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FOREWORD

Dear Readers,

It is with great pleasure that I introduce the latest issue of the Journal of International Legal Communication (JILC), Volume 14, Number 3. This edition brings together a rich collection of scholarly articles that delve into current challenges and opportunities within the fields of law, education, and communication, highlighting the interdisciplinary nature of legal studies in today's globalized world.

One of the notable highlights of this issue is the exploration of The Role of International Scientific and Practical Cooperation in the Sphere of Modern Legal Education by Valentina Chuienko. This article emphasizes the significance of global collaboration in shaping the future of legal education, particularly in the face of digital transformation and globalization. It presents strategies for strengthening international cooperation, which is essential for developing an interconnected and effective legal education system.

Tatiana Kolomojets presents a thought-provoking discussion on Gender-Balanced Leadership in Higher Education. She examines the feasibility of achieving gender equity in leadership through legal mechanisms, shedding light on ongoing efforts to promote gender equality in academia.

In Implementation of Legal Education Work in the Context of Ensuring Sustainable Development of Society, Daria Yevtushenko addresses the critical role of legal education in promoting sustainable development. Her insights highlight how legal professionals can contribute to a more balanced and equitable society, underscoring the responsibility of educational institutions in preparing students for the challenges of our time.

We also feature insightful contributions on the development of communicative competences. Yaroslav Yotka's paper, Formation of Communicative Competence of Future Vocal

Disciplines Teachers, provides an interdisciplinary approach to building communication skills, emphasizing their importance in both legal and educational contexts.

Oleksandra Chuienko's article, Problem Issues of Legal Regulation of Digital Content in Social Networks: A Comparative Analysis, provides a timely examination of digital content governance. This piece is essential for understanding the intersection of law, technology, and freedom of expression in the digital era.

Raisa Pereyhina and Oleksandr Ponomarev explore Criminal Liability for Violations in International Transfers of Goods Subject to State Export Control. Their work contributes to the discussion on international security and collective safety by analyzing export control regulations.

Maryna Tytarenko's study, Communicative Competence of a Lawyer in the Context of Information Society Development, offers insights into how legal professionals can adapt to the evolving demands of the information age. This article explores the competencies necessary for effective communication in the legal profession.

In their joint article, Dmytro Prymachenko and Anna Maslova examine the role of the Public Integrity Council in Overseeing Judicial Conduct. This research highlights the critical function of public integrity councils in ensuring transparency and accountability within the judiciary.

Przemysław Kusik adds a fascinating dimension with his article on Legal Communication as a Point of Contact between Legal Translation and Comparative Law. This study bridges the gap between legal translation and comparative law, emphasizing how legal communication serves as a vital link in harmonizing laws across different jurisdictions.

As you engage with the diverse array of topics in this issue, we hope you will gain new perspectives on the complex interplay between law, communication, and education. The contributions from our esteemed authors not only reflect a wide range of scholarly thought but also emphasize the global relevance of legal communication in addressing contemporary challenges.

Thank you for your continued support of JILC. We look forward to furthering the dialogue and fostering new connections within the academic community.

Sincerely,
Joanna Osiejewicz
Editor-in-Chief
Journal of International Legal Communication

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THE ROLE OF INTERNATIONAL SCIENTIFIC AND PRACTICAL COOPERATION IN THE SPHERE OF MODERN LEGAL EDUCATION: CHALLENGES, WAYS OF STRENGTHENING, RESULTS

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ABSTRACT. The purpose of the article is to study the main challenges and ways to overcome them in modern legal science in terms of the role played by international scientific and practical cooperation in this process. The right to education is not only enshrined as a constitutional value of modern states, but also occupies an important place in the development of international cooperation. This investigation explores the increasingly pivotal role that such cooperation plays, particularly in the legal education sector, highlighting how it serves as a crucial conduit for sharing best practices and advancing the rule of law globally. The article provided justification for the recognition of international educational law as an independent branch of international (public) law as one of the main conditions for the effective implementation of activities in the field of scientific and practical cooperation, its strengthening and improvement of results. Analyzing the works of domestic and foreign scientists, it was determined that international educational law is an independent branch of international public law, which is a system of international legal principles and norms. The latter regulate social relations arising between subjects of educational law in the field of educational relations, including the realization of the individual's right to education. These norms not only facilitate access to education on a global scale but also ensure the protection of educational rights, contributing to the development of a more equitable global education system. The study made it possible to determine that there is a full-fledged toolkit for Ukraine to achieve its strategic goals in the context of its post-war reconstruction and its implementation of the course of European integration. Our country has a wide base of international agreements in the fields of science, education, culture, and humanitarian cooperation. It is emphasized that leveraging these agreements effectively requires robust domestic frameworks that align with international standards, ensuring seamless integration and mutual benefits. Current agreements contribute to the achievement of such tasks as attracting foreign scientists, conducting joint research, exchanging scientists, students, teachers, specialists, and promoting the Ukrainian language and culture. The conclusion emphasizes: modern international educational law cannot be imagined without a huge

array of supranational acts of various levels. International educational law is dynamically developing and transforming along with national educational legislation. At the same time, the idea of creating a basic convention of international educational law aimed at consolidating educational relations at the interstate level, including their declaration, as well as their systematization, deserves scientific consideration. This convention could serve as a foundational framework to standardize and enhance the legal infrastructure supporting international educational endeavors.

Keywords: international cooperation, legal education, scientific and practical cooperation, international educational law, right to education, international educational projects.

INTRODUCTION

The modern world is characterized by a significant degree of integration and internationalization (Vynnyk & Zinchenko, 2019). Globalization processes, the emergence of new phenomena and social relations that require interstate integration inevitably cause the emergence of new branches of international (public) law.

Some of them are already recognized by the world community (international space law, international sports law), others are at a certain stage of genesis, including scientific understanding. The latter also applies to international educational law, which reflects the increasing complexity and interdependence of educational systems across borders, necessitating legal frameworks that transcend national jurisdictions. The formation of which is accompanied by certain challenges for modern legal education and the scientific world community.

