism of direct democracy

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It should be noted that in constitutional law, the concept of people's law-making initiative is understood as a complex institution, which provides that a certain number of citizens can propose draft legal acts, including a draft law amending the constitution or other legal acts, by submitting them to a representative body or putting to a referendum.

The initiative, which is implemented through a referendum, is called direct, and through a representative body – indirect. Direct initiative is the initiative of citizens who, in accordance with the procedure provided by law, are directly put to the vote.

Indirect initiative - citizens' initiatives that involve a representative body to discuss and adopt them. For example, citizens' initiatives, which, in accordance with the procedure provided by law, are submitted to the representative body for preliminary discussion, and then put to a popular vote. Or, as in Latvia, if the representative body does not agree to accept the draft without significant changes, it is again put to a popular vote. At the same time, the parliament has the right to propose an alternative bill.

Agenda initiatives can be singled out, which are submitted to the representative body, which independently considers and makes decisions (Austria, Hungary).

The initiative can be formed (if a prepared act is put forward by citizens) or unformed (in the form of a proposal to a representative body to develop a document that can later be either put to a referendum or submitted to a representative body).

Depending on the subject of the initiative, a distinction can be made between constitutional and legislative initiatives. The first involves a proposal to change the constitution of a particular state and, as a rule,

requires more votes than the usual initiative concerning lower-level regulations.

It should be noted that the concept of "people's law-making initiative" in legal sources is generalized, which applies to all acts of law-making, put forward by citizens, or rather the established number of voters. It provides for the participation of a fixed number of voters in the initiation and adoption of regulations.

However, if the subject of a people's legislative initiative is a draft constitution or law, then scholars usually use the terms "people's constitutional initiative" and "people's legislative initiative", respectively. That is, these concepts denote different types of popular law-making initiative, so it is natural that they are narrower in their meanings.

People's law-making initiative is an independent institution of direct democracy, so in order to avoid confusion in the categorical-conceptual apparatus, it must be distinguished from similar in content and form of other types of direct democracy. In particular, the concept of "people's law-making initiative" should be distinguished from such concepts as "public initiative", "citizens' law-making proposals" and "legislative referendum". Thus, according to V. F. Nesterovich, despite the fact that public initiatives are collective actions of citizens to address pressing issues, they are not identical to the people's law-making initiatives. Public initiatives, unlike people's law-making initiatives, the scientist continues, do not oblige public authorities to consider their demands, but put psychological pressure on them.

A similar opinion is held by O. V. Shcherbanyuk, who points out that the concept of "people's law-making initiative" should be distinguished from the concept of "citizens' law-making proposals", which, unlike the people's law-making initiative, are not public authorities. According to the scientist, public authorities and local governments, to which the law-making proposals of citizens are addressed, should take them into account in their activities, but are not obliged to consider and adopt relevant legal acts or reject them in their

plenary sessions. After all, the people's law-making initiative is a public decision.

Indeed, the decision of citizens to submit a draft normative legal act for consideration by public authorities or voters, provided that the terms and procedures established by the constitutional legislation comply with the beginning of the law-making process. In this case, the draft legal act must be considered by a representative body of public authority or this draft must be voted on in a general referendum. Therefore, the main difference between the people's law-making initiative and the law-making proposals of citizens is the realization of political rights different in their constitutional nature.

If citizens' legislative proposals are the realization of the constitutional right to appeal to public authorities, which can be exercised individually and provides for a response to it, but does not require mandatory consideration at the level of a representative public authority, then the people's legislative initiative is the implementation of citizens to act as a subject of the law-making process, which is carried out by them exclusively in a collective manner and provides for mandatory consideration of the submitted draft legal act by a representative body of public authority or the electorate in a general referendum.

Regarding the legislative consolidation of the categorical-conceptual apparatus of the institute of people's law-making initiative in the current legislation of Ukraine, we note that it is represented only by the concept of "local initiative". Its content, in accordance with Art. 9 of the Law of Ukraine "On Local Self-Government in Ukraine" of May 21, 1997, is that members of the territorial community have the right to initiate consideration in the council of any issue included in the jurisdiction of local self-government. The decision of the council adopted on the issue submitted for its consideration by a local initiative shall be promulgated in accordance with the procedure established by the representative body of local self-government or the charter of the territorial community.

It should also be noted that the analysis of the legal nature and normative content of the people's law-making initiative of citizens with such forms of exercising power by Ukrainian citizens as referendum and appeal to public authorities and local governments allows to identify their general and specific features. If certain types of referendums are a direct form of citizen participation in the field of law-making, then a legislative initiative is usually an indirect participation of Ukrainian citizens in the rule-making process.

At the same time the submission of bills to a referendum is considered by legal theorists in the context of the institute of referendum. As a result, the institution of the people's law-making initiative in terms of its varieties, closely related to the referendum, is identified with the institution of the referendum. As a result, the right of the people's law-making initiative is regulated by almost the same norms as the right of citizens to a referendum.

However, they have a different essence: the main content of the referendum is to identify the attitude of citizens to pre-formulated issues, and the people's initiative – law-making. In the case of their identification, the right of popular initiative remains unregulated, which we face in Art. 15 of the Law of Ukraine "On All-Ukrainian Referendum". The norms of the Law of Ukraine “On the All-Ukrainian Referendum” regulate only procedural issues of voting preparation. Therefore, the legislation on the people's law-making initiative should be developed taking into account, but separately from the legislation on the referendum. Thus it is necessary to provide in the law requirements to the bill, the procedure for carrying out examination, questions to which the expert opinion has to answer.

It is also necessary to provide for norms that provide for the possibility of citizens to finalize the bill after its examination, to establish guarantees for further consideration of the project by the public.

Thus, the term "people's initiative" is proposed to mean the right of a clearly established by the constitution or law number of voters to propose a draft legal act, which is subject to mandatory consideration by

a representative body of public authority or the electorate in a general referendum. non-adoption of this normative legal act.

In modern conditions in Ukraine it is necessary to introduce forms of people's initiative in order to involve citizens in the work of public authorities and local self-government. Solving this problem will help ensure a permanent link between government and society. Since the Constitution of Ukraine does not provide a mechanism for the direct implementation of the people's initiative, it is advisable to include the people's legislative initiative in the Constitution of Ukraine, which will allow the people to directly influence the legislative process.

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General theoretical and constitutional principles of law making

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The legislative process is defined as a set of constitutional legal relations in relation to the so-called "elaboration" of the law. The key elements of the legislative process are highlighted, namely: the object, subjects, constitutional rights and legal obligations of the subjects regulated by constitutional legal acts.

The object of the legislative process differs depending on the stage of this process at which these legal relations arise. It can be: identification of public relations that require legislative regulation; drafting of the bill; consideration of the bill; enactment; entry into force of the law.

All subjects of the legislative process of Ukraine are distributed, first of all, according to the volume of constitutional rights, which they are endowed in the specified process on:

1) basic – having the constitutional right to adopt or approve laws;

2) optional – who do not have this right, but are given the right to participate in certain stages and stages of this process.

The main subjects are the Ukrainian people, which in cases determined by the Constitution of Ukraine approves laws through an all-Ukrainian referendum, and the Supreme Council of Ukraine, which according to the Constitution of Ukraine is the only legislative body in Ukraine. All other subjects are classified as optional, in particular: People’s Deputies of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, parliamentary committees, separate structural subdivisions of the Supreme Council of Ukraine, political parties, scientific institutions, public associations, etc.

A special optional subject of the legislative process of Ukraine is a citizen. The scope of constitutional rights and legal obligations of a

citizen and other subjects of the legislative process of Ukraine varies depending on the stage and stage of this process in which he participates.

Regarding the relationship between the concepts of “legislative process of Ukraine” and “legislative process of Ukraine”, we have determined that the latter is much broader in its content and includes not only formal, actually legislative process, but also informal “law-making” procedures outside the subject of constitutional law.

First of all, "citizen participation in the legislative process" is revealed as a constitutional category, which has the following features:

1) it is a public activity;

2) is regulated by constitutional and legal norms;

3) is inextricably linked with the constitutional right to such participation, as it occurs in the process of its implementation.

The constitutional right of citizens to participate in the legislative process of Ukraine is enshrined in the Constitution and laws of Ukraine in the form of a set of rights, in particular: the right to participate in the all-Ukrainian referendum; the right to send appeals; the right to participate in parliamentary hearings, etc. In essence, this right provides for the participation of citizens at certain stages and stages of the legislative process of Ukraine, primarily in identifying public relations that need legislative regulation, in drafting laws, their consideration by the Supreme Council of Ukraine and its bodies, and in approving laws amending to the Constitution of Ukraine and on the change of territory through an all-Ukrainian referendum.

Based on the analysis of theoretical research and provisions of legislation, the practice of involving citizens in legislative activities in Ukraine and abroad, criteria have been developed to systematize the main forms of citizen participation in the legislative process. All forms of such participation are classified according to: the manner of realization by a citizen of the constitutional right to participate in the specified process; the consequences of the citizen's exercise of this right; subjective composition; level of regulatory consolidation.

The forms of participation of citizens in the legislative process of Ukraine defined in the Constitution and laws of Ukraine combine opportunities for realization of the specified constitutional right by the citizen both through forms of direct democracy - by participation in the all-Ukrainian referendum, and through forms of deliberative democracy - by sending appeals, participation in national discussions.

Citizens' participation in the legislative process of Ukraine is based on certain principles, the basic principles and initial ideas defined by the Constitution and laws of Ukraine, which reflect the essence and features of such participation. All principles are divided into two groups:

1) general - inherent in all forms of such participation;

2) special - inherent in certain forms of this participation.

Thus, it can be concluded that the Constitution and laws of Ukraine create a legal basis for the participation of citizens in the legislative process of Ukraine at almost every stage of this process. Citizens' participation in the legislative process of Ukraine is a public activity regulated by constitutional and legal norms, which provides for their participation at certain stages and stages of the legislative process, primarily in identifying public relations that need legislative regulation, drafting laws, considering them by the Supreme Council of Ukraine and its bodies, as well as in the approval of laws on amendments to the Constitution of Ukraine and on the change of territory through an all-Ukrainian referendum.

The concept of law making and the legislative process in domestic legal science

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In the modern domestic legal literature today, the distinction between the concepts of "legislative process" and "legislative process" is not given enough attention. In addition, some scholars identify the concepts of legislative and legislative process.

According to A. Tikhomirov, the legislative process is the process of activity of the highest state authorities on the issuance of legislative acts, consisting of a number of stages: 1) forecasting and planning of legislation; 2) making proposals to change the law; 3) development of the concept of the law and preparation of the bill; 4) special and public discussion of the draft law; 5) consideration and adoption of the law; 6) publication of the law and its entry into force [7, p. 181]. The author characterizes the legislative process with features that go beyond the parliamentary procedure and complements them with the pre-legislative stage (forecasting and planning of legislation, making proposals to change the law, developing the concept of the law and drafting the bill).

In my opinion, the above features are characteristic of the legislative process, as the very concept of "legislative process" is associated with the activities of the legislative initiative (President, Cabinet of Ministers, MPs and the National Bank of Ukraine), and therefore the legislative process itself begins from the moment of development and submission by the subjects of the legislative initiative of the bill to the legislative body.

O. Skakun [6, p. 318], O. Yushchyk [10, p. 83] believe that the concepts of "legislative process" and "legislative process" are correlated as a whole and part. The legislative process is understood as the procedure regulated by the Constitution, laws and other normative legal acts for submission to the legislative body, adoption, publication and

entry into force of laws. V. Zhuravsky considers the legislative process as legislative activity, regulated by the Constitution, Rules of Procedure of the Supreme Council and other laws, the activities of the parliament for the preparation, consideration and adoption of laws and their promulgation [4, p. 339].

Thus, based on the proposed definition, the legislative process begins with the preparation of the bill, provides for its submission to the legislature, covers consideration of the bill within three readings and ends with the official promulgation of the law of Ukraine.

Thus, Z. Pogorelova claims that "the legislative process is significantly expanded compared to the legislative process of knowledge, analysis, assessment of law-making factors, the activities of public authorities to draft laws, forecasting, planning legislation and many other aspects ending with the process of knowledge and signing the law» [5, p. 11].

According to V. Telipko, the law-making process (or, as this author notes, law making in the procedural aspect) is characterized by an organic unity of three main stages: cognition, activity and result [7, 56]. The essence of the first stage - cognition - is to identify the relevant social factors (historical, political, cultural, etc.) that affect the development of social relations. They are usually detected at the stage of planning legislative activities, making a legislative proposal and drafting a bill, as well as conducting legal monitoring and examination of a draft law. The second stage is active, as it involves the submission of a draft law for consideration by the legislature, its consideration, adoption and promulgation. The third - expresses the result of the entire legislative process and covers the entry into force of the law. At this stage, there is a close relationship between the law and social factors that determine the features of legal regulation of relevant social relations (legal monitoring is carried out to establish their correctness, generalization of the practice of law to create legislation in the future.

According to O. Yushchenko, the legislative process differs from the legislative one in the range of subjects, as participants in the

legislative process, in addition to the subjects of the legislative initiative, can also be public organizations [8].

Thus, in paragraph 4 of Art. 21 of the Law of Ukraine "On Public Associations" states that public associations have the right to participate in the manner prescribed by law, in the development of draft regulations issued by state bodies or local governments [2, 3]. The range of subjects of the legislative process is quite wide. A detailed analysis of such entities will be conducted in the following - 92 - subparagraphs. Without dwelling in detail on this issue, it should be noted that the Constitution of Ukraine gives legislative powers to two main actors: the Supreme Council of Ukraine and the people of Ukraine [1, 2; 5].

In addition, the Constitution provides for a complicated procedure for amending Sections I, III and XIII, which requires at least two-thirds of the votes of the constitutional composition of the Supreme Council of Ukraine and the approval of changes in an all-Ukrainian referendum. Thus, according to the range of subjects of the legislative process, it can be divided into: A) parliamentary (the main subject is the Supreme Council); B) the people (the main subject is the people); C) joint (provides for joint participation of two main subjects of law making: the Supreme Council and the people) [8].

O. Yushchenko proposes to consider the legislative process as an official part of the legislative process, the subject composition and stages of which are clearly defined by law [8]. This position can be accepted, as the ultimate goal of the legislative process is to regulate public relations by means of a normative legal act, which cannot take place without drafting and submitting a draft law to the Supreme Council, which is the beginning of the legislative process. In addition to the term "legislative process", which is used in Ukraine in a number of regulations: Resolution of the Supreme Council of Ukraine of July 5, 2012 N 5096-VI "On approval of the program of informatization of the legislative process in the Supreme Council of Ukraine for 2012 - 2017"; Resolution of the Presidium of the Supreme Council of Ukraine of 31.10.1994 № 180/94-PV “On streamlining the organization and implementation of the

legislative process by the Supreme Council of Ukraine"; Order of the Ministry of Industrial Policy of Ukraine № 218 of 13.06.2006 "On the organization of legislative activity of the Ministry of Industrial Policy of Ukraine in 2006".

The subject of the legislative process is the law, ie normative - legal act, which is adopted by the legislature or the people in a complicated procedure, has the highest legal force in the system of normative legal acts and is aimed at regulating the most important social relations. Thus, based on the established in science division of laws by legal force, we can distinguish the following types of legislative process on the subject:

a) constitutional;

b) organic;

c) ordinary;

d) extraordinary.

The rights and obligations of the subjects of the legislative process are regulated by the Constitution of Ukraine, the Law of Ukraine "On the Rules of Procedure of the Supreme Council of Ukraine", "On the All-Ukrainian Referendum", "On the Status of People's Deputies", "On Committees of the Supreme Council of Ukraine", "On access to public information", "On information", "On public associations.

In Art. 69 of the Constitution of Ukraine stipulates that the people's will is expressed through elections, referendums and other forms of direct democracy. Article 93 of the Constitution of Ukraine states that ―the right of legislative initiative in the Supreme Council of Ukraine belongs to the President of Ukraine, People's Deputies of Ukraine, the Cabinet of Ministers of Ukraine, and the National Bank of Ukraine. Section 4 of the Constitution of Ukraine establishes the powers of the Supreme Council of Ukraine, in particular: amendments to the Constitution of Ukraine, appointment of an all-Ukrainian referendum, adoption of laws.

Thus, based on the above, I believe that the concepts of "legislative process" and "legislative process" are correlated as part and whole. This is explained by the fact that the elements of the legislative process include: development and submission of a draft law for consideration by

the legislature, discussion of the bill, its adoption and official promulgation, as well as its entry into force; and the legislative process, in addition to the above stages, includes: identifying the need for legal regulation, planning legislative activities.

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The ratio of stages of legislative activity and the legislative process

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Consider the main features and peculiarities of the legislative process as a whole. It is important to note that the concept of "legislative process" has two meanings:

1) the procedure for passing the bill in the highest representative body of power, the sequence of decisions adopted by this body of state power;

2) legislative activity, which is manifested in the adoption of new, repeal or amendment of existing laws in accordance with the interests of public administration.

We consider the legislative process in its broadest sense - as a strictly regulated activity, which is a set of certain procedural actions (stages of the legislative process) of specially authorized entities aimed at creating an act of higher legal force - the Law. Among the main features of the legislative process are the regulation of its legal norms, the presence of a special subject composition, the distribution of the legislative process at the stage.

Unfortunately, the concept of law making is virtually absent in the legal literature. In this regard, this concept is often replaced by the concept of legislative activity, used (the term itself) together with it in the same context, which leads to a complete identification of these concepts. In the legal literature there is a situation in which the concept of "law making" has not received proper understanding, organically adopting the meaning and significance of another concept of "legislative activity".

This situation has developed not only in Ukraine, but also in other, and in particular, post-Soviet states. For example, law making is defined as the activity of the highest legislative body in the person of MPs or the people themselves (by referendum) to establish, change or repeal legal

norms that are externally enshrined in law, and which is carried out in a special procedure in accordance with the right to law making enshrined in the constitution of the state.

V.V. Lazarev calls law making the initial form of realization of law by the state. O. Mickiewicz, V. Kazimirchuk, A. Pigolkin, Y. Tikhomirov and others hold a similar point of view on law making. But, in my opinion, law-making and legislative activity are not identical, they differ in scope and content, as well as their subjective composition.

Today, the process of formation of Ukraine as a legal and democratic state continues, the formation of civil society, which is impossible without an effective system of legislation that corresponds to the modern European integration policy of Ukraine. Its effectiveness is influenced by many factors related to the general socio-political situation in the country, the level of economic and civil society development, legal awareness and legal culture of lawmakers, the level of corruption in the state.

It seems that in the modern domestic legal literature today the distinction between the concepts of "legislative process" and "legislative process" is not given enough attention. In addition, some scholars identify the concepts of legislative and legislative process. According to A. Tikhomirov, the legislative process is the process of activity of the highest state authorities on the issuance of legislative acts, consisting of a number of stages: 1) forecasting and planning of legislation; 2) making proposals to change the law; 3) development of the concept of the law and preparation of the bill; 4) special and public discussion of the draft law; 5) consideration and adoption of the law; 6) publication of the law and its entry into force.

The author characterizes the legislative process with features that go beyond the parliamentary procedure and complements them to the legislative stage (forecasting and planning legislation, making proposals to change the law, developing the concept of the law and drafting the bill).

In my opinion, the above features are characteristic of the legislative process, as the very concept of "legislative process" is associated with the activities of the subjects of legislative initiative (President, Cabinet of Ministers, MPs and the National Bank of Ukraine) begins from the moment of development and submission by the subjects of the legislative initiative of the bill to the legislative body. The process of creating a prescription of the law covers the procedure of preparation, which includes legal examination, monitoring, formation of the concept of the bill, and only after all the necessary preparatory actions – the introduction of the bill by the subject of the legislative initiative.

O. Skakun, O. Yushchyk believe that the concepts of "legislative process" and "legislative process" are correlated as a whole and part. Under the legislative process is understood the procedure regulated by the Constitution, laws and other normative legal acts for submission to the legislature, adoption, publication and entry into force of laws. V. Zhuravsky considers the legislative process as legislative activity, ie regulated by the Constitution, Rules of Procedure of the Supreme Council and other laws, the activity of the parliament on the preparation, consideration and adoption of laws and their promulgation.

Thus, based on the proposed definition, the legislative process begins with the preparation of the bill, provides for its submission to the legislature, covers consideration of the bill within three readings and ends with the official promulgation of the law of Ukraine. In contrast to the legislative, the legislative process, in my opinion, includes, in addition to the parliamentary procedure for passing the bill, the so-called legislative stage: identifying the need for legal regulation, in particular, by analyzing public opinion, programs of political parties, NGOs; establishment of social factors influencing the development of social relations; conducting legal monitoring of current regulations in order to identify gaps and shortcomings in the system of legislation of Ukraine, etc.