Despite the fact that international legal acts in the sphere of the realization of individual educational rights (including the „traditional” right to education) have a history of several decades, and the sources regulating international educational relations (interstate relations in the field of education) are presented in the form of a large array of international acts of the universal and regional levels, the question of the existence of an independent field of international law - international educational law (other options: „international law in the field of education”, „supranational educational law”, „international educational integration (as a branch of integration law)”, „interstate cooperation in the field of education”) is debatable (Legg, 2018).

The existence of educational law as a branch of Ukrainian law also causes a significant amount of controversy, including not only the fact of its existence as an independent branch, but also the name, source base, subject and methods of legal regulation. This highlights the dynamic nature of legal education, which must evolve continuously to incorporate new legal realities and challenges presented by internationalization. The majority of modern international scientists adhere to such an approach to the structure of international law, in which the issue of realizing the right to education belongs to international human rights law (Butler, 2024).

However, such a position has such a significant drawback as the wide boundaries of the subject of legal regulation, human rights as a field of international law (another common name of the field). In addition, international human rights law is focused on the realization of the right to education, while the existing practice has caused the need to regulate other educational relations at the international level (academic mobility, recognition of educational documents). Thus, the definition of the category „international educational law” leads to a scientific discussion about recognizing it either as a sub-branch of international human rights law or as an independent branch of international public law (the assessment of the researched field within the framework of the „integration law” part was not carried out due to the need for additional scientific understanding of the latter phenomenon, including from the perspective of the relationship between the categories „international law” and „integration law”).

In the general conceptual apparatus of international law, one of its fundamental principles is the principle of cooperation, enshrined as a universal principle in the UN Charter.

The concept of international cooperation is used in all cases when it comes to international interaction of a political, economic, scientific and other nature at the state or institutional level. (Ballakrishnen, 2019) According to foreign sources, from a functional point of view, the concept of international cooperation includes exchange operations (transfer) with foreign countries, which can be bilateral and multilateral, governmental and non-governmental.

This purely functional definition of cooperation as an exchange operation is usually supplemented by qualitative characteristics, such as: reciprocity, mutual benefit, trust, mutual assistance. At the same time, unlike, for example, currency transactions, cooperation always involves the effective participation of people who are not only representatives of cooperating countries or institutions, but also direct participants in the cooperation process. Most often, the term „international cooperation” is used to denote interstate interaction regulated by an extensive and constantly developing system of international law.

After the Second World War, one of the most important results of which was the creation of the United Nations and the approval of the fundamental principles of interstate cooperation enshrined in the Organization’s Charter and other program documents, the concept of „cooperation” expanded, it acquired the meaning of „collective action”. Over time, along with cooperation in the field of politics, four main directions were formed in which international cooperation is carried out: economic cooperation; cooperation for the purpose of development; scientific, university and cultural cooperation; military cooperation.

In the modern socio-economic context of the development of educational systems, the processes of globalization and internationalization of higher education play an important role. All over the world, competition and cooperation between educational and scientific organizations is intensifying, fueling advancements in educational methodologies and enhancing global academic standards (Butler, 2024). The exchange of students, teachers, graduate students and researchers is intensifying, distance education is becoming widespread, and the role of continuous education is growing. Ukraine does not remain aloof from global trends.

The effectiveness of cooperation is determined by the extent to which the actions of the country and the resources used by it correspond to its priorities and allow the achievement

of set internal and external goals. The main resources that determine the success of the partnership can be singled out:

- bilateral and multilateral agreements;
- regulatory and legal framework between governments, ministries, branch offices, institutes, organizations that contribute to the stability of partnership;
- support programs - cooperation implementation tools (programs).

MATERIALS AND METHODS

Separate issues of international cooperation in the field of higher legal education, as well as challenges related to it, were studied in the scientific works of V. Vynnyk (2019), Lomaka (2024), Yu. Reha (2024), V. Myroschnychenko (2024) and others.

The purpose of the article is to study the main emerging challenges in the field of international cooperation in the field of legal education, as well as possible ways to overcome them.

The basis of the research methodology is interdisciplinary and complex approaches to the analysis of the institution of the sales contract, which consist in the application of general scientific and special scientific methods determined by the specifics of the topic of the master's thesis and the tasks set. This comprehensive approach ensures that both the theoretical frameworks and practical applications of international legal education are thoroughly examined, providing a holistic understanding of the field (Bryant & Shaffer, 2022).

The dialectical method was used to identify trends in the development of the institution of the sales contract as the main regulator of the relationship between the buyer and the seller. This method helps to uncover the dynamic interplay between various legal principles and their practical impacts in the realm of international law.

The systematic method was used in the development of conceptual and methodological problems of defining the contract of sale as an institution of civil law. It also facilitates the integration of these concepts within the broader context of international legal education, ensuring that the study remains relevant to current global standards. The anthropological method was aimed at revealing the actual problems of practical application of the institution of the civil law contract of sale. This approach highlights the human element within legal transactions, emphasizing the societal impacts and ethical considerations inherent in legal education.

Hermeneutic - for the interpretation of normative acts and judicial practice in the aspect of determining problems related to the functioning of the sales contract in Ukraine and the world. This interpretative method is crucial for understanding the legislative nuances and judicial interpretations that shape the legal landscape, both domestically and internationally. The historical method was widely used in elucidating the features of the origin, development and formation of the modern institution of the civil law institution of the contract of sale. By tracing the historical evolution of these legal concepts, the study provides a comprehensive backdrop against which current practices can be evaluated.

The formal legal method was used to specify the content of certain legal concepts used in the work. This method ensures accuracy and clarity in the application of legal terminology,

which is essential for the academic rigor of the study.

The comparative legal method was used to reveal the genesis and specifics of the institution of the contract of sale under the laws of other countries. This method allows for a cross-jurisdictional comparison, highlighting differences and similarities that can inform better practices and cooperative efforts in international legal education. Determination of the prospects for the introduction of changes to the legislation on the regulation of the issue of concluding and functioning of the contract of sale was based on the method of legal forecasting. This forward-looking approach anticipates future trends and challenges, proposing proactive measures to adapt legal education and cooperation to the evolving international arena.