According to V. Telipko, the law-making process (or, as this author notes, law-making in the procedural aspect) is characterized by an organic unity of three main stages: cognition, activity and result. The

essence of the first stage - cognition - is to identify the relevant social factors (historical, political, cultural, etc.) that affect the development of social relations. They are usually detected at the stage of planning legislative activities, making a legislative proposal and drafting a bill, as well as conducting legal monitoring and examination of a draft law. The second stage is active, as it involves the submission of a draft law for consideration by the legislature, its consideration, adoption and promulgation. The third - expresses the result of the entire legislative process and covers the entry into force of the law. At this stage, there is a close relationship between the law and social factors that determine the features of legal regulation of relevant social relations (legal monitoring is carried out to establish their correctness, generalization of the practice of law to create legislation in the future.

Thus, based on the above, I believe that the concepts of "legislative process" and "legislative process" are correlated as part and whole. This is explained by the fact that the elements of the legislative process include: development and submission of a draft law for consideration by the legislature, discussion of the bill, its adoption and official promulgation, as well as its entry into force; and the legislative process, in addition to the above stages, includes: identification of the need for legal regulation, planning of legislative activities, legal monitoring, legal expertise.

Legal activity of local self-government bodies in Ukraine

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An important condition for the functioning of the local self-government system is the adoption and implementation of local regulations. The right to form its own regulatory framework is explicitly provided for in the Constitution of Ukraine, Art. 140 which stipulates that local self-government is exercised by the territorial community in accordance with the procedure established by law, both directly and through local self-government bodies - village, settlement, city councils and their executive bodies, and Art. 144 provides that local governments, within the powers defined by law, make decisions that are binding on the territory. Such normative acts include statutes of territorial communities, decisions of local referendums, regulations of local councils, decisions of councils, orders of village, settlement, city mayors, decisions of executive committees of local councils, provisions on standing committees of the relevant council, agreements on the delimitation of subjects of responsibility of local councils and bodies local state executive, etc. At the same time, the features of local law making as a form of administrative activity influence the exercise of the powers of local self-government bodies, so this requires the formation of clear and unambiguous requirements for the implementation of the rulemaking process.

The purpose of this article is to investigate the peculiarities of self-regulatory regulation of subjects of local self-government issues of local importance, as well as to identify specific features of local norms of creativity with the participation of members of the territorial community.

In the most general form, the form of management activity should be understood in one way or another the external expression of the content of this activity. According to certain criteria of manifestation of

forms of government, their compliance with current legislation, and expression of will within the limits of one's own competence in order to achieve managerial purpose, J. Zhuravel defines the form of management activity of local self-government bodies as externally expressed will of local councils and their implementing bodies. Of the Constitution of Ukraine within the limits of its own competence in order to achieve the set administrative goal [6, p. 113]. Based on the broader subjective composition of local self-government, the form of local government activity should consider the external expression of the activity of local self-government entities in the form of a legal act authorized by the state to regulate internal organization, basic activities, rights and obligations. participants' relations, the mechanism of exercising the right of members of the territorial community to local self-government.

Issuance of normative acts belongs to the legal forms of administrative activity, their use causes the emergence of a specific legal result, in addition, such forms can generate (change, terminate) legal relationships in a particular area. Distinguishing normative acts from non-normative (enforceable) ones, it should be noted that they are the result of law-making activities of the competent authorities and officials of state power and local self-government, include non-personified obligatory rules of conduct, addressed to an indefinite number of persons or application. Such rulemaking is directly related not only to law but also indirectly to society and to the development of social relations. In the conditions of functioning of transitional societies, this becomes especially important.

Local government regulations include mandatory corporate regulations for the population of a certain territory, because they are adopted by the territorial community or its bodies and relate to the issues of life of the residents of the administrative and territorial unit. They are binding on the residents of the respective territorial community and are restricted to a specific territory. Such local rules address issues not regulated by current local government legislation, thus eliminating existing loopholes and streamlining the regulatory framework,

simplifying its application. Within the legal hierarchy, such legal acts may contain additional legal provisions that should not contravene laws and other by-laws. According to some scholars, such norms are now passing the stage of their formation, are modified and adapted to the legal sphere by certain social phenomena that are in dialectical interaction [5, p. 52].

Each local government entity is endowed with an appropriate competence, which enables it to choose, in specific situations, the use of a form that is most relevant to local interests. Regulations of local councils include the following: the deputy (deputies) of the city council; deputy groups, factions; permanent commissions of city council; executive committee of city council; general meeting of citizens at the place of residence. Representative bodies of local self-government occupy a special place among these entities, so the rulemaking activity of other local self-government entities must comply with regulations adopted by local councils. Local norms of creativity of local self-government bodies are characterized by the fact that such legal acts are adopted in order to exercise their own and delegated powers.

Local self-government acts are drawn up into a particular system, so classification on various grounds is of great theoretical and practical importance. In particular, this is the division of local self-government acts: by legal properties (regulatory and non-regulatory); depending on their intended purpose (regulations, general acts, individually defined and mixed acts); on the grounds of their adoption (acts adopted from a specific situation, on the own initiative of local self-government bodies, to fulfil the requirements of the laws); depending on the date of entry into force (immediately after their signature or acceptance; from the date specified in the act; within the period specified in another act; after its official publication); by scope (by territory covered by the act; by the term of the act; by the number of persons covered by the act); the content and nature of the issues to be resolved and the availability of power (acts adopted by local governments in their various fields of activity; acts containing prescriptions, requirements, recommendations, etc.); by legal

force (acts following the results of local referendums, acts of local councils); depending on the procedure and method of adoption (accepted collectively or individually); by nature of authority (acts related to the exercise of one's own or delegated powers); by the form of the act (decision, statute, regulation, etc.); on the subject of regulation (depending on the field of activity) [8, p. 220 - 223]; depending on the authorized entity (acts adopted by the population of the respective territorial community; acts issued by the representative body of local self-government; acts of village, town, mayor; acts of executive bodies of local councils).

Unlike the acts of local self-government bodies, local acts, in which the population is involved, are of high priority. This is explained by the combination in their content of personal and public interests, which promotes the interaction of residents of the territorial community and its representative bodies. The mutual cooperation of the decision-makers and the executors of these decisions allows to call such documents acts of self-government. A special place among the regulations of this kind is the status of the territorial community. After all, it is an important normative condition for the functioning of the territorial community and its bodies, being a necessary element of the legal basis of local democracy.

The statute of a territorial community is a form of administrative activity that ensures the realization of autonomy of local self-government at the local level. Functionally, the statutes help to limit the involvement of legislatures and executive bodies in local affairs, the extension of local government rights, such as the search for additional sources of income, the promotion of entrepreneurship, the formation of local programs and more. In organizational terms, the statutes guarantee pluralism of forms of local self-government, allow the population to choose acceptable for him variants of relations between representative and executive bodies, organization of relevant services [7, p. 186- 187].

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The legislative initiative in Ukraine and its influence on legislative activity

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The right of legislative initiative is the opportunity to submit bills to the legislature, preliminary texts of laws. This right corresponds to the obligation of the legislature to discuss the adoption of such bills for consideration. Because the legislature is not able to consider as a law on projects and proposals to improve the legislation, which may come from different people, the circle of which is generally difficult to define. The Constitution, based on world experience, clearly defines in this article the list of subjects endowed with the right of legislative initiative. Only these subjects have the right to submit bills for consideration by the legislature, because they are directly related to the solution of the most important national issues. These are, first of all, the President of Ukraine – the guarantor of state sovereignty, territorial integrity of Ukraine, observance of the Constitution of Ukraine, human and civil rights and freedoms, people's deputies of Ukraine representing the interests of the people. The right of legislative initiative is also given to the Cabinet of Ministers of Ukraine – the highest body in the executive branch.

In the second part of Art. 93 of the Constitution stipulates that bills submitted by the President of Ukraine to the Supreme Council on the basis of a legislative initiative and recognized by them as urgent shall be considered on an extraordinary basis.

The right of legislative initiative is recognized as the initial stage of the legislative process not only in the Constitution of Ukraine, but also in the constitutions of other countries.

The range of subjects of this right is related to the form of government adopted in a given country. Thus, in states with parliamentary forms of government, as well as "mixed" forms of

republics, the circle of subjects of this right is wider than in presidential republics. In almost all Eastern European countries and those formed in the former Soviet Union, this right belongs to presidents. In Switzerland, the relevant right is vested in the federation, and in Portugal and Uzbekistan – the representative bodies of the autonomy. In Austria, Estonia, Latvia, Slovakia, Hungary and Japan, the subjects of the right of legislative initiative are parliamentary committees, in Estonia and Portugal – parliamentary factions, in the Czech Republic – representative local governments.

In presidential republics, only parliamentarians are recognized as subjects of the right of legislative initiative. For example, in the chambers of the US Congress, collective legislative initiative is prohibited, although no one can prevent several congressmen or senators from proposing similar bills. Representatives of the executive power in these states are formally deprived of such a right, which is interpreted as the implementation of the principle of separation of powers.

In the process of drafting the current Constitution, there have been numerous discussions on whether to introduce judicial bodies into the subjects of legislative initiative, as in Russia and a number of other states. The arguments of the supporters of the inclusion of the judiciary in the subjects of the legislative initiative were that the court, like no other body, by virtue of its functions is most competent in what laws are needed and what are the gaps in the current legislation. We can agree with this position. But those scientists who are against giving such a right to the judiciary prove it more convincingly. Their arguments are based on the fact that the Ukrainian legal system still belongs to the Romano-Germanic type of legal family, which is characterized by the fact that the courts are not law-making bodies.

They have only a law enforcement nature and since we are talking about a legislative initiative as a stage of the legislative process, it is impossible to involve the court in law making. Therefore, the courts of Ukraine do not have the right of legislative initiative

Thus, in each state, law making has its own characteristics, but everywhere it is aimed at creating and improving a single, internally consistent and consistent system of legal norms that govern the various relationships formed in society. Legislative initiative is a complex structured phenomenon, which should include the right of authorized entities to implement it, the relevant responsibilities for implementation. The right of legislative initiative is not universal, does not belong to all subjects without exception – citizens, government agencies or public organizations.

EU law making and its bodies

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The complexity and multifaceted nature of the European Union as a supranational union necessitates the creation of a strong and diversified system of governance and coordination of actions in order to achieve the goals of the Union. The Member States of the European Union delegate powers in resolving certain issues to independent institutions representing the interests of the Union, its States and its citizens. The European Commission protects the interests of the Union as a whole, each national government is represented in the Council of Ministers (Council), and members of the European Parliament are directly elected by EU citizens. Thus, democracy and the rule of law are the cornerstones of this structure.

The four main institutions of the European Union were founded in 1952, when the European Coal and Steel Community was established, and the idea of the European Council was not even visible. These institutions, namely the Assembly, the Council, the Commission and the Court, have not changed in substance since then. The Assembly became a supranational parliament and the European Court a super arbitrator. At the same time, the role of the Council, which consists of representatives of the governments of the Member States, has somewhat diminished, and the role of the European Commission as an executive body has not changed significantly. Such changes are explained by the fact that initially the idea of uniting countries into the European Economic Community, and now - into the European Union, was supranational in nature. Accordingly, those institutions that added supranationality to their status became more influential.

The analysis of law-making activity in the European Union clearly demonstrates the complexity of the process of European integration and the "direction of its movement", and its dynamics reflects the process of

formation and evolution of the legal nature of these interstate entities. In clarifying the meaning of the concept of "law-making process" in relation to the EU, it is necessary to determine what is the result of this process, namely what rules of law are developed within the Union. Traditionally, EU law is represented as a set of different sources of law, which consists of several elements. Conventionally, these elements are defined as primary law (founding treaties, a kind of European "constitution"), secondary law (various regulations adopted on the basis of and to implement primary law), convention law, supplementary law, judicial law, the basic principles of European law. Some authors consider these elements separately, others combine them into different groups, thus reducing the number of sources.

Therefore, we can say that the law-making process within the EU is the activity of certain entities, as well as the procedure of interaction between them, aimed at creating rules of EU law, which are embodied in certain acts.

If we consider the law-making process within the European Union, it should first be noted that the terms "legislative process" or "legislative procedures", which are often associated with the law making process, are used in the apparatus of definitions in a somewhat unusual sense. These terms are used to a large extent conditionally, which is primarily due to the special legal nature of the EU. As the law-making process here covers both the activities of the Member States themselves in drafting and adopting the founding treaties and the agreements that supplement them (it is a kind of analogue of constitutional law-making, which results in the so-called primary EU law) and the activities of EU institutions in their activities they create norms aimed at the development of founding treaties and EU law in general (the vast majority of these norms form the so-called secondary EU law). In the first case, it is a law-making process that takes place exclusively within the framework of international law and is regulated by the Vienna Convention on the Law of Treaties of 1969 or customary norms of international law. In other cases, we can talk about the "legislative procedures" that take place within the EU institutions.

And it is in the process of such activities of EU institutions that the supranational features of the legal nature of the European Union are revealed. It may even be noted that there is a direct link between the legal nature of intergovernmental formation and the legal decision-making procedures inherent in its bodies.

It is believed that "the greatest importance in any holistic system belongs to the system-forming relations and connections", without a doubt, in the law-making process these include relations between the Council of the EU, the European Commission and the European Parliament, belonging to the so-called "institutional triangle". . At the same time, as we have already noted, if the Commission and the Parliament are the representatives of supranational principles in the process of integration, then the Council is the intergovernmental one. The Council and the European Parliament are subject to both legislative and budgetary procedures. The commission, which has a monopoly on legislative initiative, mainly exercises its powers in the legislative process. When it comes to concluding international treaties on behalf of the Union, the Council usually plays a leading role in this process compared to other institutions.

Problems of legislative technique in juridical science of Ukraine

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Due to the intensification of law making, especially law making, large-scale legal reform affecting all branches of law, the emergence of new institutions and processes in public life that require legal regulation, the role of the methodology of the legislative process becomes especially important.

The legislative process, like any other regulatory activity, has its own methodological tools by which it achieves a certain result.

Methodology is a set of methods, techniques, methods of purposeful activity. In addition, it contains a system of principles that determine the nature and direction of all subjects of the legislative process.

The principles of the legislative process are the fundamental ideas, the implementation of which ensures the quality of laws, optimal regulation. Along with the general legal principles, there are special principles of the legislative process that reflect its specifics. They are always considered in a system with general legal principles as a certain reflection of the latter.

For example, A. M. Kotokov argues that the fundamental principle of the legislative process should be considered the principle of legalism, which insists on the legality of only those laws that are adopted in accordance with proper, strictly fixed procedures. No less important principle in the work of the legislator, in his opinion, is collegiality - in the process of birth of the law no decision is made alone. In addition, he highlights the principles of political diversity and multiparty system, openness of the legislative process [1, p. 11].

Special principles, according to Z. O. Pogorelova, are: stability of legislation; legality of the legislative process; accessibility; scientific substantiation of legislative decisions; planning of the legislative process;

systematic and predictable; consistency and reliability of the legislative process; professionalism of participants in the legislative process; efficiency of the legislative process [2, p. 9].

The generalization of existing views gives grounds to conclude that the principles of the legislative process are divided into two types: procedural and technical. Procedural principles include the principles on which the process of passing the bill is based on all stages, regulating the actions by which decisions essentially acquire their specific form of expression - the law.

As for the technical principles, these are the principles that underlie the formation and design of the content of the bill; in other words, operations for the preparation of legal norms in terms of their essence and content are based on them. Thus, procedural principles, for example, are: legalism; stability; collegiality; planning; systematic and predictable; consistency and reliability, etc. Technical principles include the scientific validity of legislative decisions and the professionalism of participants in the legislative process, and so on.

Turning to the analysis of the methodology of the legislative process in terms of rules, techniques and methods, it should be noted that it consists of two areas or parts.

The set of techniques and methods used at the stages of the legislative process and included in its technology, is the first direction of the methodology of the legislative process. It is characterized by the use of the following methods:

1) the creation of specialized institutions for the development of bills (institutions of law, research and expert-analytical services in parliaments, etc.);

2) involvement in the work on draft laws of non-specialized institutions (scientific and educational institutions, funds to promote parliamentary, various public organizations);

3) formation of international legal standards for the procedure of adoption of laws (model laws, recommendations, agreements, etc.);

4) involvement of bodies of constitutional jurisdiction in the legislative process (for preliminary or subsequent constitutional control, as well as providing official interpretation of controversial norms of the constitution and laws);

5) involvement of mass media in the process of covering law-making (creation of parliamentary TV channels, press services and press centres, accreditation of journalists, holding regular briefings and press conferences);

6) introduction of the latest achievements at all stages of the legislative process (computerization of parliamentarians' workplaces, creation of powerful databases for effective legislation and control over the legislative process, creation of official parliamentary websites on the Internet, etc.) and others.

The second part of the methodology of the legislative process, which is the legislative technique, deserves more attention. This is because the technical elaboration of bills is one of the most important criteria for the quality of legislative work.

Due to their place and role in the mechanism of legal regulation, the importance in the life of society and the state in terms of legal techniques, the laws are particularly high requirements. "The law is not good, which is well written," said MI Kalinin - and the one who managed to catch the pulse of public life, which does not prevent the fall off of dying relationships, and promotes the growth of emerging "[3, p. 80].

The quality of a separate law is covered by the requirements for the quality of regulations contained therein, but is not limited to them. At the level of a separate law, the term "quality" is complicated by the requirements for internal logical consistency and the ability to interact with the prescriptions contained in it [4, p. 13].

The role of legislative technique grows with the realization that one error in the law, which is only an inaccurate expression of the opinion of the legislator, can cause a large number of errors in the application of relevant rules. Moreover, one mistake in the law can lead to many

mistakes in bylaws, which in turn will lead to errors in the application of these acts.

Having determined that legislative technique is an element of legal technique, it should be noted that it can also have a broader or narrower meaning. Legislative technique in its broadest sense is all the activity of developing solutions, which prepares the means necessary to implement the principles and guidelines of legislative policy.

Legislative technique in this sense covers, thus, both the development of decisions on the merits and the development of solutions, which are usually called technical decisions. In other words, it includes operations on the preparation of legal norms in terms of their essence, their content, and operations by which decisions in essence acquire their specific form of expression. So, for example, D. A. Kerimov, considering legislative technique as system of rules of external processing of normative material, refers to the rules concerning the organization of preparatory activity, activity on preparation and preliminary discussion of projects of regulatory acts, to the procedural rules regulating activity of bodies, who have the competence to issue regulations, as well as rules concerning aspects such as logic, structure, language and style of legal norms and regulations.

D. Mazylu also includes in the concept of legislative technique the organization and procedure of preparation and publication of regulations, along with a number of issues related to the formulation of laws and conceptualization techniques analysed by the legislator, with the style and systematization of regulations [9, p. 139] .

Based on the narrower concept of legislative technique, it can be noted that it has a complex meaning and this allows its further division into, for example, components, such as the basic techniques of legislative technique, subject to general techniques of legal typification; practices and methods related not so much to "art" as to the "craft" of legislative activity (this includes ways of verbal expression of laws, their external design, internal construction and systematization) [9, p. 140].

Given the above, we can conclude that all these issues are important and their correct theoretical and practical solution largely depends on the degree of effectiveness of law. Thus, one of the necessary conditions for the effectiveness of the legislative process at the present stage of social development is its implementation according to a scientific methodology consisting of certain principles, rules, techniques and methods.

In turn, the rules, techniques and methods of the legislative process are divided into two groups: 1) technological, ie those relating to the implementation of the legislative process; 2) elements of legislative technique – those relating to the preparation, development and systematization of laws.

As a result, we note that to improve the legal and technical level of legislation of Ukraine must be approved at the state level. Rules for drafting laws in which the methodology of the legislative process would take the form of universally binding procedural and technological requirements.

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The impact of legislative techniques on the effectiveness of legal practice in Ukraine

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The most important type of legal technique is law-making technique. Law-making technique is a set of means and methods of creation (objectification) of change, termination and systematization of normative-legal prescriptions. It includes two interrelated processes - the process of creating legal acts, and - systematization of regulations. Legal techniques, in particular, include: official legislative terminology, legislative constructions (ideal models of regulation, schemes of legal relations and other legal phenomena by means of which the legislator creates normative-legal prescriptions), legislative presumptions, legal fictions, legal stylistics. legislative acts, language means of expression of the legislator's orders), means of official documentation of the law (methods of its construction, details, etc.). These and other means and techniques of legal law-making techniques are aimed at ensuring, first of all, the accuracy and certainty of the rules of law, scientific relations, legitimate interests. Secondly, they are aimed at achieving the availability and effectiveness of legislation. All these issues should be reflected in the laws of Ukraine "On rule-making activities" and "On a single classifier of regulations", the drafts of which under different names have long been agreed in the courts.

The concept of "law-making technique" is related to the concept of "legal technique". It includes methods of working on the texts of all regulations, methods of the most perfect presentation of the opinion of the legislator in articles (paragraphs) of legal acts, the choice of appropriate structure of each of them, terminology and language, ways to make changes, full or partial repeal, association regulations, etc. Law-making technique ensures legal perfection of normative documents.

Compliance with the requirements of law-making or legal techniques (as two basic terminological concepts), which are systematic, based on the practice of law-making and theoretically sound principles and rules (techniques) of drafting regulations - a prerequisite for high quality laws and regulations, their completeness and consistency.

The rules of law-making techniques are very numerous and varied. The application of these rules should be comprehensive and can be positive only if all possible circumstances are taken into account, the specific situation that necessitates the development and adoption of a normative legal act, the specifics of the subject of regulation and its scope.

In general, the rules of law-making technique is a system of requirements and ways to create the most appropriate in form and perfect in structure, content and presentation of regulations. Based on this, we can formulate the basic, most general principles (requirements) that underlie the work on the external form of normative projects. The basic rules of law making include:

1. Accuracy and certainty of the legal form: formulations, sentences, phrases and individual terms of the legal act. The law or normative legal act contains rules of conduct, a model of future actions of individuals and legal entities. Ambiguities or contradictions are not allowed in the normative prescription. Inaccuracy of reproduction of norm, vagueness and lack of uniformity of concepts and their signs can be the reason of incorrect interpretation and application of legal norms that in turn can negatively influence destinies of people, economic, social, political relations in a society. Therefore, the definition of terms should correspond to the content that is invested in it by literary critics, legal scholars, and should be unified throughout the text of the legal act. Thus, when formulating legal requirements should not use broad valuation concepts. If they are used, then their content should be defined in the normative sense. It is not allowed to use formulations such as "usually", "in particular", "including" or such prescriptions - "activate", "increase" and so on.

2. Clarity and accessibility of language for the addressees of the act. The legal act must be clear to the general population.

It is known that ignorance of the law does not release from legal liability (Article 68 of the Constitution). However, knowledge of the law must be based on its clarity. Unclear norm does not give a complete picture of the rights and responsibilities of individuals and legal entities, leads to unnecessary loss of time for inquiries and interpretations, causes controversy and error. Law making often operates with complex, multifaceted and specific concepts of economics, technology, medicine, architecture and other fields of knowledge with their special terminology. Therefore, it is correct when draft regulations, especially laws, begin with an explanation of the terms used in it. But explanations must be available, which is not always possible.

3. Specialization and completeness of legal regulation of equipment. Taking into account the peculiarities of the regulation of the relevant sphere of relations is quite natural. To ensure the specialization and completeness of the regulation of the relevant sphere of life or activity, the normative legal act provides for norms (if they do not follow from the current legislation), without which the effect of this act cannot be effective. This applies, first of all, to the rules that formulate the tasks and implementation of the law, the mechanism of its operation, as well as the limits of liability, sanctions. Without this complex, the legal decision may remain invalid, declarative. The most important acts provide for transitional provisions, reservations, the procedure for entry into force of certain provisions, and so on. The completeness of regulation involves comprehensive regulation of relations by the circle of addressees, time and place of the law.

4. Specificity of legal regulation. An effective tool in regulating public relations can only be a legal act that accurately and concretely defines the rights and responsibilities of the subjects of legal relations, including the state, clearly formulates measures to ensure them (legal sanctions, means of encouragement and incentives, organizational measures).

5. Use of widely used legal terminology. Unsuccessful phrases, appeals, uncommon or, conversely, widespread journalistic terms do not strengthen, but rather weaken the regulatory role of the act of law, degrade the authority and social value of the normative legal act. Therefore, in normative design activities should be used mainly those formulations and terms that are widely used in the legal literature, especially in the latest explanatory dictionaries of the Ukrainian language.

6. Conciseness. Conciseness in law making is the optimal cost-effectiveness of presenting the opinion of the author of the project, which should preserve the completeness of its content. The art of rule-making is a combination of brevity and completeness of the bill. Therefore, there are laws, some rules of which are cumbersome, stretched and blurred in content. Extremely cumbersome, detailed text of the draft and the law itself limits the possibility of its understanding by the subject of application, and thus reduces the legal understanding of its rules, reduces the effectiveness of the impact on certain events and public relations.

7. Systematic and balanced rule-making. Systematic in the context of rule-making implies the integrity, balance of rule-making material, which is combined with the internal connection and interdependence of all parts and stages of rule-making, consistent entry into the legal system, proper sequence of regulation and protection.

8. Unification of the form and structure of draft regulations. The use of the same details of regulations, stereotypical structure, common terminology, legal constructions and formulations is the essence of unification of the form and structure of regulations. The variety of details and headings of regulations, the lack of their stereotypical structure, a single style of presentation, different in different acts numbering of articles, paragraphs and their subdivisions, formulas of repeal, amendments to acts and their parts prevent adequate understanding and effective application of legal norms.

Only in compliance with all the above requirements of rule-making can you get a technically perfect regulatory act.

Thus, the law-making technique should be understood as the purpose of which is to create the most perfect in structure, content and presentation of regulations, the use of which ensures the logical coherence of the system of regulations and promotes effective legal regulation of public relations.

In order for normative legal prescriptions to be able to effectively regulate public relations, they must be characterized, along with proper certainty, by an appropriate degree of generalization. Legal typification, as a means of expressing the content of regulations, involves the use of a number of logical and special legal tools that provide an appropriate degree of generalization and certainty of the form of expression of the content of regulations. Such means include: concepts (both legal and non-legal) and operations with them, presumption (assumption that a probable fact occurs in all cases), fiction (recognition of non-existent in reality existing or denial of existing), methods of formulating normative legal prescriptions (abstract and casuistic), list, digital expression, legal symbol (artificial sign, which is used in the manner prescribed by the normative act, serves to consolidate and express the legal content); samples of documents (specialized form of presentation of instructions governing the procedure for written certification of legally significant facts and events).

Of particular importance in the legislative process is the concept. The concept as a means of rule-making technique performs the function of formalization, which consists in the fact that with the help of concepts the limits of legal influence on social life are determined, clarity and conciseness of law are achieved. Given that the greatest degree of generalization is inherent in constitutions, codified acts, laws, and the most specific, detailed is the content of bylaws, in legislative acts it is necessary to use the concept with the greatest degree of generalization close to legal categories, while laws application of concepts with a much lower degree of generalization, which detail and specify the concepts enshrined in law. In addition, the laws use such means as presumption, fiction, to a lesser extent legal symbols, digital expression, and the technique of bylaws is characterized by the use of legal symbols, digital

expression, sample documents. By-laws are characterized by a more casuistic formulation of regulations, the use of the so-called "mesh technology".

The importance of law-making techniques also lies in the fact that the rules and means aimed at the systematic presentation of regulatory legal provisions provide the designation of systemic links between regulations and regulatory legal acts in general.

The main rules of the system statement are as follows:

a) the absence of logical contradictions both in the normative legal act and between the relevant act and normative acts of higher and equal legal force;

b) absence of unjustified duplication of normative legal prescriptions;

c) linking the issued acts with the previously issued ones;

d) minimization of normative legal acts on the same issue;

e) no references to a non-existent act;

f) consistent and uniform use of terms (concepts);

g) providing procedural instructions procedural.

The main means of systematic presentation of normative legal acts are:

1) special-legal: normative construction (from a set of normative legal prescriptions a logical legal norm should be formed); legal construction (law of connection between prescriptions); sectoral typification (inclusion of a normative prescription in the relevant branch of law);

2) structural (presentation of normative prescriptions in the vicinity available for inspection);

3) language (use of formulas "in particular", "except", etc.).

Stylistics is important in the law-making process - the science of the most appropriate use of language. The language of normative legal acts is a part of legal language, which is a socially and historically conditioned system of means, methods and rules of verbal expression of concepts and categories developed and applied for the purpose of legal regulation of

behaviour of subjects of public relations. In the field of rule-making, language performs two interrelated functions of law - it reflects the need for regulatory regulation of public relations and brings it to the notice of the parties. The most significant characteristic of the language of a normative legal act is that it has all the features of the official business style of verbal presentation. From the latter follow its specific features such as formality, documentary, expressive neutrality, impartiality, impersonality. Significant requirements for the language of regulations include clarity, accuracy and brevity.

The correct use of basic language means (grammatical sentences, words, legal phraseology and abbreviations) also contributes to the improvement of the legislation of Ukraine. Particular attention should be paid to grammatical sentences and words.

In the improvement of the legislation of Ukraine the correct use of abbreviations, acronyms, technical terms acquires special value. By-laws may not change the meaning of terms used in the law; sentences of more complex construction are often used to present their content.

An important condition for improving the legislation is compliance with the basic rules concerning the procedure for setting out the normative legal material: from general to specific; the development of content must correspond to the development of regulated relations; first the regulatory instructions are set out, and then those establishing responsibility and procedure, etc.

The structuring of a normative legal act (division and combination of its normative prescriptions and providing it with the necessary requisites) affects the clarity and ease of use of its prescriptions. The structure of a normative legal act should consist of the following elements:

1) an indication of the very form of the act;

2) the name of the subject of rule-making activity, which adopted the normative legal act;

3) registration number;

4) name (title) of the normative legal act;

5) preamble (if necessary);

6) the main part;

7) final provisions (if necessary);

8) transitional provisions (if necessary);

9) signatures of relevant officials, date and place of acceptance;

10) applications (if any). Thus normative legal acts depending on a kind and volume are divided into points and subitems, paragraphs of points; articles and parts, paragraphs, sub-paragraphs, paragraphs of articles; paragraphs, chapters, sections, parts.

Only by complying with all the above conditions can we create a perfect legislative system that will promote effective legal regulation of public relations.

Law-making technique is a component of legal technique. Law-making technique is a set of means and methods of creation (objectification) of change, termination and systematization of normative-legal prescriptions. It includes two interrelated processes - the process of creating legal acts, and - systematization of regulations.

Means of law-making technique cover certain rules of development, presentation and registration of normative-legal acts. The requirements of law-making techniques include: 1) accuracy and certainty of the legal form; 2) conciseness; 3) lack of complex language structures; 4) compliance with the requirements of modern literary language; clarity for recipients; 4) lack of emotional colouring; 5) compliance with the language of business documents.

To assist in the introduction of rule-making techniques in the practice of rule-making in Ukraine, it is necessary to develop and improve the practice of targeted training for work in the field of rule-making; to improve certain aspects of the rule-making process; to create conditions for the effective functioning of specialized structures, the activities of which are aimed at ensuring the high legal and technical quality of normative legal acts. Especially important and useful in this aspect is to increase the role of the Academy of Legal Sciences of Ukraine in the scientific support of rule-making activities at all stages.

Concepts and stages of constitutional law making in Ukraine

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Constitutional law making is a special activity of competent subjects of law making, which is carried out in a special procedural order and is aimed at adopting, amending and repealing the norms of the Basic Law and constitutional acts of law making.

The Ukrainian state and legal science are currently going through a transitional period of their development. All political and legal mechanisms are being restructured, and qualitatively new ideas of Ukrainian scientists are being accumulated. The development of law making is an important guarantee of increasing the role of legislation, strengthening the rule of law. In modern legal science, the idea has been formed, according to which law-making is a process of knowledge and assessment of legal needs of society and the state, formation and adoption of regulations by authorized entities within the relevant procedures. The main impetus for the creation of a law or other normative legal act is a socially significant problem, an unresolved issue that is important for a large number of people and for the state as a whole.

The task of the legislator is to respond to this in a timely, accurate and adequate manner, choosing the option of regulation that would best meet the interests of society and the state, would promote the progress of society, and would take into account all factors of social development - economic, political, social, national, and ideological and foreign policy. After all, the results of law-making work assess the state as a whole, the degree of its democracy and civilization. Traditionally, law-making is considered as an organized procedural activity of state bodies to create legal norms or to recognize as legal already established rules of conduct in society.

Speaking of law creation and law making, it should be noted that the understanding of their essence is covered in different literary sources in different ways, depending on what scientific views the author shares. So, let's look at them in more detail. Exploring the issue of the essence of law making, V. V. Lazarev notes that it depends on the nature of the law-making process, which has an objective and subjective meaning. The objective content of law making does not depend on the subjects and is formed by the level of development of society, is dominant in states where the dominant source of law is a normative legal act. Instead, the subjective content of law making is something that depends on the subjects and is formed by the adoption of acts, which later become widespread. The scientist notes that the relationship between the objective and subjective content of law making is crucial in the process of law formation. In turn, O. V. Vasiliev emphasizes the specifics of the interaction of subjective and objective factors in the formation of law, which determine the whole process of law making and characterize its content.

Modern understanding of the essence of law making, according to V. V. Kopeychikov, is based, first, on the concept of commonality and difference between law and law, according to which law can exist outside its institutional form (legislation) in the form of equal and fair scale of freedom, which is reflected in the legal principles, subjective rights, specific legal relations, etc. Secondly, on the theories of the rule of law and civil society, in which the civil society itself dominates, ie the community of equal, free and independent persons who act as citizens in relation to the state.

The concepts of "law creation" and "law making" are largely identical, but law making is part of law creation and is a narrower concept. If law making is, first, a form of power-volitional activity of the state, then law making is a form of origin and action of law, which can take place outside law-making. In addition, law making reveals the inherent patterns of law making, trends in state and legal processes.

SS also gives its definition of law-making activity. Alekseev, by which he means objectively conditioned, final, in the process of law formation, state activity, as a result of which the will of the ruling class is reduced to law, to legal norms. It should be noted that the emphasis is not on the creation of rules of conduct by the state, but on their enshrinement in law, "bringing the will of the ruling class into law."

P. M. Rabinovych interprets the concept of law making somewhat differently. In his opinion, law-making is the activity of the competent state bodies authorized by the state, public associations, labour collectives or (in cases provided by law) the whole people or its territorial communities to establish, change or repeal legal norms.

In modern theory of law, there are different approaches to the classification of the principles of law making. In turn, we share the point of view of O. F. Skakun, which indicates the feasibility of distinguishing two main groups of principles that determine law making in Ukraine, which are general and special principles of law making.

The place of by-law making in the system of law making in Ukraine

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Law making is a stage of law creating, which consists in the activities of specially authorized entities to establish, change or repeal legal norms, which is expressed in the preparation and adoption of a system of regulations.

Legislative activity plays an important role in the formation of a modern system of sources of law in Ukraine. The complexity and high dynamism of public life, and hence the need for professional and operational law-making decisions require a flexible approach to the legal regulation of public relations. This leads to an increase in the share of by law making, which is simpler and more dynamic than law making.

As by-law law making in Ukraine is developing in a complex and chaotic manner, it can often conflict with the law. That is why the formation of a modern general concept of bylaw law making, taking into account new challenges and trends in its development is relevant to the theory of law and practice.

Like any other legal activity, by-law has an internal structure. The focus of law making on the creation (objectification) of legal regulations makes it possible to distinguish the following elements: purpose, subject, object, action and result. The main reason for the existence and development of bylaw law making is the objective need to clarify the legal regulation of public relations, which are initially regulated at the level of law in the relevant spheres of public life. The immediate purpose of bylaw law making is to form a single and internally consistent system of regulations aimed at organizing the implementation of laws by detailing and specifying them, which are objectified in bylaws. Legislative powers are vested in state authorities (mainly heads of state, executive bodies, bodies of the federation) and local self-government. In

addition, by-laws are carried out by the bodies of enterprises, institutions and organizations in order to regulate the internal structure and procedure of their activities, which are objectified in the acts of internal organizational nature (local acts). Ways of defining law-making powers in different countries differ significantly. They can be divided into the following two types: law-making powers based on the constitution or a special law and having a permanent character, and law-making powers based on the constitution or a special law, but arising on the basis of a special legislative power. The first way of consolidating law-making powers is characteristic of Ukraine (Articles 106, 117 of the Constitution), France (Article 37 of the Constitution), the Russian Federation (Articles 90, 115 of the Constitution), Bulgaria (Article 114 of the Constitution), and the Netherlands (Article 89 of the Constitution). Examples of the second way of consolidating law-making powers are Germany and Poland. Yes, in accordance with Art. 80 of the Basic Law of Germany, the law may authorize the federal government, the federal minister or the state governments to issue legal decrees (decrees of a general nature). Such a law must determine the content, purpose and scope of the authority granted. A similar rule is contained in Art. 92 of the Constitution of Poland. The results of by-law may be different in the form of external expression - resolutions, decrees, regulations, decrees, orders, general administrative instructions, circulars (instructions), orders, and so on. What they have in common is that the legal provisions enshrined in them may not contradict the law, go beyond the law and beyond the competence of the law-making entity defined by law. Thus, the compliance of the law and the legal powers of the law-making body is the main feature of the bylaws of regulations [4, p. 51].

By-law law-making is characterized by general features of law-making activity, namely: consists in creation, change, termination, systematization of normative-legal prescriptions; carried out by a specially authorized law-making entity; is a consistent process consisting of successive stages regulated by law; the results of activities are recorded in external forms (sources) of law. In addition, bylaws are

characterized by special features that allow us to talk about it as a special type of law making, namely:

1) the subject of law making by-laws is determined by the main functions of the law-making subject and its competence;

2) normative-legal prescriptions, created as a result of by-laws, are aimed at concretization or detailing of legislative prescriptions;

3) the procedure of bylaws is simpler and more efficient than the law making one; - law making procedures are more differentiated depending on the types of by-law law-making activities;

4) by-laws are characterized by several ways of forming normative-legal prescriptions (normative-act (unilateral), contractual, precedent);

5) regulatory requirements created in the process of bylaw law making have various forms of external expression and legal force.

Thus, by-law can be defined as the legal activity of specially authorized law-making entities, which consists in the creation, amendment, termination and systematization of regulations aimed at organizing and ensuring the implementation of regulations enshrined in law. Bylaws can be classified according to various criteria. The most significant classifications of bylaw law making, which allow to penetrate deeper into the essence of this phenomenon, are the following:

1) the subjects of by-law law-making activity are distinguished by the law-making of the head of state, government, executive bodies, local self-government, non-governmental organizations and institutions (on issues of internal organization);

2) according to the method of formation of normative-legal prescriptions it is possible to allocate: contractual, precedent by-law;

3) according to the method of determining the law-making powers of the subject of law-making, it is possible to distinguish law-making, which is carried out within the own competence of the law-making subject, and delegated law-making.

The classification proposed by the scientist H. Kaitaeva also deserves attention. Thus, in terms of functional orientation, it distinguishes two types of bylaw - law-making (direct regulation of social

relations within the established subject of law-making entity or within a specially provided by law situation) and security (aimed at implementing and enforcing the law) [1].

The problem of substituting laws by by-laws remains acute. Improving bylaw law making should begin with streamlining the process of creating regulations by the subjects of bylaw law making. The main requirements, the observance of which is intended to help increase the efficiency of by-laws, to prevent inconsistency of by-laws with laws, to ensure the stability of legal regulation of public relations, are as follows:

1) creation of normative-legal prescriptions, which are fixed in by-laws, only within the competence of the law-making subject;

2) creation of normative-legal prescriptions, which are enshrined in by-laws, within the framework of an effective and clearly regulated law-making procedure;

3) creation of normative-legal prescriptions, which are fixed in by-laws, only in case of justified need;

4) ensuring the inconsistency of normative legal prescriptions, which are enshrined in by-laws, among themselves and with normative legal prescriptions contained in acts of higher legal force. At the same time, in the process of implementing bylaw law making, the subjects of bylaw law making should take into account the degree of importance of public relations to be regulated, adhere to the form of the legal act, as well as the balance between legislative and bylaws.

Thoroughness in the regulation of all stages of bylaws, strict compliance with the law in the process of law making, as well as a high level of theoretical and practical training of employees responsible for drafting bylaws, allow to ensure the stability of the entire system of regulations and limit the possibility implementation of arbitrary and ill-considered law-making decisions.

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Stages and features of sectorial codification in Ukraine (1991 – 2019)

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Codification is a means of systematizing regulations, carried out by reworking and consolidating the legal norms contained in various acts into a logically consistent normative legal act, which systematically and exhaustively regulates a certain area of public relations, usually at the sectorial level. Codification is a form of improvement of legislation in essence, and its result is a new consolidated legislative act of stable content (code, regulations, statutes, etc.), which replaces the previous regulations on this issue. The combination in the codification of streamlining and updating of legislation allows us to consider it as the most perfect, highest form of law making.

Codification has a number of characteristics:

- in a codified act are usually formed rules governing the most important, fundamental issues of public life, which determine;

normative bases of this or that branch (institute) of the legislation;

- such an act regulates a significant and fairly broad sphere of relations (property, labour, family, crime control, etc.);

- as a result of improving the legislation, the codification act is a consolidated act, an ordered set of interdependent provisions. It is the only document that includes both the norms tested by life and social practice, as well as the new rules due to the dynamics of social life, the urgent needs of society;

- codification is aimed at creating more stable, stable rules, designed for a long period of their validity. The effectiveness of a codified act largely depends on whether the legislator will be able to take into account the objective trends in the development of relations that are the subject of regulation of such an act, their dynamics;

- the subject of codification is usually determined depending on the division of the system of legislation into industries and institutions. Codification consolidates the systemic nature of regulations, their legal unity and consistency. A codified act, of course, heads a system of interrelated regulations that form a particular branch, sub-branch or separate institution of legislation;

- the act of codification is always significant in scope, has a complex structure. This is a kind of consolidated block of legislation, which provides a clearer construction of the system of regulations, as well as the convenience of their use.