Through these diverse methodological approaches, the research aims to address comprehensively the multifaceted issues of international legal education, providing actionable insights and robust solutions to the challenges identified.

RESULTS

At the current stage, the world community has created a significant number of normative legal acts related to both the realization of the right to education and interstate relations in the field of education.

The latter allows us to confidently affirm the recognition of the existence of international educational law as an independent branch of international public law, which has a complex nature. This not only does not contradict, but rather recognizes the phenomenon of mutual influence of international branches of law on each other, in which the relevant sphere of social relations unites different sectoral international norms.

The depth and breadth of international educational law are evident as it intersects with various other domains of international law, demonstrating its inter-disciplinary and complex structure (Ballakrishnen, 2019). Analyzing the entire array of international educational law, one can come to the conclusion that the norms of this field regulate not only the issue of the realization of the right to education. Given that these norms apply to other interstate relations in the field of education, it is very likely that international educational law includes the norms of the law of international organizations (for example, the functioning of international organizations on education issues), international information technology law (for example, the issue of international educational environment), the rights of external communication (for example, the implementation of educational rights in the territories of consular institutions).

It is no coincidence that the consideration of the processes of internationalization of education is regulated by integration law, which is its legal support. This highlights the critical role of integration law in facilitating and enhancing international educational cooperation, reflecting its necessity in a globalized educational framework. Within the limits of integration law, one of its directions appears, which ensures international educational integration. In general, it must be recognized that the complexity of international education law, the penetration of its norms into other areas of international (public) law only increase the guarantee of the realization of the right to education at the international and national levels (Twining, 2019).

In addition, the theory of the science of international law traditionally classifies the principles of international law into two groups - general, which apply to the entire system of international norms, and sectoral (special). The presence of a group of sectoral principles indicates the existence of a corresponding independent field of international law. This classification further supports the recognition of international educational law as a distinct field, although its special principles are not yet clearly expressed and recognized globally, suggesting an area ripe for further scholarly exploration and formalization. Taking into account the short period of existence of the analyzed industry, its special principles are not clearly expressed and recognized in the world community (Twining, 2019).

The provisions of such sources as:

- The Universal Declaration of Human Rights of 1948, which in Art. 26 not only establishes the right of every person to education, but also defines a number of basic principles that are further developed during the implementation of educational relations in other international legal norms, and even in the national legislation of the countries of the world (Bryant & Shaffer, 2022).

- other universal sources of international educational law include the International Covenant on Economic, Social and Cultural Rights of 1966 (Articles 13, 14), the Convention on the Protection of Human Rights and Fundamental Freedoms of 1950 (Article 2 of Protocol No. 1), Convention on the Rights of the Child of 1989 (Articles 23, 24, 28, 29, 32, 33) and others.

A number of universal international acts exclusively regulate educational legal relations, for example, the Convention on Combating Discrimination in the Field of Education of 1960. The number of sources of international educational law at the regional level is greater, illustrating the rich tapestry of legal instruments that shape educational policies across different regions (Vaskiv et al., 2023). The number of sources of international educational law at the regional level is greater. In general, at the current stage, the normative acts adopted within regional international organizations, which are norms of international educational law, can be divided into three main categories:

- founding documents of the organization;
- normative acts regulating separate spheres of cooperation (economic, cultural, social), which include norms related to educational relations;
- normative acts regulating exclusively the field of educational relations, including the realization of the right to education.

International cooperation in the field of modern legal education in Ukraine is represented by a variety of projects that engage multiple stakeholders from international bodies to local institutions. These projects facilitate the integration of Ukrainian legal education into the broader European and global contexts, ensuring that the practices and teachings are in line with international standards and developments. (Table 1):

Table 1. Main projects within the framework of international cooperation in the field of modern legal education in Ukraine

Project Name	Description	Main Objectives
European Training Foundation (ETF)	The EU agency for the integration of educational programs to European standards in countries with economies in transition	Facilitate the alignment of Ukrainian educational programs with European standards
International European innovative scientific and technical program EUREKA	An open platform for international cooperation in the field of innovation	Enhance innovative capacities in Ukraine through international collaborations
F. Jessup International Legal Competition	Supported by the International Association of Law Students, focuses on international public law	Develop professional skills and standards among future international lawyers, promote academic mobility
New Justice Program of the USAID	Aims at enhancing the judicial system in Ukraine	Strengthen judicial independence, increase transparency, improve legal education quality
EU and Council of Europe program "Promoting education in human rights and democratic citizenship"	Targets countries in the Eastern Partnership	Exchange best practices in human rights and democratic citizenship education, integrate these fields into national systems
Forced labor and migration: effective actions of the Visegrad Four and Eastern Partnership countries	Analyze and combat forced labor and migration issues	Develop tools for identification and prevention of forced labor and migration challenges
Law-Justice	Promotes European judicial standards in Ukraine	Support European integration, assist in war crime investigations, enhance judicial capacities
OSCE project on Improvement of legal education and development of human rights education in Ukraine	Improve legal education methods and approaches	Modernize teaching of legal disciplines, foster human rights education
World Bank project on Improving higher education in Ukraine for the sake of results	Reform higher education to achieve better outcomes	Invest in educational reforms to elevate the quality and relevance of higher education
Erasmus+ project CRIMHUM	Modernize master's programs for legal professionals	Align programs with European human rights standards, train educators to teach in English
HRLAW	Address challenges in implementing European human rights standards	Create student ombudsman offices, introduce human rights-focused educational programs
Jean Monet Directed Projects	Focus on European integration and cooperation in higher education	Promote EU studies and research, facilitate academic cooperation
Democratic decentralization as a European experience of public administration	Promote European administrative methods in Ukraine, particularly in the Kharkiv region	Support political and socio-economic stability through education
European integration: legislation and the Internet of Things	Explore legal challenges of implementing IoT within EU regulations	Provide a legal framework and analysis for IoT adoption in line with EU laws
Jean Monet Transcarpathian Center for the Study of European Development Strategies	Implement EU educational strategies in Ukraine	Develop cross-border educational partnerships, enhance the quality of European studies

This table encapsulates the diverse array of initiatives that collectively contribute to the advancement and internationalization of legal education in Ukraine, highlighting significant collaborations and their intended impacts on educational practices and policies. These projects illustrate the dynamic nature of educational reform in response to evolving international standards and requirements (Lomaka, 2024).