Codification acts can be externally expressed in various forms, namely:

1) the basics of legislation - is a set of regulations that contain concepts, goals, objectives and principles of legal regulation, which determine the main directions of regulation of a particular area of public relations;

2) codes – a legal act, which combines and systematizes the legal rules governing a particular area of public relations. The Code is the most commonly used type of codified act. It has a structural division into parts, sections, subsections, articles, which to some extent reflect the content of a particular area of law. The Code either completely absorbs all the norms of the relevant industry (Criminal Code), or contains the main most important part of such norms (Civil Code);

3) statutes – are regulations that regulate the legal status of certain enterprises, bodies, institutions (Charter of the enterprise) or a particular area of state activity (Charter of Railways). That is, the charter determines the status of the legal entity, its tasks, structure, functions, order of activity;

4) regulations are normative legal acts of special action that regulate the legal status, tasks and competence of a certain body, institution, organization or group of homogeneous bodies, institutions, organizations (Regulations on service by privates and chiefs of internal affairs bodies of Ukraine);

5) rules are normative legal acts that contain procedural norms that determine the procedure for organizing any kind of activity and have national significance (Rules of the Road).

In the legal literature, the following types of codification are distinguished by volume:

1) general – is the creation of consolidated codification acts on the main branches of legislation (Constitution);

2) sectorial – is the systematization of regulations within a particular area of legislation (Civil, Family, Criminal Codes, etc.);

3) special – is the systematization of regulations within one or more institutions (Tax, Forest, Customs Codes, etc.).

Thus, the codification act is an orderly system of interrelated regulations governing on the basis of uniform principles of law a certain area of relatively homogeneous, fairly stable social relations. Codification acts contribute to the stability of legislation, are the basis of legislative activity.

There are several types of codification in the legal literature and practice. The first type is a general codification, which means the adoption of a number of codification acts in all major areas of legislation and, as a next step, the creation of a unified, internally consistent system of such acts in the form of a "code of codes." The second type is a sectorial codification, which covers the legislation of a particular branch of law (Civil, Labour, Criminal Codes, etc.). In addition, there is a special (comprehensive) codification, which includes acts of a subsector, institution or a homogeneous set of legislation (Tax, Forest, Customs Codes, etc.).

In some cases, a codified act may be adopted in the form of a law without an additional name (for example, the Law on Education, etc.). The assignment of a law to the category of codification is made depending on its content, scope and scope of regulation of public relations, the focus on the unification of existing norms and the simultaneous introduction of normative novelties.

The formation of the foundations of democratic rule of law in Ukraine implies a decisive increase in the requirements for the quality and systematization of legislation. Carrying out reforms in the most important spheres of public life causes an urgent need for codification activities, which is the main feature of the development of the legal system of Ukraine. The adoption of a significant number of laws and bylaws has led to the fact that the adopted rules are duplicated, differently regulate the same issue, contradict each other. As a result, there is an urgent need to codify all existing legal material.

Since the second millennium BC, in different countries of the world with different legal systems, including the Anglo-American, the elimination of cumbersome legislation and bringing it into the appropriate system is intensified. All this indicates the perfection of codification, aimed at replacing the content of the rules of law contained in regulations. In addition, the codification is closely related to the nature of the law itself, the essential features of which are the system, the orderliness of legal acts.

Ukraine has chosen the path of integration into a united Europe, which involves the adaptation of national legislation to the legislation of the EU, in which a significant role will be played by its codification. It is no coincidence that in 1995-2000 the Ukrainian Codification Commission, established by the Decree of the President of Ukraine, operated on the territory of Ukraine. It was responsible for determining the scientific basis for the codification of domestic legislation, the order and consistency in the adoption of codes. The issue of codification of law was given much attention by legal scholars of both pre-revolutionary and Soviet periods. To date, attempts are also being made to provide a fragmentary solution to this problem. However, in Ukraine there is a lack of complex special scientific works that would provide a general theoretical idea of the codification of the law, its features, basic types, principles. From the very beginning, the legal system of Ukraine should be formed not as a set of disparate acts on narrow issues, but as a scientifically sound and mutually agreed system of codified acts, which

should be the basis, the basis of the legal system of the country. Codification strengthens the stability of legislation, creates a clear system of regulations, ensures optimal coordination of existing regulations, the creation of consolidated regulations in the legislation. It allows you to solve two interrelated tasks – to improve the content and form of legislation. In the future, the issuance of codification acts should become an important form of law making. The main way to overcome the multiplicity of regulations, as well as gaps and contradictions in regulation - is to increase attention to the codification of legislation, the adoption of laws from the consolidated blocks of regulation. It is necessary to combine sectorial and complex codification, giving preference to the latter. The general line of improvement of the Ukrainian legislation in the future should be the course of gradual implementation of its general codification. To this end, codification blocks should be created, which would not only meet the objectives of the current regulation of legislation, but would also be designed for inclusion in the future codification code. Existing acts should be drafted so that, if possible, without dividing them into parts, they could be included in larger codification units – in codes, single volumes of the code.

After the adoption of the Act of Independence of Ukraine on August 24, 1991, the Supreme Council of Ukraine adopted the Law "On Succession of Ukraine" on September 12, 1991. According to him, the laws of the USSR and others. acts adopted by the Supreme Council of the Ukrainian SSR, including codes, "are valid on the territory of Ukraine, as they do not contradict the laws of Ukraine adopted after the declaration of independence of Ukraine" (Article 3). Meanwhile, in the face of rapid changes in the country's life, the old legislation developed for the needs of the union republic, led by the former Communist Party of Ukraine, inevitably created numerous legal conflicts. Therefore, the question arose as soon as possible to improve the legal system of the state in the context of general modernization of society. This required the development of a new Constitution of Ukraine, a new Civil Code (the so-called economic constitution), and others large codified acts. However, permanent crises

in the activities of higher state authorities, uncertainty in the implementation of legal and judicial reforms, discussions between supporters and opponents of the Commercial Code, etc. significantly hampered codification work. The most difficult thing was to codify constitutional law and adopt a new Constitution of Ukraine.

Other codified acts were adopted with great difficulty. At that time, public associations of lawyers, in particular the Ukrainian Legal Foundation, provided significant assistance in resolving a number of organizational, financial, and creative problems of codification. As of September 1, 2007, 16 codes of the new generation were adopted in Ukraine: commercial procedural (November 6, 1991, until June 21, 2001 was called arbitration procedural); customs (December 12, 1991 and July 11, 2002), air (May 4, 1993), forest (January 21, 1994), subsoil (July 27, 1994), merchant shipping (May 23, 1995), water (June 6, 1995), criminal (April 5, 2001), budget (June 21, 2001), land (October 25, 2001), family (January 10, 2002), economic (January 16, 2003), civil (January 16, 2003), criminal-executive (July 1, 2003) , civil procedure (March 18, 2004), administrative proceedings (July 6, 2005).

Theoretical and practical significance of incorporation in the legal system of Ukraine

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Systematization of legislation is a process of streamlining the legislation of the state, improving its features such as structure, coherence, unity and integrity. The main forms of systematization are incorporation, consolidation and codification.

Incorporation is a form of systematization, when the regulation of regulations is carried out without processing the content of regulations. That is, such systematization is carried out outside the law-making process. Thus, in contrast to codification and consolidation, the main thing in incorporation is to preserve the content of regulations.

That is, incorporation is a permanent activity of state and other bodies in order to maintain legislation in the current (control) state, as well as to ensure the availability of such legislation and provide the widest range of entities with reliable information about laws and other regulations in their current version.

It is worth noting that during incorporation, the form of documents itself may change, because incorporation is not a reproduction of documents in their original version. This means that the texts of documents will be printed with changes and additions: for example, articles or entire chapters may be removed from the text of a document if they have expired at the time of publication. Details of those documents that have made changes to the text content of the documents must be indicated. Thus, incorporation is a way to systematize current international law into a collection of acts.

This type of systematization can be carried out according to the following criteria: alphabetical order, chronological order, sphere of public relations, direction of activity. As a result of incorporation,

collections and collections of legislation are published. The difference between collections and collections lies in the feature by which they are systematized. Thus, collections of legislation are systematized by thematic feature, and collections of legislation by chronological.

The subjects of incorporation may be both law-making bodies and other institutions, persons whose competence does not include the adoption, amendment, repeal of legal norms.

The following types of incorporation are distinguished by their legal significance:

1) official incorporation is the preparation and publication of collections of normative legal acts by the bodies that issued them or by specially authorized bodies.

2) informal incorporation is usually carried out by legal entities to find legal information on the relevant field of activity and related issues, as well as individuals on their own initiative.

Examples of official incorporation can be official editions of the Constitution of Ukraine before the first amendments and additions are made to it. Most brochures contained not only the text of the Basic Law of Ukraine, but also the following texts:

1) of the Law of Ukraine "On the adoption of the Constitution of Ukraine and its entry into force" of June 28, 1996, which recognized the Basic Law of Ukraine of 1996.

2) of the Law of Ukraine "On Amendments to Article 73 of the Labour Code of Ukraine" of June 28, 1996, according to which such a holiday as June 28 - the Day of the Constitution of Ukraine was introduced.

Examples of informal incorporation of constitutional legislation can be scientific, scientific-practical and practical publications devoted to the relevant problem. At the same time, the authors are always faced with the problem of the order of placement of normative material, as well as the problem of the expediency of incorporating not only the constitutional legislation, but also the accompanying materials of practice.

According to the method of ordering, the incorporation has the following types:

1) chronological – carried out in a certain sequence on the basis of the time of issuance of regulations;

2) subject – regulations are combined on the basis of homogeneity of social relations, which are a separate subject of legal regulation.

By volume, there are general (general), sectorial, intersectional and special incorporation.

The incorporation of the law-making subject, the specially authorized subject and other subjects on their initiative is differentiated by the subjects of implementation.

There are also other types of incorporation, which are carried out according to the following criteria: alphabetical order, branch of law, the subject of the normative act, the subject of scientific research, scope of activity, etc. Thus, there is an integration of integral regulations into collections of legal material according to the criterion chosen by the systematiser.

Problems of accounting of normative-legal acts in Ukraine

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In different periods of the state's life, the need for systematization of legislation is different. When a large amount of normative-legal material accumulates over many years, when a significant number of regulations adopted at different periods and, in addition, duplicate acts, systematic legislation is especially necessary.

Today, in Ukraine the pace of law making and, above all, legislative activity is very high today. Hundreds and thousands of new regulations are being created that substantially change the nature and basic principles of legal regulation. However, if it is not practiced to streamline the current regulatory framework, which is growing at a rapid pace, there will be great difficulties in the future in finding and applying the applicable rules of law. The problem is complicated by the fact that today, when a virtually new legal system of Ukraine is being created, it is necessary to urgently resolve the fate of formally valid normative acts in the country and their parts that completely or partially contradict new regulatory decisions or are hopelessly outdated.

An effective way of improving the legal regulation of the provision of social services to individuals and families in Ukraine and creating conditions that facilitate their use of regulatory material in practice is the systematization of relevant legislation [1, p. 187; 2, p. 351].

Systematization of normative-legal acts - is an activity related to the ordering and improvement of legislative and other legal acts, bringing them into a single internally harmonized system.

Systematization of normative-legal acts is necessary for:

1) elimination of contradictions between normative acts;

2) improving the quality and efficiency of legislation;

3) ensuring that it is accessible to citizens, government agencies, public organizations, commercial corporations [5];

In the theory of law, the following basic ways of systematization are known: accounting, codification, incorporation, consolidation [3, p. 471; 4, p. 624]. However, in the present case, we will consider the problem of accounting of normative-legal acts in Ukraine.

Accounting for normative-legal acts – is the collection by the state bodies, enterprises, firms and other institutions and organizations of existing regulatory acts, their processing and placement according to a certain storage scheme, as well as the issuing of certificates for interested bodies, institutions, individuals according to their requests [4, , p. 624].

According to scientists, the main function of this type of systematization is:

1) informing the subjects about the state of the legislation [5, p. 36-40];

2) meeting their own needs for legal information or providing legal information to other entities for commercial purposes [2, p. 352].

Given these features of this form of systematization, we believe that it cannot solve all the problems of current social security legislation. First, accounting results are not sources of law and cannot be referenced. All regulatory acts in force prior to the systematization remain in force and continue to regulate the relations in a similar manner. Undoubtedly, such activities will make it easier for citizens in need of social services to find and apply the necessary legal provisions. However, accounting will not provide for filling in the gaps, eliminating contradictions, repeating provisions, etc., which is the second reason for the inappropriate use of accounting in the field of social services.

Considering one form of systematization, it is important to mention codification, which, unlike accounting, is the most complex and sophisticated. This is one of the types of law making, which provides systematic, regulatory regulation of this type of social relations by creating a single, legally and logically whole, internally agreed normative act (bases, code), which expresses the content and legal specificity of the

structurally determined subdivision of the system of law [3, p. 471]. According to S. S. Alekseeev and R. L. Anahasian, the main feature of codification is the internal processing of normative material distributed by industry or institution, creation of a new legal act [5, p. 36]. That is, codification creates a single unified act, which is the main source of law for the relevant field.

Such an act performs two tasks:

1) streamlining the whole system of legal norms;

2) improvement of the content of legal regulation.

Considering the current state of Ukrainian legislation (a large number of legal and regulatory acts), we believe that there is an urgent need to replace accounting for consolidation. There are several reasons for this. The first of these is the repetition and contradiction of the provisions in the legal acts that regulate social service relations. The second reason is the need to create a single presentation style and use a single terminology; norms of content close together into one article.

Thus, Ukraine is almost the only country in the European space, where it is insufficiently regulated at the legislative level the issue of adoption and systematization of normative-legal acts. Therefore, we are faced with the urgent need to adopt a law that would establish rules for the adoption and systematization of laws and by-laws normative-legal acts.

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PART 4
PROBLEMS OF APPLICATION OF LAW, LEGAL RELATIONS AND LEGAL RESPONSIBILITY IN THE SYSTEM OF UKRAINIAN DEMOCRATIC VALUES

Basic scientific approaches to understanding the legal nature of legal relations

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The basic concepts of legal responsibility in the theory of law indicate that approaches to understanding responsibility in different historical epochs have been studied from different positions or from different points of view. In a particular period of social formation, scientists have studied the objective side of responsibility, and over time the main aspect has focused on the study of its subjective side.

It should be noted that legal understanding and approaches to the definition depend on the methodological approach of a particular author. Scientists have proven that legal liability can be considered from the standpoint of objective and subjective law. Thus, from an objective point of view, legal liability covers a set of legal norms that provide for the application of coercion to a person.

However, prof. N. Kuznetsova notes that the legal regulation of any social relations is associated with the process of transformation of legal prescriptions into the plane of actual social relations, provides that every subjective right in case of its violation is guaranteed the possibility of its forced restoration or protection. In his works, the author considers responsibility as a social category that reflects the diverse relationship between society and its subjects, as well as the individual and the community of which he is a member, in relation to the norms (rules, standards) of behaviour. On the one hand, this connection reveals the requirements that society (or community) imposes on its members, on

their socially significant behaviour. On the other hand, it is the attitude of the member of society (community) to the demands made, the reaction of the subject to the demand of society (community). But this is not the end of the relationship between society and its members. There may be a public reaction to the behaviour of the subjects in the form of approval and encouragement of socially positive behaviour or by negative action on them in case of non-compliance with the requirements of social norms. Legal responsibility is always expressed in special, new, burdensome responsibilities.

Measures of legal responsibility should be distinguished from coercive measures to fulfil the obligation that ensures the realization of the subjective right of another person, protection measures that can be applied in the absence of fault of the violator. In his works, O. A. Krasavchikov, examining civil liability, believes that as a result of the application of measures of responsibility, the offender against his will is deprived of existing civil rights or forced to accept any new (additional to existing) burdensome obligations without an equivalent order. Distinguishing between liability as a means of restoring the violated right and punitive liability, they pay attention to the fact that in the first case, and in the second - they have the same features, namely state coercion, state condemnation and negative consequences for the violator.

In this aspect, scientists O. E. Leist, M. Farukshin believes that measures aimed at fulfilling a violated or unfulfilled duty should also be considered a measure of legal responsibility. According to the scientist O. E. Leist, The organizational and educational role of the sanction contained in the legal norm is, first of all, to ensure the fulfilment of the duty without its application. In his works, S.M. The brother denies the claim that the additional burden is a mandatory sign of liability. The author assumes that the main thing for law and order is the performance of duty, and therefore, the characterization of liability as a punishment is one-sided and leads to the extension of liability, other than criminal and administrative, features of the latter. Scientist A. I. Kozhevnikov argues that legal liability as a duty of a person who has committed an offense,

realized within the framework of a protective legal relationship, to be deprived of personal, material or organizational character, which are specified in the penalties of violated legal norms.

In conclusion: first, legal liability can be defined through the category of "duty"; secondly, legal responsibility acts as a reasonable awareness of a person's place in society; third, the person must be aware of the consequences of their negative behaviour and focus on their role in the social progress of modern society; fourth, the negative legal responsibility of a person will "die" if each person can personally participate in the affairs of the state; fifth, legal responsibility should be a kind of moral and political regulator of the behaviour of any person who coexists in this society; sixth, legal liability should reflect not only the negative consequences, but also in some respects – the positive ones; seventh, the moment of occurrence of the obligation in the theory of law should be considered not only the moment of the offense, as the composition of the latter, as a set of objective and subjective features, is determined by individual sectorial responsibilities and establish the basis of liability; eighth, the theory of law examines the rules of legal liability for immoral acts; non-fulfilment of promises by an official to citizens, etc. Legal liability in the theory of law has significant differences, which are considered in civil law, criminal, administrative, financial, budgetary, environmental, labour, and so on. In industry disciplines - one or another fault differ in the content of the action, event, the consequences of which they are formed, the nature of social relations, the degree of social danger, harm, and so on.

Thus, having explored the basic approaches to understanding legal responsibility in the theoretical aspect, the author believes that legal responsibility in the theory of law should be considered as legal responsibility, which has practical significance primarily for the legislator, if he formulates the provisions of law directly prescriptions of legal responsibility; various aspects, as well as for the Constitutional Court of Ukraine and other judicial bodies in Ukraine exercising constitutional control in the state.

The ratio of the share of regulatory and protective legal relations in Ukraine

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Legal relations are called social relations, the content of which is the subjective rights and legal obligations of persons protected by the state

The possibility of certain behaviour provided by the rules of law can be realized not only through legal relationships.

There are two ways to implement the rules of law:

1) implementation of legal norms related to the necessity for the subject of the right to enter into relations with other persons who are bearers of rights and obligations. Such a way of implementing the rules of law depends entirely on the will of both parties. The regulation of social relations is carried out by influencing the norms of the right to conduct people through their awareness and subsequent implementation. The behaviour of the subjects of law must comply with the requirements of legal norms; all participants in public relations in the process of implementation of the rules of law act as bearers of certain rights and obligations;

2) the direct exercise by the subject of his rights and the performance of his duties when he is not required to interact with other participants. Example. The ability of the owner to dispose of his property when all other entities must refrain from interfering with his absolute property rights. In addition, the personal implementation of the rules of law that impose prohibitions (prohibition on killing, robbing) also depends entirely on the individual: in order to comply with them, one does not have to interact with other people.

By function, there are two large groups of legal relationships: regulatory and protective. In order for a person to be a holder of subjective legal rights and obligations, to participate in legal relations, he

must possess special legal qualities: legal capacity and capacity. Legal capacity is the statutory capacity of a person to have rights and responsibilities.

The statutory capacity to exercise rights and responsibilities independently. Together, they form the concept of legal personality. Subjects of legal relations may be individuals (individuals), legal entities, as well as the state as a whole.

Individuals include Ukrainian citizens, foreign nationals, and stateless persons.

Regulatory relationships arise on the basis of legal approvals and are embodied in the legitimate actions of the entities, regulating the relevant social relations (for example, on the basis of relationships related to the use of utilities, legal relationships arise from the timely payment for them).

Protective legal relationships arise on the basis of legal prohibitions and are the result of the offenses committed by the subjects (for example, the speeding of the driver of a motor vehicle). It is necessary to distinguish between substantive and procedural legal relations. The substantive legal relations arise on the basis of the material relations which are the organizations, their content are the rights and obligations of the parties. For example, material relationships arise from the right to education, to health care, to personal safety.

Procedural legal relations implement the rules of procedural law and arise on the basis of organizational relations. They are secondary, derived from the rules of substantive law and establish a procedure for the exercise of the rights and obligations of the subjects of law, the procedure for resolving legal cases. These include civil procedural, criminal procedural administrative procedural, economic procedural and others. For example, the search procedure, the procedure for filing a lawsuit or complaint, the procedures for participating in competitive examinations when entering a higher education institution.

Over time, actions distinguish between long-term and short-term relationships.

Long-term relationships last for a while (whether or not defined), for example, relationships that have arisen from a contract for capital construction work or a long-distance contract.

Short-term relationships last for a short period of time and are terminated immediately after the participants fulfil their rights and obligations (for example, the purchase of a specific thing).

Constitutional legal relations in the system of legal relations in Ukraine

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Constitutional and legal relations are public relations regulated by the norms of constitutional law and guaranteed by the state that arise between entities regarding the exercise of their constitutional rights and obligations:

1) signs of constitutional law relations related to public relations;

2) it is a kind of legal relationship, as it exists along with criminal, economic and other legal relations;

3) arise between the subjects of legal relations regarding the implementation of constitutional rights and obligations;

4) are predominantly imperative;

5) regulated and protected by constitutional norms and principles;

6) it is a kind of political and legal ties, because it is closely related to the subjects of the political process, with the exercise of power of state authorities, the legal status of a person and citizen;

7) basically they have exclusively national, and not local (local) character (for example, elections of the President of Ukraine, Supreme Council, All-Ukrainian referendum);

8) in comparison with other branches of law, they cover a wide range of social relations: political, economic, cultural, environmental, social;

9) carried out consciously and purposefully as a result of the will of the subjects of constitutional-legal relations. However, in certain cases, the cause or effect of the occurrence, change or termination of constitutional-legal relations is objective phenomena – natural disasters, accidents, epidemics, epizootics that pose a threat to the life and health of the population and can lead to massive violations of law and order. The

emergence of just such legal relations does not depend on the will of the subjects, but their onset provides for certain legal consequences for participants in constitutional legal relations;

10) guaranteed and provided by state law enforcement, the main content of which is to deprive the relevant entities of a political, material or other good.

The subjects of constitutional-legal relations are their participants, in a particular legal relationship exercise their rights and bear the corresponding legal obligations or, through their legal capacity, give rise to certain legal frameworks1. This concept should be distinguished from the concept of "subject of constitutional law", which means a carrier established by constitutional norms, which may have legal rights and bear the corresponding bindings.

A characteristic feature of the subjects of constitutional-legal relations is that they have different rights and obligations, that is, constitutional legal capacity that is different in content.

All subjects of constitutional legal relations are divided into individual and collective (complex).

The most common types of subjects of constitutional relations are:

1) communities (people, nation, national minorities, indigenous peoples, territorial communities, etc.);

2) the state, state authorities and local governments, their structural entities, in particular the parliamentary majority and parliamentary opposition, deputy fractions, committees, deputies, officials and officials;

3) political parties, public organizations and blocs;

4) citizens of Ukraine, foreigners, stateless persons, residents, refugees;

5) enterprises, institutions, organizations;

6) international bodies and organizations;

7) bodies of self-organization of the population;

8) media and the like.

Objects of constitutional legal relations are objects or phenomena with which the norms of constitutional law connect the behaviours of participants in constitutional legal relations.

The objects of constitutions in legal relations are:

1) state territory, since the territory of the state is a spatial basis for the exercise of its sovereignty, a spatial feature of its power;

2) power (will) of the Ukrainian people;

3) state power is the subject of most constitutional legal relations;

4) local government;

5) property and non-property benefits. Moreover, property benefits as objects of constitutional-legal relations in their total mass occupy a relatively small place (for example, regarding property benefits, subjects of constitutional-legal relations exercise the rights provided for in Articles 41, 46-48 of the Constitution of Ukraine), since the implementation of legal norms governing the use of property and other material goods, carried out in most cases in civil law, financial law, land law relations;

6) the behaviour of people, the actions of state bodies, local self-government bodies, associations of citizens, which have a certain degree of profile in constitutional law, since it is precisely because of actions that democracy is realized in its various forms1.

The content of constitutional legal relations is the social behaviours (activity) of the subjects of constitutional law, it is ensured and directed by the state by determining their subjective rights and legal obligations.

The emergence, amendment and termination of constitutional-legal relations is connected with certain conditions provided for by the norms of constitutional law. Such conditions are called legal facts. They are classified according to several criteria. For example, according to the impact on the dynamics of legal relations, law-making, law-abiding and law-ending legal facts are distinguished.

Problems of the relationship between law, legal norms and legal relations

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I will begin with the concepts and features of law, legal norms and legal relations. The right is the system of regulation, social relations, which expresses the freedom of the person, which is conditioned by the nature of the person of society, and which is characterized by normativity, formal certainty in official sources and provision with the possibility of state coercion. Law is the basis of laws. Law is primary, and laws are secondary, so the rule of law over laws is said. Also, the system of general obligatory, formally defined rules of conduct, which are established, protected and guaranteed by the state in order to regulate the most important social relations, should be considered right.

1. A fair and equal measure of freedom means that the boundaries and content of rights and responsibilities are determined by rules of good conduct that are recognized by the majority of the population and binding on everyone (a fair measure of freedom). Justice is the balance of interests of the authorities and the citizen, manufacturer and consumer, seller and buyer, employer and employee, etc., not privileges and leveling. By its general scale and equally, the right measures, "measures" and forms the very freedom in human relations, the freedom of the individual, both in relation to the other individual and to society as a whole. Freedom is always limited by a specific framework (measure) that does not allow anti-social acts of "freedom of use"

This is equality in freedom. Law gives measure, and justice controls it, stops loss of this measure, establishes proportionality between claim and duty, freedom and responsibility (equal measure of freedom)

Therefore, in law, freedom, equality, justice are contiguous, since justice is realized in the conditions of freedom and equality, and freedom presupposes equality of rights.

2. Normativity — consists of legal norms and principles as the basic (basic) elements of its structure. With the help of the rules and principles of law, unity is introduced into public life - law acts as a general scale (regulator) of human behavior. Due to normativity, the limits of achieved freedom, the boundaries between freedom and non-freedom, are set at a certain stage of social progress. Being complex legal means, norms are formed from simple lower order (minimum) legal instruments: obligations, permits, prohibitions.

3.Systemically — is a system of agreed norms and principles. Law is not just a set of norms and principles, but a system where all elements are linked and agreed. Systematicity is brought into law by law.

4. The willful nature of law, the concordance of wills (interests) — expresses consensual (agreed) interests. The right manifests and embodies the will, the content of which is the interest, determined by the needs of society, its socio-economic development, the right accumulates the social, socio-group and individual will of legitimate citizens in a harmonious combination, harmony and compromise. An illusion is created. that the right is created by the state. In fact, law is formed in society in the process of developing relations, and the state specifies, coordinates the interests of different social groups in order to ensure social stability.

The rule of law is a mandatory, formally defined rule of conduct (sample, scale, standard) established or sanctioned by the state as a regulator of public relations, providing all measures of state influence (up to coercion), as well as formally affirming the measure freedom and justice in accordance with the public, group and individual interests (will) of the population of the country.

1. The rule of conduct of a regulatory nature - the rule of law introduces a new rule, fixes the most consistent social processes and connections; influences social relations, behavior of people; is a model of

regulated social relations. The normality of a rule of law emphasizes its action, the "work" that must lead to a certain result.Mandatory rule of conduct - a rule of law emanates from the state, which should be taken as a guide to an action that is not subject to discussion as to its expediency.

2.The rule of conduct of a general nature — a rule of law — is general (without specifying a specific addressee — non-personified), that is, it applies to anyone who becomes a party to a relationship governed by the norm. As a regulator of public relations, the norm has multiple applications (for example, the prohibition of hooliganism).

4. Formally defined rule of conduct of representative and binding nature - the rule of law establishes the rights and obligations of participants in public relations, as well as the legal liability (sanctions), which are applied in case of its violation. By giving rights to one, the rule of law imposes duties on others (for example, youth have the right to study, the duty of others is to secure that right). Formal certainty of the rule of law gets after its presentation in the laws, other written sources of law.

5. A rule of conduct, adopted in strictly established order - a rule of law issued by authoried entities within their competence, following a certain procedure: the development, discussion, adoption, entry into force, change or revocation.

6. The rule of conduct, ensured by all measures of state influence, up to coercion - the state creates real conditions for the voluntary implementation by the subjects of the behaviors formulated in the rule of law; applies methods of persuasion and coercion to the desired behavior, in particular effective sanctions in case of failure to comply with the requirements of the rule of law.

Legal relations-are settled relationships. Legal relations arise when, and only when, the relationship is governed by the rules of law. Legal relations, unlike other relations, are protected by state power.

1. Public relations that arise only between people and their associations and are directly related to their activities and behavior.

2. Ideological relations, because before their origin they pass through the consciousness of the people, in which the model of future relations is drawn up in view of the existing universal human values and social relations.

3. They serve as a legal expression of economic, political, family and other relations, affect the social relations that have developed on their soil.

4. They arise, terminate or change on the basis of legal norms that affect and through the implementation of human behavior.

5. Subjects of legal relations are bound by subjective rights and legal obligations of legal relations are the authorized and obliged persons, where the rights and interests of one person can be realized by performing the duties of others.

6. Mutual behavior of participants in legal relationships is individualized and clearly defined. Legal entities (public authorities, natural or legal persons) are generally known in advance, their actions coordinated even before the beginning of these relations, which is not the case in other public relations.

7. The volitional character of legal relationships is conditioned by the fact that they arise and are realized on the basis of the will of at least one of their participants, necessarily passing through their consciousness and expressing their will.

8. Protected by the state, as well as the law as a whole. Other social relations do not have such security. Guaranteeing the conditions of law and order means that the state protects all legal relationships that exist in society

These three concepts are compatible, identical, complementary, because they refer to a single, general concept - “right.” Their connection is observed at all levels of state creation, regulation, interconnection between branches of power. These concepts complement each other, provide a basis for reflection, and at the same time for conclusions lawyers, lawyers in general. To give an example: from the concept of "law" we can find out what the legal norm and legal relations, because, as

mentioned above, they are identical. Although similar in some respects, there are sometimes differences between them, some differences, which are clearly reflected in many legal acts.

But these differences are not significant, insignificant against the background of the interaction of the three concepts.

All these concepts, namely: "law", "legal norm" and "legal relations" are particles, links of one whole, together form one coherent legal mechanism, which is clearly expressed in the normative acts. These concepts are extremely helpful for young lawyers in the study of law, and, oddly enough, for me they have also played a voluminous role in the study of law theory.

Impact of Ukraine's European integration course on legal the status of the legal entities

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Association agreement between Ukraine and the European Union enhances consumer protection, and establishes clearer control over using public funds was signed on 21 March 2014, and economic - June 27 of that year, and September 1, 2017. This agreement entered into force in its entirety.

European integration is a process of political, legal, economic (and in some cases social and cultural). European integration states. At present, European integration is mainly achieved through enlargement of the European Union and the Council of Europe. It's complicated and controversial socio-economic process of establishing a close cooperation between European countries. There are different perspectives on European integration, among which is relevant the statement that: "European integration –it is about "improvement and prosperity", but not "today," but only on condition specific reforms.

That is why in the long run European integration is, and remains, the most viable and beneficial development strategy for Ukraine". The EU Association carries a great deal of reform and change. Majority have a positive impact on the state. The agreement envisages strengthening protecting consumer rights in accordance with European standards, which are greater progressive compared to domestic.

The transition to European quality control standards and import duties abolished. In the long run Ukrainian goods will become safer and better (by product certification account) and will be able to be sold in Europe markets.

Ukraine has become the most important achievement in recent years European integration choice of the Ukrainian people. And though now all

attention is focused on visa-free regime, do not forget about the Association Agreement with the EU, under which Ukraine defined the main directions of reforming the Constitution, the judiciary and the law enforcement systems, electoral law, anti-corruption, government, economy and tax system.

These are the realms most important to us. Ukraine urgently needs sustainable economic growth and growth and expects to achieve this goal on the path of European integration.

However, it turns out that European integration successes are not so significant that due to the presence of a number of integration problems in the EU. None reforms in the economic, political and social spheres cannot take place without priority reforms aimed at combating corruption.

Recently, the Verkhovna Rada of Ukraine voted in favor of pension and medical reform. The need to reform the pension system has been ripe for a long time, because there is a large Pension Fund deficit of UAH 141 billion (11% of GDP).

Now in our country, 10 workers provide retirement benefits 12 retirees. As a result, there is a heavy burden on business and scant payments retirees.

The new pension reform provides for a pension for Ukrainians accrued from 60 years with experience of 25 years. People with 15 years of experience up to 25 years old can retire at 63 years. For those who have up to 15 years of experience years are allowed to receive a pension after 65 years. By 2028 to exit it takes 35 years for an ordinary person to retire. All this is made of the purpose is not to raise the retirement age. It is assumed that the minimum the size of the pension after the pension reform in Ukraine in 2017 will increase by 11% to UAH 1452.

Also, pension reform provides for the abolition of special pensions for a number categories (education, health, journalists, former) officials, judges, prosecutors) and the abolition of the 15% tax on retirees continue to work. The government is also proposing an anti-inflation formula calculating the pension to avoid its depreciation in the event of economic crisis.

If we talk about medical reform, it is really necessary. In compared to other countries with similar income levels, Ukraine spends a lot more on inefficient medicine - more than 4% of GDP countries. At the same time, doctors are forced to work for a meager salary, and citizens do not have adequate medical care. In early June, the Council approved the first reading the bill on medical reform. She involves changing the bed-money principle to the so-called “money go after the patient. " It will allow to increase competition, to increase labor standards. The state itself will benefit from quality medical services.

Healthy workers do not need to pay for hospital compensation. A timely diagnosis prevents the number of disabled and unemployed. Under this reform, health care will be divided into three completely free, partially publicly paid and paid services. Many medical services will remain free (about 80%).

Within the reform also envisages a transition to the purchase of medical services through a single one national customer since 2018. Most benefits of medical reform the citizens themselves will notice. They will choose their own doctor. At it doesn't matter where the person lives. Pay for medical supplies services will not be necessary for the patient.

Therefore, medical institutions and doctors will start compete for the largest number of customers. Non-professional professionals as well doctors with a bad reputation will be out of work.

Judicial reform is one of the most important reforms. According to her the introduction of "e-court", ie implementation, is envisaged information technology litigation.

The participants of the case may participate in the court hearing in videoconference mode without leaving your home or work space. However, for experts and witnesses it can videoconference in the premises of another court.

Special attention to the bill is dedicated to ensuring the activity of the Supreme Court. So, the decision of the court in a particular case is reviewed in cassation the Supreme Court appealed only once. In general

as a rule, the Supreme Court deals with cases of a panel of three or more odd number of judges.

Also within the framework of this reform A law was adopted Of Ukraine "On ensuring the right to a fair trial", which provides the mechanism of cleaning the judicial body, the institute of the judge file, transparent rules of formation of the High council of justice and the high qualification commission judges, refines the selection process for judges, restores the role of the Supreme Court as the highest judicial authority in the court system.

In 2017, the education system began to reform. According to educational of the reform, the draft Concept for the development of education 2015-2025 was approved years. One of the first areas of the Concept is to bring the structure of education into relevance to the needs of Ukraine's modern economy and integration

The reform of education is expected to increase overall duration of schooling (12 years), transition from one level of education to another will only be implemented using an external independent evaluation. In higher and professional education it is proposed to move to three years bachelor's in the year of first graduation from a 12-year school and anticipate at universities have a "zero" course for individuals who have completed a complete general average education on a different profile.

The transition to a two-year master's degree is envisaged in year of the first graduation of a three-year bachelor's degree. The priority of educational development isensuring equal access and quality education for all citizens.

So, in recent years, in political, socio-economic and legalsignificant changes have taken place in Ukraine's spheres, large-scale reforms have been carried out, which makes it possible to draw conclusions as to their effectiveness and appropriateness.

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The problems of legal culture in functioning public service of Ukraine

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The culture of public service is the values, norms, principles on which the relationships of the system of public authorities are changed by the external environment, and also in the middle of public service as a cultural institution. The cult of public service creates the conditions for its effective managerial impact on the real life of citizens with the help of such qualities as cadres, professionalism, professional competence, professional culture of civil servants.

For the first time, the term “public service” in modern Ukraine has been used at the legislative level by the Code of Administrative Procedure of Ukraine, which determines that public service is an activity in government political positions, professional activity of judges, prosecutors, military service, alternative (non-military) service, diplomatic service, other public service, service in the authorities of the Autonomous Republic of Crimea, local authorities.

Public service is a professional, politically neutral activity of persons in administrative positions in executive bodies and local authorities. Public service can include professional, non-political activities in the apparatus of other government bodies: the head of state, parliament, courts, and the like.

Legal culture is a special component of the spiritual culture of mankind, captures the achievements of society in the development of legal phenomena in general, reveals the role of legal ideals and values in society, real achievements of the state in the field of law enforcement. It has its own specific properties and functions inherent only to it, which distinguish it from other forms of culture due to its direct connection with the state, legislation, and law. Legal culture is a kind of general culture,

which is a system of values that mankind has achieved in the field of law and concerns the legal reality of a given society.

The Constitution of Ukraine defines Ukraine as a legal state in which a single state power is exercised on the basis of its division into legislative, executive and judicial. An important factor that represents a unified state power, regardless of its type, public service as a social and legal organization, designed to ensure, on the one hand, the practical implementation of the tasks of state and municipal authorities, and on the other, the protection of the rights, freedoms and interests of individuals, rights and interests of legal entities in their relations with the state. From her professionalism and competence, authority and stability, security and security, lay the functioning of both the state and civil society. At the same time, the current Ukrainian legislation does not define the concepts of "public service" and "public servant". In the early years of Ukraine's independence, researchers primarily defined public service as a public service, that is, the professional activities of persons holding positions in government bodies and their apparatus, aimed at the practical fulfillment of the tasks and functions of the state and receive salaries from public funds. Recently, with the increasing role of public administration, the search for meaningful content of the term "public service" is being updated.

According to Art. 3 of the Law of Ukraine "On Public Service", the principles of public service include: serving the people, democracy and the rule of law, humanism and justice, the priority of human and civil rights, professionalism, competence, initiative, honesty, dedication, personal responsibility for the performance of official duties, relations and discipline, observance of the rights and legitimate interests of local and regional governments, observance of the rights of enterprises, institutions and organizations, associations of citizens.

In order to solve the problem of legal regulation of public service relations, one should be guided by the uniform principles of the functioning of public service and service in local authorities, which are

the components of public service. To reform the service legislation in this direction, it is necessary to solve a number of problems:

1) recognize the priority of administrative regulation of public service relations in Ukraine over labor regulation, available;

2) providing a sound analysis of the level of professional training and personal qualities of persons applying for public service, while formalism in holding a competition for filling public service posts should be avoided;

3) improving the official culture and official ethics of public servants.

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PART 5
PROBLEMS OF PRESERVATION AND DEVELOPMENT OF INSTITUTIONS OF DIRECT DEMOCRACY IN EMERGENCY CIRCUMSTANCES

International legal and national mechanisms of decocuation of Crimea

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Russia's occupation of the Crimean peninsula in 2014 divided the history of modern international relations into "before" and "after". As a result of this international crime, Ukraine lost part of its territory and faced the need to focus all its diplomatic efforts and resources on gaining the support of the international community and regaining the Crimean peninsula.

The international community and Ukraine define the position and actions of the Russian Federation on the illegal annexation of the Crimean peninsula as an act of direct aggression against Ukraine as a sovereign state. It is acknowledged that “the situation on the territory of the annexed Crimea and Sevastopol is equivalent to the international armed conflict between Ukraine and the Russian Federation. Russia is called the occupying state, and Crimea - the temporarily occupied territory.

Given all the above, the relevance of the topic is determined by the urgent need to use various international legal and national means of influence aimed at resolving the situation around the temporarily occupied territory in Ukraine.

According to the generally accepted encyclopedic understanding, the term "occupation" translated from Latin "occupation" means "capture".

Based on a general understanding of this term, its legal understanding is set out in a number of international legal acts: 1) in the 4th Hague Convention (1907); 2) the Geneva Convention relative to the Protection of Civilian Persons in Time of War (1949); 3) in the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (1954).

From the content of the above documents it follows that, on the one hand, the occupying power has the right to collect taxes in the occupied territories, to require the population to obey its norms and laws. On the other hand, the occupying power is deprived of the right to force citizens living in the territories it occupies to help it (the occupying power) in carrying out hostilities against their homeland.

Under international law, it is prohibited to include the occupied territory in the occupying power. Fundamental human and civil rights, including the right to property, private and personal rights, must be ensured in the occupied territories.

International law provides for the right of a citizen to remain loyal to his country. At the same time, the occupier has the right to increase criminal liability and introduce certain rules of criminal law in the occupied territories, which provide for increased penalties for violating the security of his military formations or property.

Failure by the occupying state to comply with international law entails political, moral and material sanctions for crimes that are particularly dangerous, including criminal liability of specific officials or ordinary citizens. Such liability may arise in the event of a violation by the occupying State or its representatives of the laws or customs of war and of crimes against peace, humanity, human security and international law.

In turn, defining the concept of "occupied territory", S. Humphreys said: "The territory is considered occupied when it is under the direct control of the enemy army. This wording was enshrined in the 1907 Hague Convention. " At the same time, the researcher also believes that the "law on occupation" has no status in international law, except that "so

considers" the state that adopted such a law… Both Georgian and Ukrainian law can not "create" the occupation, or "announce" it. They (these laws) can only draw the attention of the international community to what is happening [5, p. 236].