All the projects listed above are implemented in accordance with the provisions of regulations adopted within the framework of regional international organizations, as well as universal international regulations (Resta, 2024). This adherence underscores the pivotal role of international educational law in fostering scientific and practical international cooperation. The goals of these projects in the field of modern legal education include:

- Creation of the necessary conditions for the training of legal personnel in the conditions of digital development of society and the digital economy;
- Improvement of the legal education system to ensure the digital development of society and the digital economy with competent personnel;
- Development of human capital by improving digital literacy and digital skills of the population in terms of enhancing its legal culture.

Thus, on the basis of the analyzed projects, it is considered possible to single out a system of special principles in the field of interstate cooperation in the field of education (the basis of such a classification is the postulate that any special principle is based on some general international legal principle):

- respect for the human right to education;
- cooperation of states in the field of education;
- respect for the diversity of national education systems;
- respect for university autonomy;
- respect for academic freedoms.

These principles highlight the complex interplay between individual rights and collective responsibilities within the educational sphere, emphasizing the need for a balanced approach that respects both national sovereignty and international cooperation.

The defined system should be significantly expanded by including the following sectoral principles of international educational law (which derive primarily from universal international legal acts), many of which are based on the right to education and include:

- Universality of education;
- Recognition of the individual's right to education;
- Recognition of the responsibilities of the state in the field of education and training;
- The priority of parents' right to choose the type of education for their minor children;
- and other relevant principles.

This expansion is essential to encompass the broad and dynamic scope of international educational law, ensuring that it remains responsive to both contemporary challenges and opportunities. The practical need for norms of international educational law among subjects of international relations is primarily due to the significant role that international cooperation plays in this defined sphere, reflecting the interconnected nature of education, law, and global development.

It has already become a traditional idea that the main reason for the emergence of new

branches of international law is interest of the international community in this process of the international community. Political, social, economic, and other directions of interstate interaction cause the genesis of international legal institutions or sub-branches of law into independent, separate fields.

Modern terminology in the field of education also has an international character: global education, international educational integration, international standards in the field of education, interstate mobile educational space, internationalization of education. Therefore, relations between states at the supranational level are considered impossible without a well-formed source base of international educational law, which determines not scientific disputes about the existence of the latter, but the development of its applied meaning. in

The national legislator (including in Ukraine) faces the task of successfully launching the process of harmonization and unification of the norms of domestic law in accordance with numerous and diverse international legal acts in the field of educational relations, including those related to the right to education (Vaskiv et al., 2023).

In favor of the recognition of international educational law as an independent branch of international (public) law, attributes such as the presence of elements of systematicity and codification should be noted; compliance with the basic principles of international law; and the specification of the norms of the field of law in relation to a certain field of interstate relations among others.

Ukraine has a real potential that allows it to occupy a worthy place in the educational community. It actively promotes and participates in the international academic mobility of students, as well as pedagogical, scientific and other workers of the education system.

Ukraine, in collaboration with other countries, organizes various educational events; attracts foreign qualified specialists to work in Ukrainian educational institutions; provides opportunities for students and other scholars to practice abroad; and interacts in the field of education with various international organizations, foreign state and non-state bodies and departments.

Within the framework of cooperation, the expansion of inter-university communication is carried out with the aim of increasing joint educational programs and projects implemented with foreign partner universities, including educational programs with the issuance of two diplomas and network educational programs; ensuring the export of educational services of the university in order to attract foreign citizens to study in basic educational programs; implementation of additional educational programs at the preparatory faculty for foreign citizens according to the areas of training.

The discussion on international educational law underscores its critical role in facilitating effective and sustainable educational exchanges and development globally. This evolution reflects a growing recognition of the interconnectedness of educational systems and the need for a regulatory framework that supports the diverse educational aspirations and needs of the global population. Through such laws and agreements, education transcends national boundaries and becomes a universal endeavor, enhancing mutual understanding and cooperation among nations.

CONCLUSION

The results of the research allow us to draw several significant conclusions about the role and impact of international educational law on the field of legal education globally:

- International educational law is the basis for the realization of the right to education, underpinning the enforcement of this right as enshrined in the constitutions of many modern nations. The content of this legal field is instrumental in fulfilling the educational rights guaranteed by these legal frameworks.

- Current initiatives aimed at developing international cooperation in the field of legal science predominantly focus on supporting the internationalization of activities at leading universities. In Ukrainian practice, however, there is a lesser extent of tools presented for the initial mobility of individual citizens.

- This distribution of efforts is aligned with the objective of positioning leading universities among the leaders of international rankings but does not entirely fulfill the broader goal of improving the quality of education. Moreover, it fails to ensure equal access for all participants in the education system to the principal tools of national internationalization. Mobility programs for Ukrainian students, scientists, and educators could serve as additional mechanisms to enhance international cooperation.

- Legal education, as a vital and necessary component of a legal professional's persona in modern society, also adopts the form of international cooperation and is tasked with several critical objectives. These goals can only be achieved through the collaborative efforts of all nations involved.

- The most crucial goals of international legal education include:

- 1) Training of qualified legal personnel that meets the standards of both the national and global economy;

- 2) Joint utilization of accumulated knowledge, skills, and abilities in the field of law from all countries to address global challenges;

- 3) Achieving a necessary level of education that meets the individual's needs in contemporary society;

- 4) Providing assistance to countries in enhancing their underdeveloped educational systems;

- 5) Equalizing the level of qualifications and professional training across different countries and regions, thereby harmonizing the global standard for the education of specialists.