The above-mentioned international legal understanding of the concept of "occupation" has been put into practice in connection with Russia's occupation of part of Ukrainian territory, including the Autonomous Republic of Crimea. In this regard, the international community (international organizations and the vast majority of UN member states) condemned such actions of the neighboring state in relation to the sovereign territory of Ukraine.

For example, on March 27, 2014, the UN General Assembly adopted a Resolution on the territorial integrity of Ukraine. In it, the UN, in particular, noted the violation by Russia of such international legal instruments as:

1) Art. 2 of the UN Charter, which states the obligation of all states to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state and to resolve all international disputes peacefully;

2) Resolution 2625 of 24.10.1970, which approved the Declaration of Principles of International Law on Friendly Relations and Cooperation between States in accordance with the UN Charter, which enshrines the principle that the territory of the state should not be the object of property another state… and any attempt to partially or completely violate the national unity and territorial integrity of the state, or its political independence, is incompatible with the goals and principles enshrined in the UN Charter;

3) Final Act of the Conference on Security and Cooperation in Europe of August 1, 1975 (Helsinki);

4) Memorandum on security guarantees in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons of December 5, 1994 (Budapest);

5) Treaty of Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31.05.1997

In the above-mentioned Resolution, the UN General Assembly condemned the holding of a referendum in Crimea and Sevastopol and noted that it (the referendum) has no legal force, and called on the international community not to recognize any change in the status of the Autonomous Republic of Crimea.

However, it should be noted that the very definition of the term "occupation" in international law and the existing measures to condemn it are insufficient. In our opinion, in order to ensure peace, international law and sovereignty of states as leading subjects of international law, it is also appropriate to define the concept of "deoccupation", which means a system of legal, organizational or military measures involving voluntary release by the occupying power or its forced release by the occupied state with the support of other subjects of international law with the subsequent application of international restorative and compensatory procedures.

The development of international relations and the practice of international judicial institutions lead to a new interpretation of certain categories and concepts in international law. However, despite such changes, the fundamental goal of international law is to ensure peace on all continents, economic development and stable international cooperation. Even the most complex processes in interstate relations must be settled in accordance with the principles of international law, the violation of which by one of the states may cause destabilization of international relations. Timely recourse to mechanisms for resolving interstate conflicts on the basis of international law is the key to the further development of our civilization, and any speculation on such norms can inevitably lead to the degradation of states and violations of the rights of their citizens.

Given the current trends in international law and the content of documents of UN agencies, some scholars point out that the right of peoples to "remediation" begins to be perceived as the norm [17; 18].

Given that the country's governance is not representative and violates human rights, many more forms of self-government have the potential to destabilize. As a result, proclamations and secession are no exception, which may later be recognized as legitimate. It should be noted that an important aspect in the exercise of the right to self-determination is the support of the seceding people by other states [11, p. 146].

In this case, the communities claiming secession should have the right to seek and receive external assistance, and in cases of blatant violation of the rights of peoples by the state from which they secede, other countries and organizations may not have the right to refuse assistance to the new state [1, c. 384].

If the right of peoples and nations to secede in the face of significant violations of their rights in terms of theoretical perception begins to be perceived as a customary rule of international law, then given the practical analysis of this right, it can be realized with sufficient political support of the people or nation separated by other states. Despite the formation of criteria that characterize and recognize the principles of equality and self-determination of nations and peoples, in the current development of international relations, there are cases of speculation on the right to self-determination and, moreover, use it to justify overtly destabilizing separatist processes. there is usually the seizure of certain territories of certain states by others and the violation of territorial integrity.

One of the most outspoken cases of such speculation can be considered the annexation of the Autonomous Republic of Crimea (hereinafter - the ARC) and its subsequent incorporation into the Russian Federation. its further incorporation into the Russian Federation. The holding of a democratic referendum is considered an urgent procedural step for the realization of the right to self-determination. Modern international law recognizes the holding of a referendum as a mandatory element for the exercise of the collective right to self-determination. At the same time, during the organization and conduct of the referendum, it

is extremely important to follow the procedural requirements and rules, because it depends on the recognition of the results of the referendum as subjects of international law.

Moreover, a referendum to exercise the right to self-determination should be conducted in a democratic and peaceful manner, through a transparent voting procedure, and with the possibility of resolving territorial issues through negotiations with all parties whose interests may be affected by such a referendum [19].

The basis for the proclamation of independence of the ARC and its subsequent incorporation into the Russian Federation was a referendum, which is illegal in accordance with the provisions of the Constitution of Ukraine [20].

According to Article 2 of the Constitution of Ukraine “Ukraine is a unitary state. The territory of Ukraine within the existing border is integral and inviolable "[21].

At the same time, the status of the autonomy of Crimea is defined in Chapter X of the Constitution of Ukraine. Article 134 of the Constitution states that "the Autonomous Republic of Crimea is an integral part of Ukraine and, within the powers defined by the Constitution of Ukraine, decides issues within its competence" [21].

Autonomous status gives the population of the Autonomous Republic of Crimea certain rights and self-government, as well as the right to hold a referendum, however, such referendums can only address issues of local importance. Article 73 stipulates that any changes to the territory of the state may be decided exclusively by holding an all-Ukrainian referendum [21].

Holding a referendum in Crimea is a violation of the Constitution of Ukraine, and, moreover, does not meet modern internationally recognized standards for referendums [19].

The general principle of free choice is enshrined in Article 3 of the First Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms and in Article 25 of the International Covenant on

Civil and Political Rights, as well as in other international treaties to which Ukraine is a party.

The constituent elements, in the presence of which the conformity of the principle of free elections is recognized, are freedom, confidentiality of voting, equality, as well as the universality of elections. In 2007, the Venice Commission developed a Code of Good Practice for Referendums (hereinafter - the Code), which sets out the organizational and practical principles of referendums [23].

The Code is a rather complex document, but member states of the Council of Europe should refer to it as a recognized source. Although this Code does not create norms of international law that are binding on all states, nevertheless, the Code contains international standards and the practice of referendums recognized by states [24, p. 380].

As for the procedural rules for the organization of the referendum, there is a recognized practice of meaningful formulation of questions during the referendum. The issues raised in the referendum should not have a double meaning, ie be clearly defined and should not mislead voters. The content of the questions should be set out in such a way that the person voting can give a simple answer "yes" or "no".

However, this principle was not taken into account during the referendum in Crimea. It can be argued that there was a violation of the rules for formulating questions to be put to the vote. First, two questions were put to the vote, although the Venice Referendum Code of Practice provides that only one question can be voted on in a referendum, to which a clear "yes" or "no" answer must be given. The two questions contained in the poll did not leave the possibility of voting to preserve the status quo in Crimea. In one of the issues it was proposed to restore the Constitution of Crimea in 1992, however, without specifying which Constitution, because there are two Constitutions of Crimea, dating from 1992 [25].

Analyzing the compliance of the referendum held in Crimea with the recognized standards, it is important to note that the Code of the Venice Commission provides for several other procedural rules that must be followed during the organization and direct conduct of the referendum.

The Code requires a law defining the voting procedure for a referendum, as well as the presence of national and international observers. The presence of international observers during referendums is an internationally recognized practice and is a customary rule of international law [19].

Thus, the analysis of the above facts shows the inconsistency of such a referendum with the standards of referendums recognized by the international community, some of which are customary norms of international law. Analyzing the organization of the referendum in Crimea, it can be argued that the referendum was held in violation of the principle of free elections, because at the time of voting, the Russian military controlled the territory of Crimea and the infrastructure of the peninsula. At the same time, international standards require no military influence from opposition parties in the referendum, as well as the maintenance of neutrality by local authorities until the final announcement of results.

It is obvious that both of these elements were absent during the referendum in Crimea. In addition, the presence of a large number of Russian troops on the Crimean peninsula during the referendum can be seen as the use of force on the territory of a foreign state. This use of military force by the Russian Federation has been repeatedly justified as a way to ensure the exercise of the right to self-determination.

However, such a justification for the use of force cannot be considered justified. The above-mentioned Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation between States, in accordance with the Charter of the United Nations, does not contain provisions that would allow any military action in support of the right to self-determination. To argue the legitimacy of the use of force to ensure the exercise of the right to self-determination, it will be necessary to provide a new interpretation of several fundamental principles of international law. Moreover, in order to justify the use of force in order to exercise the right to self-determination, it is first necessary to prove that the population of Crimea is indeed an entity to

which such a right can be applied. Secondly, it is necessary to cite the facts that in the spring of 2014 there were events that can be described as forcing the population of Crimea to resort to "remediation".

Given the above, at the time of the secession of the Autonomous Republic of Crimea in the spring of 2014, there were not enough facts and events that would fall under the criteria for applying the principle of self-determination and separation from the state. Moreover, there was no recognition of Crimea as an independent state by other countries.

Thus, it is an indisputable fact that the referendum in Crimea in the spring of 2014 took place in violation of the national legislation of Ukraine and recognized international standards. The right to self-determination is characterized as one of the fundamental principles of international law, due to the importance of which any speculation on it can lead to significant violations of human rights and international law, and therefore such speculation must be stopped.

It is also worth noting that at the present stage of development of the world community and given the importance of ensuring stability in interstate relations, any violations of fundamental principles of international law must inevitably be prosecuted for violating states.

Thus, in the process of Russia's occupation of the Autonomous Republic of Crimea, there was a violation of international law on the right of peoples to self-determination during the so-called referendum in March 2014, violation of international standards in recognizing the sovereignty of states as subjects of international law. violation of the reference legislation of Ukraine and the legislation on the state border of Ukraine.

Attention should also be paid to the miscalculations of the Ukrainian authorities during the occupation. The main mistakes include insufficient control over the Armed Forces of Ukraine and law enforcement agencies stationed in the territory of the Autonomous Republic of Crimea, as well as insufficient cooperation with international (especially law enforcement) forces in the first days of the occupation. In particular, an attempt could be made to organize joint military exercises

off the coast of the Autonomous Republic of Crimea in the framework of Ukraine-NATO cooperation, etc.

By illegally occupying the ARC and the city of Sevastopol, carrying out an illegal armed invasion of Donetsk and Luhansk regions in 2014, Russia, according to a statement from the Ministry of Foreign Affairs of Ukraine on the occasion of the 42nd anniversary of the UN General Assembly resolution aggression against Ukraine. Thus, it not only violated the sovereignty, territorial integrity and political independence of the latter, but also posed a threat to international peace and security in general [2, p. 5].

The question remains, how did Russia, the guarantor of Ukraine's territorial integrity, dare to violate the fundamental principles of international law and the bilateral peace and friendship agreements signed between them? Why Russia - the successor of the USSR in international obligations - demonstratively despises the Helsinki Accords of 1975, which established the principle of inviolability of borders and territorial integrity of countries [3, p. 6].

There are many issues, but one thing is clear, the Russian Federation has violated many norms of international law, and its activities are becoming dangerous not only in terms of territorial integrity of the Ukrainian state, but also the world.

The peculiarities of Russia's aggression in modern geopolitical conditions are manifested in its application of the tactics of the so-called "hybrid war". Russia's hybrid war threatens Ukrainian society because of its unpredictability and its use as an object and, at the same time, an instrument of aggression. The nature of the new type of war was most clearly demonstrated, first by the Russian occupation of the ARC in the spring of 2014, and then by the support of local radical elements and the full-scale invasion of Russian troops in the eastern regions of Ukraine. The formation of the Russian phenomenon of "hybrid war" belongs to the period of Russia's rethinking of its place in the world and the region. The main features of the period of loss of geopolitical positions, international political status and influence were the reformatting of the European

geostrategic space, which resulted in significant enlargement of NATO and the EU.

Unfortunately, the situation around the occupied Crimea is still in a "frozen" state. Efforts by international diplomacy to end hostilities in eastern Ukraine have been unsuccessful. The negotiations in the Normandy format were in fact "paused".

The military occupation of the ARC and the city of Sevastopol, as well as the activities of the separatists, showed that propaganda as a means of information pressure has become an instrument of information and psychological influence that determines the problem of peace and war. The information and propaganda work of the Russian Federation against Ukraine was aimed at the pro-Russian population of the industrial regions of Ukraine with a focus on target groups of civil servants, intellectual elites, and the elderly. Russia's activity was active on social networks (especially the most popular in the post-Soviet space "Classmates" and "VKontakte"), where pro-Russian messages were spread. Unfortunately, our state has not yet learned to master the strategies of counteraction to information and propaganda actions at the national level and to implement them effectively. Ukraine's position on banning the use of Russian Internet resources on the territory of Ukraine is positive. Thus, in particular, the legal reason for blocking was the introduction of additional sanctions against Ukraine by the decree of President of Ukraine Petro Poroshenko of May 15, 2017 on the implementation of the decision of the National Security and Defense Council of Ukraine of April 28, 2017 ". A feature of the new sanctions was the requirement for Internet providers to block access to web resources of Internet companies "In Contact", "Classmates", "Mail.ru.", "Yandex" and others. In 2020, President of Ukraine Volodymyr Zelensky extended the ban on Russian social networks.

Social networks, which have become the Internet on the Internet, are the largest platforms for the exchange and dissemination of information, including destructive content. In accordance with international norms that allow limiting informational influence in the

interests of national security (Article 10 of the European 141st Convention on Human Rights), the National Security and Defense Council of Ukraine now advocates a ban on advocacy of the aggressor country. In contrast to the Ukrainian model of building state information and communication infrastructure (insufficient use of the potential of convergent media; commercialization of Ukrainian media; increasing the segment of foreign media among the subjects of information relations in Ukraine and their use by foreign countries; lack of effective control by able to neutralize foreign harmful information influence), in Russia there are media holdings, which in accordance with the decrees of the President of were included in the list of strategic enterprises of the state.

Gaps in the legislative field in the field of information security, lack of appropriate mechanisms to hinder Ukrainian media and other media that relay pro-Russian narratives or other anti-Ukrainian information and low level of coordination of CEB activities in the information sphere, which allows the aggressor to use Ukrainian information products authorities for their own propaganda and unformed policy of information support for the consolidation of national identity in Ukraine, in terms of working with the population of Ukraine, especially in the occupied territories. And the main constant use by Russia in the official and political sphere of special narratives and information labels in order to delegitimize the Ukrainian government ("war party", "Kiev junta", "Bandera", "fascists", "Nazis"); also the formation by Russia of channels of information and propaganda work on discrediting the Ukrainian government by target groups (citizens of Russia and citizens of Ukraine in the occupied territories; citizens of Ukraine; Western countries, Ukraine's partners in countering aggression; societies of countries in Russia's orbit). Ways to solve this problem are the creation of the state's own social networks, as well as the formation of an institution of public control over the activities of the media, which would conduct an independent evaluation of advocacy campaigns by foreign and domestic media to Ukrainian audiences [3].

The adopted Law of Ukraine of January 18, 2018 "On the peculiarities of state policy to ensure the state sovereignty of Ukraine over the temporarily occupied territories in Donetsk and Luhansk regions" [1], which defines the legal position of Ukraine on the armed conflict in eastern Ukraine, and on the other - sends a signal to partner countries and the world community. The law introduces a number of important norms into the legislative sphere, in particular: it confirms the inalienable right of Ukraine to self-defense in accordance with Article 51 of the UN Charter.

At the same time, it should be noted that Russia's opposition as the occupier of the Autonomous Republic of Crimea has minimal effectiveness. It is reduced only to information counteraction and, in part, organizational counteraction (in terms of the use of diplomatic means in conjunction with international organizations and leading European countries). In our opinion, it is expedient to strengthen measures of international political and international economic influence on the Russian Federation as an occupier.

After the occupation of the Autonomous Republic of Crimea in April 2014, Russian aggression in eastern Ukraine continued in the form of a hybrid war, connected with the temporary occupation of certain districts of Donetsk and Luhansk regions, which continues to this day. Probably, the Russian Federation did not abandon destructive plans to destabilize the political and socio-economic situation in other regions of Ukraine [4, p. 64].

This necessitates an urgent, in terms of efficiency, systemic, comprehensive, meticulous analysis of state policy to restore Ukraine's sovereignty in the temporarily occupied territories of Ukraine, which was formed, implemented, to some extent - modernized, for more than 6 years. It is advisable to identify certain weaknesses, shortcomings in the implementation of this policy, to formulate a concept and an appropriate program of action aimed at deoccupation of the temporarily occupied territory of Ukraine and restoration of territorial integrity of Ukraine [4, p. 17].

We believe that the mechanism of deoccupation of the temporarily occupied territories is a set of principles, forms, methods, tools used by relevant entities (public authorities, international law entities, civil society institutions, etc.) to successfully ensure deoccupation and further reintegration temporarily occupied territory of Ukraine.

The mechanism of deoccupation of the temporarily occupied territories of Ukraine can be differentiated into the following structural elements:

a) political forms and means of deoccupation of the temporarily occupied territories of Ukraine, which can be divided into foreign policy and domestic policy. In turn, foreign policy forms and means of deoccupation of the temporarily occupied territories of Ukraine should be aimed at increasing foreign policy pressure on Russia in order to withdraw from Ukraine all foreign military formations, equipment and mercenaries; restoration of Ukraine's control over the state border with Russia; release and exchange of all hostages and illegal detainees without exception. One of the ways to achieve the above is to change the Minsk process and expand the configuration of the Norman format through its addition to the guarantor states of the Budapest Memorandum, as well as further deployment of the international peacekeeping mission in Donbass;

b) institutional and organizational forms and means of deoccupation of the temporarily occupied territories of Ukraine provide for analysis of the effectiveness of the powers of public authorities of Ukraine to restore the territorial integrity of Ukraine, determine the role and place of each public authority in deoccupation and reintegration of the temporarily occupied territories of Ukraine, clarification of their competence, modernization of their organizational structure of management in the field of implementation of deoccupation policy with a clear delineation of powers of participants in this process;

c) socio-economic forms and means of deoccupation of the temporarily occupied territories of Ukraine provide for the revision of social, migration, demographic, investment, price, monetary, personnel, educational policy of the state aimed at improving the living standards of

Ukrainian citizens and internally displaced persons persons, job creation, strengthening employment in Ukraine, raising the level of social protection; [3, p. 56];

d) legal forms and means of deoccupation of the temporarily occupied territories of Ukraine provide for the analysis of law-making and law-enforcement forms of deoccupation and reintegration, improvement of the existing legal framework in this area. In particular, it is necessary to adopt laws on forgiveness, ratify the Rome Statute in order to bring to justice for crimes against humanity, war crimes, aggression; to improve the electoral legislation of Ukraine in the aspect of legal regulation of the implementation of internally displaced persons of active and passive suffrage; to improve the procedure for registration of civil status acts for newborns in the temporarily occupied territories;

e) information and ideological forms and means of deoccupation of the temporarily occupied territories of Ukraine should ensure the development of information space in order to provide the international community with objective information about the situation in the temporarily occupied territory of Ukraine, reintegration of the temporarily occupied territory, conducting a series of communication campaigns in support of Ukraine, availability of these information resources for all stakeholders (with special emphasis on Ukraine's presence in the information space in the temporarily occupied territories of Ukraine), strengthening the positive image of the state in the international arena spiritual-ideological and information-analytical work, etc. [5, p. 237].

As an example, the Voice political party presented its plan to return the occupied territories of Donetsk and Luhansk oblasts, as well as the Crimean peninsula, under the title Voice of Reason: A Cold Deoccupation Strategy. First impression: the initiative looks quite acceptable to Ukraine and, importantly, for the first time in these six years of war, a concrete vision is finally being offered, a compromise of its own to end the war and return the occupied territories.

The developers of the plan do not hide that the terms of 7-8 years are very approximate, and their exact definition is the subject of further negotiations and calculations. Only after the completion of all these stages in some districts of Donetsk and Luhansk regions local elections should take place (the document, however, states that under ideal conditions it can happen earlier - in four years).

The plan provides for the following stages: 1) ceasefire on the entire "front line" (demarcation) - at least 6 months, preferably a year; 2) demilitarized zone and international police mission; 3) the beginning of disarmament; 4) creating conditions for deoccupation; 5) the beginning of deoccupation and the temporary international administration; 6) completion of deoccupation and beginning of reintegration of Donbass; 7) the first elections in the liberated territories; 8) return of the Crimea.

The positive thing is that the Voice party came up with its own initiative on the Plan of Deoccupation of Ukrainian Territory. Against the background of pro-Russian proposals, the Ukrainian voice should be heard and the Ukrainian version of ending the war and restoring Ukraine's territorial integrity should be promoted. It is also positive that the document contains proposals for the deoccupation of Crimea, as it is now customary for us to take Crimea out of brackets, although its capture is an integral part of Russia's war against Ukraine. Until Crimea is returned to Ukraine, the war will not end.

The plan does not specify who is the guarantor of all items. After all, Russia continues to deny its participation in the war in eastern Ukraine. A striking example is Russia's failure to comply with the agreements reached on December 9, 2019 in Paris. The guarantor should be the UN Security Council, but its permanent member, Russia, will no doubt block any decisions that would point to it as a party to the conflict.

If you go through the points, the deadlines should not be limited to one year, but can be shorter. It is not entirely clear why the withdrawal of heavy weapons and armored vehicles is associated with a regime of complete silence - because his stay on Ukrainian territory is a threat to the regime of silence. The same paragraph 3 should also include the

withdrawal of "occupation military and civilian personnel", which is then mentioned in paragraph 5, but it is not clear when this process should begin. The proposals do not take into account that the 2.5-kilometer strip will include settlements that are to be administered and secured, and they should primarily fall under the jurisdiction of the interim international administration. The Interim International Administration referred to in paragraph 4 may not be established under the auspices of the OSCE. By analogy with the OSCE SMM, which includes Russians, it is unacceptable for Ukraine for interim administrations to include citizens of the aggressor country. That is, such an administration must be created under the auspices of the United Nations, and here we return to Russia's recognition of its participation in the war in eastern Ukraine. And this should be the first step in any scenario of a peaceful settlement of the conflict.

If the Russian side wants to avoid such recognition, the algorithm must be different – without temporary administrations, by simply liberating the occupied territories, dismantling the occupation administrations and restoring the Ukrainian transitional (before the local elections) administration in these territories, as in 2014. liberated Ukrainian territories. The Ukrainian-Russian border should be controlled by Ukrainian border guards. All residents of the temporarily occupied territories who have obtained Russian passports and, consequently, Russian citizenship must have the right to freely enter the territory of the Russian Federation of their choice, or renounce such citizenship while remaining citizens of Ukraine or comply with Ukrainian citizenship against foreigners. All this should take place under the supervision of the OSCE SMM, which should be strengthened and expanded. In the future, a similar algorithm should be used for the deoccupation of Crimea.

Proposals to create a special format for international negotiations on the deoccupation of Crimea have been heard for a long time, but Ukrainian diplomacy took this issue seriously only last year.

The initiative to create a specialized "Crimean format" was a natural consequence of the fact that the Minsk talks did not want to discuss not

only the Russians (as expected) but also Western mediators who did not want to jeopardize the Minsk talks as a whole. The Kremlin has repeatedly stated that the issue of Crimea's nationality is "closed" to it, and that the Russian government is strongly opposed to any such discussions.

But what is "closed" to the Kremlin is still fully "open" to Ukraine and the vast majority of countries that have not recognized the legitimacy of the 2014 annexation and therefore support Ukraine's demands for full restoration of its sovereignty within internationally recognized borders. This is what gives the Ukrainian Foreign Ministry reason to insist on the creation of an international diplomatic instrument for the deoccupation of the peninsula.

It is quite natural that Russia will oppose the creation of a "Crimean" negotiating platform in every possible way, just as it opposed, for example, the creation of an international court to investigate the death of flight MH17 over Donbass. However, the Kremlin's refusal to participate in the talks does not mean that such a format is impossible or useless. On the contrary, it is the Russian obstruction that makes the scenarios for launching the "Crimean format" extremely attractive to Ukraine.

On July 24, the Prime Minister of Ukraine Denis Shmygal stated in Brussels that our Foreign Ministry "finalized the concept" of creating an international platform "Crimea is Ukraine." The platform is designed as an advisory and coordination, but with the prospect of its transformation into a negotiation. And Foreign Minister Dmitry Kuleba made it quite transparent that he "does not see Russia in the work of the international platform on the deoccupation of Crimea."

This approach is quite logical given the "irreconcilable" position of Russia. So far, the occupying country refuses to sit at the negotiating table, to negotiate the deoccupation of Ukraine and the Western "guarantors of its security" with virtually no one. However, they may well coordinate efforts in the same format to solve another problem: how and by what means to persuade the Kremlin to be more constructive, put it at

the negotiating table and still persuade to discuss the deoccupation of Crimea.

Thus, at the initial stage, the "Crimean format" should become for Ukraine and its allies not so much an instrument of deoccupation of Crimea as such, but a means of creating preconditions for deoccupation. It will provide an opportunity, first, to keep the issue of annexation of Crimea in the international order and thus increase its priority for the world community. Secondly, it will give grounds to significantly increase the cost of the Kremlin's continued occupation (for example, through the introduction of new coordinated international sanctions) to persuade it to join the negotiations. Thirdly, and we consider it especially important, the beginning of the real work of the "Crimean format" will mean that Ukraine finally says goodbye to the bad tradition of being "led" in international diplomacy, acquires subjectivity, ability to put forward and implement major initiatives for protection of their own interests. Fourth, the "Crimean format" can give a really powerful impetus to Ukraine's review of the constitutional status of Crimea as a national autonomy of the Crimean Tatar people - and this, in turn, would create completely new grounds for attracting serious humanitarian rights to Crimea. UN resources.

Given that Russia categorically does not want to consider the issue of deoccupation, and takes talks on joining the negotiations on Crimea literally as a proposal of capitulation, the first ("consultation and coordination") stage of the international platform "Crimea is Ukraine" may take a long time. Especially if our assumptions are overly optimistic and the practice of "consultations" does not result in new instruments of pressure on Russia, but in, say, another formal "expression of concern" about the human rights situation and the deployment of nuclear weapons on the Russian-occupied peninsula. But sooner or later, work in these areas must be started by Ukraine and the international community. And the sooner the conditions for this work are created, the better.

At the same time, we should not forget that the goal of the first stage is to move to the second stage – in fact, negotiations on

deoccupation. The second stage can begin only when Russia joins the format - or when the political processes taking place in Russia will make its participation in any international negotiations unnecessary.

Thus, undoubtedly, ensuring deoccupation and reintegration of the temporarily occupied territories of Ukraine lies in the plane of complex combination of forms and means of deoccupation and reintegration: military, political, institutional-organizational, legal, socio-economic, information-ideological and other.

Based on the results of the study, we made the following conclusions and generalizations:

1. In order to ensure peace, international law and order and the sovereignty of states as leading subjects of international law, it is also appropriate to define the concept of "deoccupation", which means a system of legal, organizational or military measures involving voluntary liberation by the occupying power or forced release by the occupied state with the support of other subjects of international law with the subsequent application of international restorative and compensatory procedures.

2. In the process of Russia's occupation of the Autonomous Republic of Crimea, there were violations of international law regarding the right of peoples to self-determination during the so-called referendum in March 2014, violations of international standards in recognizing the sovereignty of states as subjects of international law. reference legislation of Ukraine and legislation on the state border of Ukraine.

3. Attention should also be paid to the miscalculations of the Ukrainian authorities during the occupation. The main mistakes include insufficient control over the Armed Forces of Ukraine and law enforcement agencies stationed in the territory of the Autonomous Republic of Crimea, as well as insufficient cooperation with international (especially law enforcement) forces in the first days of the occupation. In particular, an attempt could be made to organize joint military exercises off the coast of the Autonomous Republic of Crimea in the framework of Ukraine-NATO cooperation, etc.

4. It should be noted that Russia's opposition as the occupier of the Autonomous Republic of Crimea has minimal effectiveness. It is reduced only to information counteraction and, in part, organizational counteraction (in terms of the use of diplomatic means in conjunction with international organizations and leading European countries). In our opinion, it is expedient to strengthen measures of international political and international economic influence on the Russian Federation as an occupier.

5. The mechanism of deoccupation of the temporarily occupied territories is a set of principles, forms, methods, tools used by relevant entities (public authorities, international law entities, civil society institutions, etc.) to successfully ensure deoccupation and further reintegration of the temporary occupied territory of Ukraine.

6. The mechanism of deoccupation of the temporarily occupied territories of Ukraine may be differentiated into the following structural elements: a) political forms and means of deoccupation of the temporarily occupied territories of Ukraine, which can be divided into foreign policy and domestic policy; b) institutional and organizational forms and means of deoccupation of the temporarily occupied territories of Ukraine provide for the analysis of the effectiveness of the exercise of powers of public authorities of Ukraine to restore the territorial integrity of Ukraine; c) socio-economic forms and means of deoccupation of the temporarily occupied territories of Ukraine provide for the revision of social, migration, demographic, investment, price, monetary, personnel, educational policy of the state; d) legal forms and means of deoccupation of the temporarily occupied territories of Ukraine include analysis of law-making and law-enforcement forms of deoccupation and reintegration, improvement of the existing legal framework in this area; e) information and ideological forms and means of deoccupation of the temporarily occupied territories of Ukraine should ensure the development of information space in order to provide the international community with objective information about the situation in the temporarily occupied territory of Ukraine.

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Prospects of Ukraine’s accession to NATO and other military blocs: problems of combination of international and national aspects

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The aggression of the Russian Federation against Ukraine, its illegal annexation of the Autonomous Republic of Crimea, the so-called "hybrid war" against our state, military intervention in the eastern regions of Ukraine, constant military, political, economic and information pressure from Russia necessitate more effective guarantees of independence , sovereignty, security and territorial integrity of Ukraine.

Given that our country's opponent is one of the leading militarily secure, influential and influential structures, Ukraine has no options but to seek allies to defend its own interests and preserve its territorial value and inviolability.

International military blocs act as an opportunity for Ukraine to gain support not only militarily but also politically. However, the process of joining such formations is quite complex and long, our country's path to NATO membership has been going on for more than 10 years.

This study will highlight the essence of international military organizations, Ukraine's path to joining one of the leading organizations - NATO and possible problems on the way to the goal.

It is difficult to determine the exact time period of the idea of forming an international military alliance for the collective protection of its members, as this issue was acute after the end of the First World War in 1918, but none of the ideas was properly implemented.

It is safe to say that one of the main factors in the formation of the International Military Organization (WMO) was World War II. Wehrmacht troops made it clear that European states could not defend their territories on their own. The unification of forces by the allied states was able to bring victory in this conflict, but already during the war there

was a split between the allies in the anti-Hitler coalition. Relations between the Union of Soviet Socialist Republics and the Western democracies, led by the United States, have been particularly strained since the victory in the war. The common enemy was overcome and the goal of uniting countries with different social systems disappeared.

The period of the Cold War began - the confrontation between the ideologies of socialism and totalitarianism, led by the United States and the Soviet Union, respectively. This confrontation can be considered another reason for the formation of the WMO, as it led to the formation of two military-political blocs, which later opposed each other.

The Soviet Union sought to expand its sphere of influence in Europe. To this end, pro-Soviet undemocratic regimes were established in Central and Eastern Europe, which came under Soviet influence because they had been liberated from German troops by the Red Army. In 1948, a coup d'etat was carried out in Czechoslovakia and Poland. The direct threat of violent change of government (with the support of the USSR) loomed over Norway, Greece and Turkey. In April 1948, the Soviet Union laid siege to West Berlin, which was controlled by Western democracies (the United States and Great Britain).

In such conditions of aggressive policy of the Soviet Union, the countries of Western Europe signed on March 17, 1948 the Brussels Agreement on Cooperation in Economic, Social and Cultural Spheres and Collective Self-Defense. The treaty was officially called the Western European Pact, and the organization it created was called the Western Union. The agreement provided for two strategic goals. The first is to prevent the revival of German military power as a threat to Europe. The second is joint opposition to the Soviet military threat. The treaty provided for automatic assistance in the event of aggression against any of the participating countries. The Western Alliance became a prototype of NATO and lasted until 2011.

As the members of the alliance were weakened, it quickly became clear that the available military resources of the participating countries were clearly insufficient to ensure security without US support. In the

spring of 1948, consultations began between Western European countries and the United States on the expansion of the Brussels Pact. There is an opportunity to expand the Western Union to two North American countries - the United States and Canada. This is how the idea of creating a common system of collective security in the Euro-Atlantic region came about.

On March 18, 1949, the text of the future treaty was published for the general public. The treaty emphasized "the desire to live in peace with all peoples and governments", "to promote stability and prosperity in the North Atlantic", determination to "protect the freedom, common heritage of its peoples and their civilization based on democracy, individual freedom and supremacy". . The participants joined forces to "carry out collective defense and maintain peace and security."

Despite all the objections from the USSR, on April 4, 1949 a treaty was signed in Washington by representatives of 12 countries: Belgium, Great Britain, Denmark, Iceland, Italy, Canada, Luxembourg, the Netherlands, Norway, Portugal, the United States and France. This date is the official founding day of NATO - the North Atlantic Treaty Organization. The process of ratification of the signed document took about six months and on August 24, 1949 the treaty entered into force [1].

The counterpart to this military force was the Warsaw Pact Organization (ATS) created on the initiative of the USSR.

On May 14, 1955, in Warsaw, the countries of the socialist camp signed an agreement "on friendship, cooperation and mutual assistance." Almost all European socialist countries (except Yugoslavia), namely the USSR, Albania, Bulgaria, Poland, Romania, the USSR, Hungary and Czechoslovakia, acceded to the treaty. In 1956, the German Democratic Republic joined the agreement.

The final document consisted of a preamble and 11 articles and became fundamental to the Warsaw Pact Organization, the military union of the European socialist states. The agreement entered into force on June 5, 1955, the headquarters of the ATS was in Moscow.

In addition, in 1961 Albania ceased to participate in the activities of the ATS, and in 1968 it officially left the organization due to the invasion of "allied" troops in Czechoslovakia. Romania also refused to take part in the invasion. In the 1980s, the GDR and Czechoslovakia opposed the deployment of Soviet nuclear missiles on their territory [2].

The gradual weakening of the "communist empire", the economic crisis, and Gorbachev's ineffective policies became the main factors in the weakening of the USSR. Taking into account the fact that the leading place in this WMO was occupied by the USSR, with its weakening the process of dissolution of the organization began. On February 25, 1991, the member states of the ATS abolished its military structures, and on July 1, 1991, a protocol was signed in Prague on the complete termination of the treaty.

It is also worth mentioning other MVOs, such as SEATO (Manila Pact), ANZYUK, ANZYUS, OAD, CENTO and others. The peculiarities of these organizations are a combination of the following factors:

- among the participants of these organizations were the United States - the main supplier and guarantor of military resources;
- were created due to the presence of internal or interstate conflicts;
- most WMOs served as a basis for the creation of new, more stable and profitable alliances and treaties to replace the same organizations;

Summarizing the above information, I believe that the idea of IWO is still in its infancy, as most of these organizations have not existed for a long time, but currently such organizations are the only option for protection against external military threats from more militarily developed countries and organizations.

At the beginning of its creation, NATO was not one of the most famous and reliable military organizations it is today. As noted in the paper, April 4, 1949 is considered the date of NATO's founding and marks the beginning of the first of eight stages in the development of the North Atlantic Treaty Organization. Each of the stages was characterized by certain features, taking into account the military-political situation at a particular time.

The first period lasted from 1949 to 1956. In October 1949, the US Congress decided to provide $ 1 billion in military aid to European members of the Atlantic Pact. Combined with economic commitments under the Marshall Plan, US military aid was an additional source of security and stability at the same time, their central role in the defense of Western Europe and the Atlantic was established [3].

In May 1951 reorganization of the management structure of the organization began. On 18 February 1952, Greece and Turkey joined NATO.

One of the most historically important events of this period is the accession of Germany to NATO on October 23, 1954. This event received a sharp backlash from the Soviet Union and led to the creation of an opponent of NATO - the Warsaw Pact (ATS).

The next stage in the development of the organization began with the approval by the North Atlantic Council in December 1956 of the recommendations set out in the report of the so-called Committee of Three on non-military cooperation within NATO. A key feature of this period was the development of political consultations between Member States on the full range of East-West relations. These consultations gradually became a continuous process and provided a high level of mutual understanding and consideration of the interests of each party to the Treaty at the stage of policy development. In this way, it is possible to reach a consensus in making decisions that are undoubtedly truly common and at the same time take into account the specifics of the positions of each member state of the organization [3].

December 1967 marked the beginning of NATO's third period of development. The reason was the approval by the North Atlantic Council of the report "On the future tasks of the Alliance." The report was the result of the Caribbean crisis of 1963, when two superpowers, the United States and the Soviet Union, admitted that they did not want to take part in a war that could not be won - a nuclear war.

Both sides demonstrated their readiness to reach an agreement on the elimination of nuclear confrontation, as reflected in the 1963 Moscow Agreement.

This period, marked by France's withdrawal from NATO's military structure in 1966, did not mean withdrawing from the defense alliance or distancing itself from its strategy, and was based on a number of important reasons for France. This period can also be called a period of "detente" in relations between East and West.

The fourth period, which lasted from 1975 to 1985, was marked by a new round of political confrontation and military confrontation due to the Soviet intervention in Afghanistan, the deployment of new medium-range ballistic missiles in the USSR RSD-10 "Pioneer" (SS-20 according to NATO classification) and, in response, the deployment of the US in Europe by the ICG MGM-31A Pershing-1A, the beginning of the development of the SOI program in the United States. The Western European Union resumes its activities. 1982 Spain joins NATO. NATO enshrines the "protective" nature of the use of nuclear weapons, that is, the use of such weapons only in response to their use.

The next period is directly related to the policy of Perestroika and the subsequent collapse of the USSR from 1985 to 1990. As early as December 1987, Mikhail Gorbachev and Ronald Reagan signed an agreement in Washington on the complete elimination of medium-range and short-range missiles. This was the first real destruction of a whole class of modern nuclear weapons. Shortly afterwards, the process of radical change in East-West relations took on an unexpectedly rapid scale.

The turning point came in 1989, which began with the complete withdrawal of Soviet troops from Afghanistan. Gradually, non-communist forces began to come to power in countries controlled by Soviet policy, the Berlin Wall fell, and later the Federal Republic of Germany was restored. 1989 marked the end of the first-ever visit by the USSR Foreign Minister Eduard Shevardnadze to NATO Headquarters in

Brussels and talks with NATO Secretary General Manfred Werner and the Permanent Representatives of the Allies.

The period from 1991 to 2002 was one of the most fundamental for NATO as an organization in its current form. After the collapse of the Soviet Union, the North Atlantic Organization was forced to adapt to new circumstances on the political map of the world.

The following key events can be identified:

- holding the London Summit and approving the Rome Strategic Concept [4]

- Establishment of the North Atlantic Cooperation Council (NACC) to provide multi-sectoral consultations to Central and Eastern European countries

- the launch of the Partnership for Peace (PfP) (1994), which was joined by Ukraine in 1994 and Russia, with which the NATO-Russia Fundamental Act on Cooperation, Cooperation and Security was concluded and based on This act established a new forum - the Permanent Joint Council

- transformation of the EAPC into the Euro-Atlantic Partnership Council (EAPC), joined the EAPC states that had observer status in the EAPC

- The Balkan crisis, which led to the first combat in the history of NATO with the involvement of its units

- In 1999, the first members of the post-socialist countries were admitted, namely the Czech Republic, Hungary and Poland

The penultimate period took place from 2002 to 2014. The Prague Transformation Program is being adopted in response to the new challenges facing the organization. This program assigned responsibilities to the member states of the organization in order to improve government capacity in various sectors. As a result, the North Atlantic Organization has achieved its goals, namely:

- improvement of air and sea units;

- development of combat and logistics units;

- the system of communication and protection against nuclear, chemical and biological threats has reached an evolutionarily new level;

- division of responsibilities for the Joint Armed Forces (JFO) into two commands;

Despite the diversity of views of NATO member states, the organization has been able to maintain a balance between the influence of the United States and European countries and has continued to expand. Latvia, Lithuania, Estonia, Romania, Slovakia, Slovenia, Bulgaria, Albania and Croatia join the organization. Georgia and Ukraine are applying for a NATO Membership Action Plan.

In 2008, the Russian-Georgian war began, as a result of which Georgia lost part of its territories (Abkhazia and South Ossetia). As a result of this conflict, a special NATO-Georgia Commission was set up to ensure, in accordance with the Framework Agreement, the following:

- deepening political dialogue and cooperation between NATO and Georgia;

- monitoring the implementation of the NATO summit in Bucharest;

- coordinating the Alliance's efforts to assist Georgia in its post-conflict reconstruction;

- support for Georgia's efforts to advance its political, economic and defense reforms related to Euro-Atlantic aspirations for NATO membership, with a focus on democratic and institutional goals [5].

This document consolidates the position of the North Atlantic Alliance on the integrity of Georgia, which puts Russia in a somewhat hostile position not only with Georgia but also with all NATO members.

Russia's next step in aggression is turning NATO-Russia relations into a political interstate conflict. This step was the annexation of Crimea and the beginning of the Russian-Ukrainian war in the eastern territories of Ukraine. This event also led to NATO's transition to the latest period of development, which is currently underway.

Comprehensive cooperation with Ukraine is deepening - in 2018 it was granted the status of a graduate student country, and later, in 2020, it was granted the status of a partner with enhanced opportunities, which

became Ukraine's chance to join the North Atlantic Organization. Joint military exercises are being held, and multidisciplinary assistance is being provided to maintain the territorial integrity of our state.

In conclusion, the North Atlantic Treaty Organization has come a long and difficult way, resulting in the status of one of the world's most powerful military organizations, a guarantor of international security and a reliable partner not only in military but also in economic and scientific fields.

It should be noted that on August 24, 1991, the Verkhovna Rada of Ukraine adopted the Act of Independence of Ukraine, which confirms the fact of withdrawal from the USSR and the beginning of the former Soviet republic as an independent and sovereign state. This year was also the starting point for partnerships with European countries and the initial stage of cooperation with NATO.