In conclusion, international educational law not only facilitates the exchange of knowledge and cross-border mobility but also plays a crucial role in harmonizing educational standards globally. This enhances the capacity of legal education systems to adapt to and reflect the interconnected, interdependent global landscape, ensuring that legal professionals are well-prepared to operate in diverse legal environments.

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GENDER-BALANCED LEADERSHIP IN HIGHER EDUCATION: IS IT POSSIBLE TO ENSHRINE IT IN LAW?

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ABSTRACT. The search for ‘high-quality’ human resources to support reforms in higher education, leadership in HEIs, and systematic education of new generation leaders with gender competencies is hampered by the problem of ‘gender asymmetry’ in leadership, with the dominance of ‘male faces’ at the level of top managers, which negatively affects the perception of the global community of higher education and HEIs as a ‘gender-unfriendly environment’, with the lack of equal opportunities for men and women to access leadership positions and decision-making processes. Despite the adoption of relevant legislation, unfortunately, there are no real mechanisms to ensure the development of gender-balanced leadership in higher education. Although there is a demonstration of a gradual movement towards ensuring gender representation of human capital in various spheres of public life, leadership in higher education still remains ‘defective’, which makes it necessary to analyse the problem in depth and find relevant solutions to the current needs. The article substantiates the expediency of using activities (three blocks) with presentability at three (national, regional and local) levels, the effectiveness of which is possible only in their combination, since they are resource-limited on their own. The blocks include: rule-making, institutional, and educational, which allows to form a standardised model of guaranteed gender-balanced leadership in higher education institutions, education of leaders with gender competencies to meet the human resources needs of the state, with prioritisation of measures to respond to the latest demands of the country’s human capital representation in various spheres of public life.

Keywords: gender, gender balance, legislation, higher education institution, regulatory model.

INTRODUCTION

The prioritisation of the main directions of modern state-building processes in Ukraine, directly related to the European and North Atlantic vectors, is inextricably linked to the focus on solving the problem of balanced representation of human capital in all spheres of public life, including the management aspect of each of them. This fully applies to the field of higher education as a component of education in general, with the regulation of the

principles of access to which in terms of removing any discriminatory barriers the issue has already been resolved, but in terms of access to senior positions in management, to management decision-making processes, there is still a 'latent gap', the consequence of which may well be considered the so-called 'gender asymmetry' in the management of higher education institutions, the existence of the stereotype of a "glass ceiling" for women, which, combined with security (both domestic and global) threats, significantly affects the motivation, quantitative indicators, migration (both internal and external) processes in the staffing of higher education in general, its attractiveness, competitiveness and sustainability. Under such conditions, it is important not only to preserve human capital, in particular in the field of higher education, but also to promote its 'qualitative development', including its managerial component.

Despite the adoption of a number of legal acts directly regulating social relations in the field of higher education, including those on the admission of persons to the management of the latter (and in particular at the level of higher education institutions), unfortunately, their content cannot be recognised as 'qualitative', and first of all in terms of the availability of tools that would guarantee a balanced (in terms of opportunities for admission of men and women) approach to holding managerial positions, to the formation of governing bodies that determine the vectors of functioning of higher education institutions. Highlighting the relevant issues as one of the priorities in the formation of a new 'basic legal act' for the development of higher education in the context of the implementation of European legal standards for regulating relations in the relevant area of relations, integration of the national higher education space (including its management component) into the European and world educational space, confirms the relevance, practical significance and importance for the development prospects of each state, and therefore the expediency of finding a regulatory model.

The purpose of the study is to propose a regulatory model for ensuring a gender-balanced approach to the formation of higher education institutions' management based on the analysis of available sources. The object of the study is the social relations that arise in the field of higher education, and in particular the management of higher education institutions. The subject of the work is a model of regulatory and legal consolidation of gender-balanced leadership in higher education institutions as a component of the priority actions of modern state-building processes. Given that the issue of gender (in the sense of identifying individuals by gender) both in general and in higher education (and in particular in its managerial aspect) attracts the attention of representatives of various scientific fields, the work was based on the works of scientists and specialists in public administration, sociology, political science. It is worth noting that there is a different 'depth' of research on this issue in scientific papers, as well as their 'connection' with the problem of leadership in higher education institutions.

In particular, E. Sokolova (2020) devoted her work to gender in the management of higher education institutions, focusing directly on the problem of 'gender top asymmetry', although without analysing possible solutions to the issue, models of normalising the principles of such a solution. Whereas, for example, T. Martsenyuk, I. Hrytsai, O. Batanov (2018) and others in their works investigate, albeit sometimes somewhat fragmentarily, the state of the current

legislative regulation of social relations of admission of men and women to the management of higher education institutions, to holding senior positions, to forming collegial governing bodies, although without outlining the prospects for eliminating gaps, improving the content of existing legal provisions both in general and in the context of prioritising areas of modern state-building. Instead, there are a number of collective works whose content is directly related to the analysis of promising areas of state-building and law-making processes, with the justification of prioritising gender (including balanced) representation in all spheres of public life without exception, although without focusing on leadership in higher education institutions. No less interesting are the works devoted to the resource of certain 'tools for ensuring gender balance', the practice of their use in various foreign countries, although without 'binding' them to leadership in higher education institutions.

A regulated gender-balanced model of leadership in higher education institutions is possible through the introduction of affirmative actions, including gender quotas, gender legal expertise of draft acts, gender monitoring, gender audit, gender portrait of a higher education institution (including the management of a higher education institution), their institutional support, and the formation of an educational space for the education of leaders with gender competencies. including the management of higher education institutions), their institutional support and the formation of an educational space for the education of leaders with gender competencies to meet the state's human resources needs for the post-war reconstruction period (Genderindetail.org, n.d.)