On 15 March 1992, following an official invitation from NATO Secretary General Werner, Ukraine became a member of the North Atlantic Cooperation Council (NACC) on the same day as all members of the Commonwealth of Independent States, an organization formed by the collapse of the Soviet Union. .

Ukraine also joined the Partnership for Peace program in 1994 and in accordance with its current legislation, Ukraine provided 1,291 servicemen, 10 aircraft, 6 helicopters, 2 ships and paramilitary civil defense units and two training grounds to participate in the program [6, p. 26].

The Republic of Ukraine was one of the founders of the Euro-Atlantic Partnership Council (EAPC), which replaced the RPAS in May 1997. The EAPC is an important mechanism for regular consultations on a wide range of political and pan-European and regional security issues. The EAPC allows Partner countries to participate in NATO's decision-making and decision-making processes that affect their interests. Ukraine is in favor of further strengthening the EAPC consultation and cooperation process, and considers the EAPC to be a body of ongoing dialogue between NATO and Partner countries [7].

In general, this stage is characterized by the establishment of Ukraine's initial international relations in the political arena. Relations with NATO are conducted only through the organizations and programs listed above. Cooperation is mostly formal, but it is this foundation that will eventually allow Ukraine to deepen its cooperation with the North Atlantic Organization.

On 1 June 1995, President Kuchma met with the Secretary General and expressed his country's desire to take NATO-Ukraine relations to the next level. Already on September 14, 1995, a special meeting of the North Atlantic Council in the format of "16 + 1" was held, which resulted in the approval of a joint statement of Ukraine and the press alliance, which announced the beginning of "expanded and deepened" [8].

Subsequent meetings were held at various levels in 1996 and 1997. A Ukrainian mission to NATO was set up, which included a military representative. Ukraine is also represented at the Partnership Coordination Center (RCC), located in Mons, Belgium.

During January-March 1996, a joint document was agreed between Ukraine and NATO - "Implementation of the expansion and deepening of relations between Ukraine and NATO". In April 1996, as part of the implementation of this document, the first scheduled meeting of the NATO-Ukraine Political Committee on the Architecture of European Security and Ukraine's Security as a State that has voluntarily renounced nuclear weapons took place. A special partnership for Ukraine meant expanding Ukraine's cooperation with NATO at all levels and in all dimensions - political, military, economic, environmental, scientific and technical, informational, etc. [9].

The relationship was further developed with the signing in 1997 of the Special Partnership Charter, which established the NATO-Ukraine Commission (NATO), which was to oversee the development of cooperation [10].

Thus, on March 20, the first round of talks with the Alliance on the formalization of Ukraine-NATO relations took place at NATO Headquarters in Brussels. Two rounds of expert talks with NATO on this

issue took place in Brussels in April 1997. The next round of NATO-Ukraine talks on the draft document took place on 1 May during the visit of the then NATO Secretary General H. Solana to Kyiv, and on 29 May 1997 at a meeting of NATO Foreign Ministers in Sintra (Portugal). Solana and the Minister for Foreign Affairs of Ukraine H. Udovenko initialed the "Charter on a Special Partnership between NATO and Ukraine" [11].

Ukraine considers the consistency of its political course to develop a dynamic partnership with NATO to be a matter of principle. This is what the State Program of Ukraine's Cooperation with NATO for 2001-2004 (DPS-2004), approved by the Decree of the President of Ukraine of January 27, 2001, is aimed at.

DPS-2004 is a logical continuation of the first State Program, designed for 1998-2000, is the basis for the formation of the annual Work Plan for the implementation of the Charter and the Individual Partnership Program, a tool to ensure their full and quality implementation by relevant ministries of Ukraine. In addition to the traditional political, military-political and military spheres of cooperation, the State Tax Service of 2004 strengthened the emphasis of our cooperation on such new priorities as defense reform and non-military areas of cooperation (military-technical, civil emergency planning and disaster preparedness, science). and technology, military economics and defense industry conversion, standardization and compatibility of weapons systems, airspace use, etc.) [12].

On April 6, 2004, the Verkhovna Rada passed a law on the free access of NATO forces to Ukraine.

On June 15, 2004, the second version of the Military Doctrine of Ukraine, approved by Leonid Kuchma's decree, contained a provision on Ukraine's Euro-Atlantic integration policy, the ultimate goal of which was to join NATO. However, as early as July 15, 2004, following a meeting of the NATO-Ukraine Commission, President Kuchma issued a decree stating that NATO membership was no longer the country's goal. stability in Europe "

2004 was marked in the history of Ukraine as a year of political confrontation between the ruling power led by the second President Leonid Kuchma and its opposition led by Viktor Yushchenko. After a tough political campaign, scandals, the Orange Revolution and odious elections, the new president was the former chairman of the National Bank of Ukraine, the leader of the Orange Revolution, Viktor Yushchenko, Ukraine's first president with a clear pro-European stance. His election as president has intensified Ukraine's dialogue with the European Union and NATO.

On April 21, 2005, a meeting of the KUN at the level of Foreign Ministers was held in Vilnius, which resulted in the approval of the NATO-Ukraine Ukraine document "Deepening NATO-Ukraine Cooperation: Short-Term Measures". An agreement with the Alliance (in the form of an exchange of letters) on Ukraine's participation in NATO's anti-terrorist operation in the Mediterranean "Active Efforts" was also signed by the Minister for Foreign Affairs of Ukraine and the NATO Secretary General during the Vilnius KUN meeting [13].

At the same time, the President returns to the military doctrine of Ukraine the mention of the strategic goal of the state - "full membership in NATO and the European Union" - by adjusting the direction of cooperation with these organizations to more active development.

On October 14, 2005, the Cabinet of Ministers of Ukraine №1020 established the Government Committee on European and Euro-Atlantic Integration, which operates in accordance with the General Regulations on the Government Committee, taking into account the specifics of specific measures for European and Euro-Atlantic integration. to achieve the criteria of Ukraine's membership in the EU and NATO), provided by the Cabinet of Ministers of 17.12.05 №1214 "on the peculiarities of the Government Committee on European and Euro-Atlantic Integration".

A major event took place on 18-20 October 2005, the first joint meeting of the National Security and Defense Council of Ukraine and the NATO North Atlantic Council in the history of Ukraine-NATO relations. On December 28, 2005, the President of Ukraine issued a Decree

enacting the decision of the National Security and Defense Council of Ukraine of November 25, 2005 "On Urgent Measures to Further Develop Ukraine's Relations with the North Atlantic Treaty Organization (NATO)."

In pursuance of this legal act, decrees of the President of Ukraine "On the National Coordination System of Ukraine's Cooperation with the North Atlantic Treaty Organization" (№215 / 2006 of 13.03.06) and "On the Interdepartmental Commission for Ukraine's Preparation for NATO Accession" were developed and approved. (№429 / 2006 of 22 May 2006).

The situation is beginning to take off after the 2006 parliamentary elections. As a result, the Party of Regions won a majority of seats, with Viktor Yanukovych, a former opponent of the president, becoming the new prime minister.

In autumn 2006, Ukraine was expected to be involved in the next phase of relations with NATO, the NATO Membership Action Plan (MAP), but on 14 September 2006 the Prime Minister of Ukraine visited NATO Headquarters to attend a meeting of the Ukraine Commission. - NATO. The Head of the Ukrainian Government proposed to postpone Ukraine's accession to the MAP to a later period, justifying it by the need for additional time to increase the level of awareness of Ukrainian society about NATO [14].

These actions of the Prime Minister were fatal for joining NATO, because in combination with the parliamentary crisis of 2007 and the situation with the "Letter of Three", Ukraine proved to be a politically unstable republic, and these actions will delay the provision of MAP to our country to date .

The situation is becoming more complicated due to the fact that a third party also intervened in the negotiations - the Russian Federation categorically denied the possibility of providing a MAP to Ukraine and Georgia. The United States has failed to prove to its European partners the need for a MAP, and so the 2008 Bucharest Summit was a summit of missed opportunities for Ukraine. Despite the full support of the United

States, representatives of Germany, France, Belgium, the Netherlands, Luxembourg, Italy, Spain, and Hungary refused to grant MAP to Ukraine, citing a lack of support for North Atlantic integration within Ukraine [15].

The situation in relations with the Alliance has only worsened with the coming to power of Viktor Yanukovych in Ukraine. On his initiative and support on July 1, 2010 the Verkhovna Rada of Ukraine adopted the Law of Ukraine "On the Principles of Domestic and Foreign Policy", which enshrined the so-called. "Non-aligned" status as the basis of foreign policy. The rejection of Euro-Atlantic integration was enshrined in law.

Ukraine's relations with NATO have not developed significantly before one of the most tragic events in the history of modern Ukraine - the Revolution of Dignity. The results of the Maidan are well known: on February 22, 2014, President Viktor Yanukovych, who fled to the Russian Federation, was removed in response to the removal of Russia in violation of the Budapest Memorandum, the Partnership for Peace and other international acts, with the help of its own military personnel. captured the Crimean peninsula – part of Ukraine. These developments provoke the resumption of relations between NATO and Ukraine.

The Russian occupation of Crimea and the invasion of the eastern territories of Ukraine have put our post-revolutionary state without a definite leader in an even more difficult position. In response to these events, the following problems with the country's military defense became apparent:

- lack of qualified personnel, most of the troops were volunteers;
- lack of necessary supplies of provisions, weapons and other equipment

Due to the critical situation, Ukraine's dialogue with the European Union, the United States and NATO is intensifying. This section outlines the main events of Ukraine's cooperation with NATO during the Russian-Ukrainian war.

On 27 February 2014, an emergency meeting of the NATO-Ukraine Commission at the level of Defense Ministers (NATO Headquarters, Brussels) was held, during which NATO reaffirmed its commitment to the provisions of the Charter on a Special Partnership with Ukraine, in particular development, territorial integrity and sovereignty of Ukraine. [16]

There are a number of meetings of the NATO-Ukraine Commissions and official meetings with the participation of the Minister of Foreign Affairs of Ukraine. These developments reinforce NATO's support for Ukraine and condemnation of Russia's actions, but support is largely formal in the form of promises of future cooperation and the Alliance's response to emergencies. A significant event this year was the NATO Welsh Summit on 4 September 2014.

The meeting was a defining event at the highest level against the background of Russia's military intervention in Ukraine. The event assessed Ukraine's role in maintaining Euro-Atlantic security, identified modalities for further Ukraine-NATO cooperation, and demonstrated Ukraine's active political and practical support for NATO and its member states in overcoming the current security crisis, developing the national defense and security sector. modernization of the Armed Forces of Ukraine in accordance with NATO standards.

As a result of the meeting, a Joint Statement of the NATO-Ukraine Commission at the level of Heads of State and Government was adopted, which reflects the most important political elements of the KUN summit: confirmation of Russia's military intervention in Ukraine and the fact official recognition that Russia's actions are deliberate and have serious consequences for the stability and security of the entire Euro-Atlantic area; recognition of Russia's support for militants in eastern Ukraine; unanimous support for the sovereignty and territorial integrity of Ukraine within its internationally recognized borders and categorical non-recognition and condemnation of Russia's annexation of the Autonomous Republic of Crimea; call on the Russian Federation to stop supporting the militants, to withdraw its troops, to stop military activities along / across

the border with Ukraine, to start a meaningful dialogue with the Ukrainian authorities. [13]

Also at the summit, Allies decided to launch significant new initiatives to increase NATO's capacity-building and capacity-building assistance to Ukraine's security and defense structures. Six Trust Fund projects have been launched, a mechanism that allows individual Allies and Partners to make financial contributions to specific projects on a voluntary basis. Gradually, all NATO member states joined these projects in one way or another.

The implementation of projects began in 2015 and continues to this day. Trust funds remain active and successfully perform their tasks.

Multinational naval exercises Sea Breeze and joint exercises of the SES of Ukraine and NATO are being held within the framework of the annual national program on cooperation between Ukraine and NATO for 2015. In the future, international military exercises will be held more often, which will help raise the military level of the Ukrainian military.

In 2015, the National Security Strategy of Ukraine was adopted, after which, in 2016, the Roadmap for Defense Reform - the Strategic Defense Bulletin was approved. Ukraine has stated its desire to reform its Armed Forces in line with NATO standards and to achieve their interoperability with Allied forces by 2020.

One of the primary tasks of the Comprehensive Assistance Program for Ukraine is to support the country in achieving its goals.

On 9 July 2016, a Comprehensive Assistance Package (CPA) for Ukraine was adopted at a meeting of the NATO-Ukraine Commission at the level of Heads of State and Government in Warsaw. The CPA provides support to Ukraine to better ensure its own security and to implement significant reforms in the security and defense sector. In July 2018, the NATO-Ukraine Commission at the level of Defense Ministers took note of the second version of the CRC, which ensures better compliance of the provisions of this document with the objectives of reforms in Ukraine under the Annual National Program (ANP). This fact

sheet reflects the current state of NATO assistance to Ukraine within the CRC.

And in June 2020, the Alliance approved granting Ukraine the status of a Partner with Enhanced Opportunities. This program was launched in 2014. It aims to support and deepen cooperation between NATO Allies and Partners to enhance the interoperability of their forces.

In conclusion, it is safe to say that the Russian-Ukrainian war has given a tremendous impetus to the development of NATO-Ukraine cooperation. Despite the political and economic problems of Ukraine, the restoration of our country's position in the Organization and the overall development of military and other industries in accordance with European standards are reliable indicators of the right vector of the Ukrainian state.

Ukraine's most influential ally at the moment is the United States. An active and firm position on Ukraine, its territorial integrity and inviolability has made a significant contribution to the development of the military, scientific, energy and economic sectors of the state.

In total, since 2014, Washington has allocated $ 2.5 billion to Kyiv to support its defense capabilities. About 60% of this amount was contributed to the defense sector of Ukraine, the rest of the funds – development programs, humanitarian and intergovernmental programs [18].

Also, in addition to material assistance, the United States remains our ally in the political arena, defending Ukraine's interests in NATO and in the interstate policy of the United States with Russia.

Along with the United States, the leading partners are the United Kingdom and Canada. The political position of these countries is identical to that of the United States, and the comprehensive assistance and support of these countries allows for effective military exercises, replenishment of the Ukrainian navy (in the case of Great Britain) and effective international policy to ensure Ukraine's interests.

The Federal Republic of Germany (Germany) has acted not as a military but as a key political ally at the European level. Despite the

refusal to grant the MAP in 2008, the policy of German Chancellor Angela Merkel allowed to restrain Russia's political and, accordingly, military influence. Germany was one of the initiators of the imposition of sanctions against Russia, the effective implementation of the Minsk agreements. The main flow of material support, in contrast to the previously mentioned countries, is directed not to the military but to the medical sector. France has similar political views.

The Baltic countries, Latvia, Lithuania and Estonia, together with Poland, have been providing financial support in terms of armaments, conducting military exercises, and providing opportunities for Ukrainian servicemen to undergo rehabilitation in these countries since 2014. These countries combine incredibly close political and economic relations, which is reflected in the political arena.

In addition to support, NATO members have a fairly common policy of passive assistance, ie countries that do not want to participate in relations with Ukraine in terms of military and material support and take a passive position. Such countries include the Kingdom of Spain, Portugal, Greece and other EU countries.

There are also a number of countries with which Ukraine has strained relations in the international arena. In this case, we can single out Hungary, which by its own policy shows a certain hostility towards our state. Starting with the conflict over the defense of the Hungarian national minority living in Ukraine, issuing Hungarian passports to our citizens, blocking Ukraine's rapprochement with NATO for more than two years, demanding that Kyiv abandon its policy of increasing the share of Ukrainian in education. However, on December 27, 2021, the Foreign Ministers of Hungary and Ukraine reaffirmed the agreement to introduce guaranteed capacity for natural gas transportation in the direction of Hungary-Ukraine from January 1, 2022, so the opportunity to change the political atmosphere between our neighbor and us still remains possible [19].

When joining any organization or community, the state or other association has a certain area of interest that can be satisfied by this entry.

It is obvious that when joining a military organization, the main interest will be to strengthen military personnel and facilitate their retention.

At the moment, joining NATO remains the only option to protect our country from Russian aggression at the moment. Having received the status of a graduate country in 2018 and later the status of a partner with enhanced opportunities, Ukraine is approaching accession to the Alliance, but the issue of providing a MAP remains acute. Russia's policy in the last half of 2021 makes it clear that the Russian Federation will make every effort to prevent Ukraine's accession to NATO, which is why European states that maintain a neutral position may hinder accession to the dream Alliance. EU member states are also considering the potential for an open confrontation between two military blocs, the CSTO and the North Atlantic Alliance, which could lead to the postponement of the admission procedure indefinitely.

If we talk about other military organizations and blocs, I believe that no organization other than NATO will share Ukraine's position and will not have the necessary military resources and political influence to avert the Russian threat.

The organization, which will be based on the Bucharest-9 Initiative, a semi-formal institutional platform for coordinating the actions of nine Alliance members based in the Baltic-Black Sea region (BCR), may have some chances. B-9 was launched in 2015 at the initiative of the Presidents of Romania and Poland and today is a tool for "reconciling" the positions of the BCHR states, in particular on defense and security.

The B-9 states have a concerted stance on Russia's destructive actions in the region, supporting the ideas of increasing NATO member states' defense spending and open door policies. I believe that if Ukraine and the United States join this organization, this organization can become a worthy alternative to NATO. As in NATO, the B-9 may be a separate unit, but guided by the founding documents of the Alliance.

According to the results of the study we can draw the following conclusions:

1. The idea of creating a stable and influential MVO is still in its infancy, as most such organizations have not existed for a long time, but such organizations are currently the only option for protection against external military threats from more militarily developed countries and organizations.

2. NATO is an imperfect version of the IOM, but it is the only possible option for Ukraine, in order to preserve the territorial value and sovereignty of our state.

3. The Russian-Ukrainian war has become a catalyst for the development of cooperation between Ukraine and the advanced states of today, not only in the military, but also in scientific, economic and other non-military areas.

4. Deepening positive relations with all NATO members is one of the main directions of Ukraine's international policy with a view to further joining the Alliance.

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Reintegration of territories as a way to resolve the Russian-Ukrainian conflict

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The scenario of resolving the conflict in the East of Ukraine by reintegrating the territories looks the most complicated, but from the point of view of Ukraine's national interests, ensuring long-term regional stability and the goals of the state's development. Reintegration means the return of the temporarily occupied territories of Ukraine, the population living on them, in a single constitutional space of Ukraine [1, p. 39].

According to P. P. Gai-Nyzhnyk, the reintegration scenario envisages:

1) Joint provision by the parties to the conflict of de-escalation of the confrontation and demilitarization of the region, complete withdrawal of Russian troops and separatist armed formations, provision of full control over this territory of Ukraine;

2) Institutional support of civil dialogue and formation of consensus in the society on reintegration of post-conflict territories;

3) Formation of the Public Council on Donbas issues and provision of constant social communications with the participation of persons "outside politics";

4) Coordination in working groups and the possibility of adopting new laws on the formation of special districts with separate administrative statuses – Northern Donbas and Southern Donbas (instead of the self-proclaimed "LNR" and "DNR" decision on the territory). Donetsk regions, which will not be included in the composition of special districts;

5) Enshrining in the Constitution of Ukraine the concept of "special districts", the status and powers of which should be determined by the

law on regional self-government (in addition to the law on local self-government), which will define their authority over the authority;

6) Holding elections to local self-government bodies in “special districts” and by-elections to the Supreme Council of Ukraine in constituencies where these elections did not take place in 2014;

7) Reaching agreements with representatives of the Northern and Southern Donbas on bringing their internal acts in line with the law on the status of special areas and disarmament of paramilitary entities operating outside the law and non-jurisdictions; 8) holding elections of the leadership of special districts in accordance with the Constitution of Ukraine and relevant laws [2, p. 16].

It is also worth mentioning that on January 18, 2018, the Law of Ukraine «On Peculiarities of the State Policy on Ensuring the State Sovereignty of Ukraine in the Temporarily Occupied Territories in the Donetsk and Lugansk Provinces» was adopted.

In Art. 5 of this Law stipulates that in order to ensure the state sovereignty of Ukraine in the temporarily occupied territories in the Donetsk and Lugansk regions, the state authorities and their officials, acting in accordance with the Constitution, acting in accordance with:

1) Take measures to protect the rights and freedoms of the civilian population;

2) Carry out, in compliance with the international obligations of Ukraine, international agreements, consent to the binding nature of which the Supreme Council of Ukraine, the principles and norms of international law have given political and diplomatic, other purposes;

3) Take measures to ensure national security and defence, repel and deter armed aggression by the Russian Federation;

4) Develop the defence and security potential of Ukraine with the involvement of state resources and international assistance in order to repel the armed aggression of the Russian Federation;

5) Use the mechanisms of bilateral international cooperation, international organizations and international courts in order to maintain

and strengthen the sanctions applied to the Russian Federation by members of the international community [3].

Thus, given the conditions prevailing in Ukrainian society as a whole and in the Donetsk and Lugansk regions in particular, this plan for the reintegration of Donbas is steadily focused on restoring the integrity of the social organism of Ukraine, which has already acted and opposed them.

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CONTENT

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