METHODS AND MATERIALS

The methodological basis of the study is formed by a combination of both general scientific and special methods of scientific knowledge. Among them is the method of dialectical analysis, which allowed to study the issue in its dynamics, focusing on the genesis of the degree of synchronisation of the processes of normalisation of the principles of gender equality in social relations in general and relations in the field of higher education (including responding to the latest challenges), the formation of 'gender asymmetry' in the management of higher education institutions and the actualisation of the problem of overcoming it. The use of special legal and logical methods allowed not only to identify the 'basic' thematic terminology, but also to form a thematic conceptual apparatus, with a correlation of scientific and regulatory analogues. The desk study of the source material allowed us to find out the degree of 'interest' of the scientific community and the legislator in the relevant issues, the effectiveness of its manifestation and the 'defectiveness' of the latter's forms in terms of finding the optimal model (doctrinal and normative) for ensuring gender-balanced leadership in higher education institutions. The comparative legal analysis allowed not only to thoroughly analyse the experience of foreign countries in fixing the principles of ensuring gender-balanced leadership in higher education, to identify positive practices, but also to substantiate the possibility and expediency of borrowing the latter in the national state-building and law-making processes, with an emphasis on the mandatory consideration of national needs and real-time challenges, eliminating the prerequisites for total, artificial copying. The method of expert assessments made it possible to identify the disadvantages and advantages of the three-block model of regulation and implementation of the principles

of gender-balanced leadership in higher education, with each block being represented at three levels - national, regional and local. Forecasting and modelling methods helped to formulate proposals on the content and form of the relevant normative model. All this made it possible to work at different levels of scientific perception, to consider the problematic issue in the context of the current state of affairs and in the future in terms of prioritising the latest challenges of time and vectors of state-building and law-making. The source base of the study is formed by a combination of current legislation regulating relations in the field of higher education (in particular, access to leadership positions, collegial governing bodies, and training of leaders with gender competencies), and the principles of gender policy implementation in the state as a whole. We also used research papers on gender issues in general, higher education, and certain aspects of gender balance in higher education management, as well as data from three major international indices that measure progress in achieving gender equality: the Global Gender Gap Report, the Gender Development Index (GDI) and the Gender Inequality Index (GII) (World Economic Forum, 2023).

The current legislation should be seen as a 'mix' of norms that set out the principles of anti-discrimination policy in higher education, access to higher education, and access to its management. These provisions are provisions-principles that play a fundamental role in the regulation of relations in the field of higher education.

Thus, in particular, among the 'basic' legal acts we can talk about: The Constitution of Ukraine (Article 24), the Laws of Ukraine 'On Ensuring Equal Rights and Opportunities for Women and Men', 'On Principles of Preventing and Combating Discrimination in Ukraine', Decree of the President of Ukraine of 25 August 2015 No. 501/2015 'On Approval of the National Human Rights Strategy', Order of the Cabinet of Ministers of Ukraine of 28 October 2020 No. 1544-p 'On Approval of the National Action Plan for the Implementation of UN Security Council Resolution 1325 "Women, Peace and Security" for the period up to 2025', 20 December 2022, No. 1163-p 'On Approval of the Strategy for the Implementation of Gender Equality in Education until 2030 and Approval of the Operational Action Plan for 2022-2024 for its Implementation', 12 August 2022. No. 752-p 'On Approval of the State Strategy for Ensuring Equal Rights and Opportunities for Women and Men for the Period up to 2030 and Approval of the Operational Plan for its Implementation for 2022-2024' (Verkhovna Rada of Ukraine, 2022), December 2020. No. 1578-r 'On Approval of the Action Plan for the Implementation of the Commitments of the Government of Ukraine undertaken within the framework of the Biarritz Partnership International Initiative for the Promotion of Gender Equality', No. 1128-r 'On Approval of the Concept of Communication in the Field of Gender Equality', CMU Resolution of 9 October 2020 No. 930 'Some Issues of Ensuring Equal Rights and Opportunities for Women and Men', etc.

It is also worth paying attention to international legal acts, including those that define '...the goals of sustainable development of the world we seek for all nations without exception', the provisions of which are focused on '...ensuring women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life'. In the context of prioritising areas for further development of the state, the Strategy for the Implementation of Gender Equality in Education until 2030, approved by the Cabinet of Ministers of Ukraine on 20 December 2022, No. 1163-r, the State Strategy

for Ensuring Equal Rights and Opportunities for Women and Men until 2030 and the Operational Plan for its implementation for 2022-2024 were adopted, approved by the CMU Decree No. 752-p of 12 August 2022, the content of which ‘traces’ the focus on the ‘gender issue’, including in terms of gender leadership in higher education. In particular, the Strategy for Implementation of Gender Equality in Education until 2030 states that ‘... statistics and research data show a significant feminisation of the education sector (women’s representation is about 78.3 per cent), but the number of women and men differs at different levels of the educational hierarchy and at different levels of education.

While 98.3 per cent of teaching staff in pre-school education institutions are women, in higher education institutions, men make up almost half of the teaching staff’ (section “Target groups and areas of implementation”). At the same time, it is stated that ‘...gender stereotypes in human resources and educational management are an obstacle to both career and professional growth of female employees and lead to managerial decisions. There is a tendency for the share of women in education to decrease with career advancement. Women hold the positions of educators, teachers, lecturers, almost 40 per cent of directors of general secondary education institutions are men, 90 per cent of rectors of higher education institutions, and 83.3 per cent of ministers of education since Ukraine’s independence’ (section “Target groups and areas of implementation”). Despite this, there are still, unfortunately, no legal provisions that would directly provide guarantees for ensuring gender-balanced leadership in higher education, in the management of higher education institutions.

Aware of the importance of the gender issue for higher education and, in particular, for leadership in higher education institutions, it should be noted that the legislator continues to retain a fundamental approach to its regulation, leaving out the details of the principles of using any tools, guaranteeing their application, etc. In writing this paper, we also used data from three major international indices that measure progress in achieving gender equality, which are: The Global Gender Gap Report, the Gender Development Index, and the Gender Equality Index, GDI) and the Gender Inequality Index (GII), according to which in 2023 Ukraine actually demonstrated an overall positive trend in terms of ‘moving towards gender balance in all spheres of public life, namely ... 0.714 points (on a scale from 0.001 to 1, where 1 means full gender parity) and, accordingly, ranks 66th in the world ranking (out of 146 countries).’ However, unfortunately, ‘gender asymmetry’ still persists in leadership in higher education, in the management of higher education institutions - the positions of rectors of higher education institutions (more than 83%) are held by men, and the situation in the vice-rector’s corps is somewhat better (although still discriminatory), where 72% of positions are also held by men (EU for Gender Equality: Reform Helpdesk, 2023). This allowed us to conclude that the representation of women in the leadership of higher education institutions in Ukraine, both before and during the external armed aggression, remains insignificant, which allows us to consider the field of higher education, in terms of equal opportunities for men and women to access leadership positions and management decision-making processes, as an area that can be called ‘gender unfavourable’, which requires the expert community to focus on finding ways to overcome this state of affairs.

RESULTS AND DISCUSSION

In the context of finding ways to solve the problems of human resources, ensuring equal gender representation, including at the level of leadership of higher education institutions and the systematic formation of its reserve with gender competencies, it is advisable to take activities with their conditional division into three blocks and representation at three (national, regional and local) levels. Their combination is: a) rulemaking (with the regulation of the principles of holding elected managerial positions and positions held by appointment by the head, formation of a personnel reserve for all managerial positions, formation of collegial governing bodies of higher education institutions, etc.) and introduction of relevant amendments and additions to the Law of Ukraine “On Higher Education”, adoption of relevant acts of regional and local rulemaking), b) institutional (with the introduction of permanent structural units in higher education institutions, with the

The issue of gender-balanced leadership, unfortunately, has not directly attracted the attention of legal scholars, especially with a focus on the gaps in the legal framework for the formation of management in higher education, and modeling proposals for the formation of such a framework to guarantee equal opportunities for women and men to access leadership positions, to participate in management decision-making processes, and to implement gender balance in higher education management, including at the level of higher education institutions.

Various individual aspects of the relevant problem were analyzed in their works by T. Martsenyuk, V. Horbatenko, T. Karas (2016), O. Batanov (2018), and others. However, either with an emphasis on the phenomenon of gender in general, or on certain issues of management in higher education, with fragmentary coverage of “gender asymmetry”, or only on certain tools for ensuring gender-balanced leadership, but not in the field of higher education, but, for example, in the electoral process, in local governments (for example, works by T. Karas, S. Oksamytna (2016), O. Batanov, N. Batanova, I. Hrytsai, (2018))

Paying attention, for example, to gender quotas in general and even studying their genesis in different countries, with the specifics of their normative consolidation, unfortunately, the resource of this tool is not considered at all in terms of manifestation in the management of higher education (for example, works by Shchyhelska, H., Potikha, O., Gabruseva, N., and Chop, T. (2021)) While studying the role of the institutional mechanism in ensuring the stabilization of gender balance in the management of public authorities, unfortunately, the same issue, with its manifestation in the management of higher education, with the analysis of the manifestation of its resource in the management of higher education, in higher education institutions, is not covered, which causes a gap in the scientific basis for rulemaking in the field of higher education and, in particular, leadership in higher education, causing “defects” in law enforcement, contributing to the stereotype of a “glass ceiling” for women in higher education management, in their access to leadership positions, to management decision-making processes, and, accordingly (the impact is indirect and global), to motivating them to manifest their unique potential in higher education, in the “quality” of higher education management, in the attractiveness of higher education in general for society.

In order to ensure gender-balanced leadership in higher education, it is advisable not only to regulate the fundamental principles of state policy implementation (as one of the

principles), but also to fix the principles of using the “gender symmetry toolkit” in higher education institutions, primarily gender quotas, gender legal expertise of drafts of all acts, gender statistical reporting, gender monitoring and audit, gender portrait of a higher education institution (portrait of leadership as its integral part), and others, with ensuring their integrated use.

References to gender legal expertise, gender audit, gender statistical reporting and other tools can be found in many existing legal acts. In particular, such provisions are contained in the Resolution of the Cabinet of Ministers of Ukraine of November 28, 2018, No. 997 “Issues of Gender Legal Expertise”, Resolution of the Cabinet of Ministers of Ukraine of February 13, 2024, No. 155 “On Amendments to the Procedure for Conducting Gender Legal Expertise”, Order of the Ministry of Social Policy of Ukraine of 09.08.2021 No. 448 “On Approval of Methodological Recommendations for Conducting a Gender Audit by Enterprises, Institutions and Organizations”, Order of the Ministry of Education and Science of Ukraine No. 1182 “On Approval of the Methodology and Criteria for Conducting a Gender Audit of Educational Institutions” of November 05, 2021, etc. At the same time, it is worth noting that there is no mention of “gender quotas” in relation to leadership in higher education institutions or higher education in general in the current legislation. Is it possible to introduce “gender quotas” for leadership positions in higher education institutions? Is it advisable to do so at all? Can this be considered a manifestation of discrimination? Won’t they play the role of so-called “opposition” (“resistance”) to the personal (competence) approach in access to leadership positions in higher education institutions and to management decision-making processes? (Global Compact Ukraine, 2024).

Although the current legislation of Ukraine does not contain a direct reference to “gender quotas” (with the phrase “gender quotas”), at the same time, another, alternative name for them (common in international practice (e.g., in Sweden, Finland, France, Ireland, etc.) - “positive actions” or “affirmative actions” - can be found in legislative acts. For example, the Law of Ukraine “On Ensuring Equal Rights and Opportunities for Women and Men” defines “positive actions” as “...special temporary measures that have a legitimate objectively justified purpose aimed at eliminating legal or actual inequality in the opportunities of women and men to exercise the rights and freedoms established by the Constitution and laws of Ukraine” (Article 1 of the Law). Such actions are not considered “discrimination on the basis of sex” (Article 6 of the Law), and their application is possible for “...achieving parity of women and men in all spheres of society...eliminating the imbalance between the opportunities of women and men to exercise equal rights granted to them by the Constitution and laws of Ukraine” (Preamble of the Law). These provisions can hardly be recognized as perfect in content, since “...the Law does not regulate the content and mechanism of implementation of such positive actions, as well as responsibility for their absence, which turns the quoted principles of the Law...into declarative statements”. At the same time, these legal provisions are in fact the provisions that serve as the basis for the possible application of “gender quotas” as temporary targeted compulsory measures aimed at overcoming the existing gender imbalance in a particular area of social relations. Given that the relevant law applies to all spheres of public life in Ukraine without exception, it can be argued that its provisions on the possibility of applying “gender quotas” in higher education and management of higher

education institutions are quite realistic. A quota is “...widespread so-called affirmative action (positive discrimination) to increase the number of women in positions of power (positions). The policy of positive action, oriented against discrimination on the basis of sex, provides for special, usually temporary measures to overcome the consequences of discrimination that has occurred in the past or is still ongoing.” “...quotas are aimed primarily at overcoming ... structural factors of unequal access of women and men to management processes caused by historical preconditions that have consequences in modern life”. And this is indeed a tool that can be seen as a manifestation of “positive discrimination,” although, given its very temporary and forced nature, its implementation should be considered possible and even appropriate to “move forward” and overcome the stereotype of the “male face of higher education management.” Given that “gender quotas” are of different types, including: a) legal (mandatory), with their division into: constitutional and legislative, depending on the source of their fixation, b) voluntary, it is still advisable not only to justify their value, importance for the management of higher education institutions, with the intensification of legal education activities, the introduction of separate educational programs with appropriate thematic content, the education of leaders with gender competencies, the promotion and support of the activities of public organizations (the so-called “bottom-up movement”). The so-called “bottom-up movement”). This problematic issue can also be solved through the implementation of a set of measures of different levels, with the allocation of several blocks: regulatory (or rule-making), institutional and educational, with their content detailed at three levels: national, regional and local.

The normative block of activities should be focused on the search, development and implementation of a legal model to guarantee equal opportunities for men and women in access to leadership positions in higher education institutions, to management decision-making processes, with the actual formation of a legal basis for gender-balanced leadership in higher education institutions. This is entirely due to the introduction of amendments and additions to the current legislation of Ukraine, with the synchronization of relevant processes at all three of the above levels. The “movement” in resolving this issue can be multi-vector (as an alternative), both “bottom-up” and “top-down”, depending on who initiates these processes to prepare the relevant amendments and additions. If the “basic” option is the “bottom-up” model, then it is advisable to initiate the implementation of “pilot projects” on the basis of individual higher education institutions, with the implementation of the results of their implementation in the rulemaking activities of regional and national public authorities with relevant powers in the field of higher education. If the “basic” option is the “top-down” one, on the contrary, amendments and additions to the acts of the current legislation of Ukraine will serve as the basis for the adoption of acts of regional and local rulemaking. The first option allows to take into account the needs of higher education in the formation of gender-balanced management of higher education institutions, tested by time and challenges of society, and the demands of law enforcement (although with an emphasis on local or regional priorities). A top-down model covering the entire higher education system may contain “risks” due to the “imposition” of a single model, the effectiveness of which can only be determined over time, and in this aspect, this option and its results are “template”.

Regardless of which of the proposed options for moving forward with the rulemaking initiative is chosen, this particular block of activities should be focused on

a) to enshrine in the acts of current legislation (at all levels) the provision that all senior positions in higher education institutions should be formed with mandatory compliance with “gender quotas.” This provision should be observed both at the stage of application for participation in the competition and in the final “gender portrait of the management of higher education institutions.” Amendments should be made, in particular, to the Law of Ukraine “On Higher Education” (Articles 27, 32, 33, 34-43) to provide that the competitive procedure for any of the management positions is possible only if the candidates include representatives of both sexes. If only one person submits an application or if only one gender is represented among the candidates, the competition procedure is not continued and a new competition is announced. With regard to positions that are filled by appointment by the head of an HEI, it is necessary to enshrine the provision that the latter must adhere to a gender-balanced approach to the management of higher education institutions in general and ensure the formation of a “leadership line” (“leadership scale”) with mandatory gender balance in leadership positions (“head - first deputy”);

b) to regulate the principles of formation of all collegial heads of higher education institutions, with mandatory compliance with “gender quotas” (composition of the Academic Council, Scientific and Technical Council, Scientific and Methodological Council, Supervisory Board, Conference of the labor collective, personnel competition commission, etc, to ensure equal opportunities for men and women in representation in the relevant bodies, their participation in management decision-making, to “recognize the contribution of all to the common cause and ensure their visibility in those areas of activity where they are traditionally underrepresented” . The amendments should be enshrined in the Law of Ukraine “On Higher Education”, in particular in Articles 35-43.

c) enshrining in the same law (separate articles) provisions on the formation of a personnel reserve for each leadership position, at the rate of “two persons for each leadership position”, with representation of both sexes. This will contribute not only to motivating people to continuously develop themselves as a “competitive leader” but also to the sustainability of the formation of a “leadership corps” to solve a set of tasks, including innovative ones, in the context of the implementation of European integration and North Atlantic vectors of the country’s further development.

The study of gender statistical reporting of higher education institutions, analysis of gender portraits of the management of higher education institutions, indicates a “tendency to gender asymmetry”, with maximum expression at the level of “top management” positions of higher education institutions - rectors, directors. There is a smaller, though not significant, “gravity” at the level of vice-rectors and deputy directors, with the dominance of the “male face” of these positions. Moving “down” (“line of managerial positions”) demonstrates “approaching balance” and sometimes “imbalance” with the manifestation of “female face” (positions of deans, deputy deans, heads of departments, heads of structural units), which actualizes the need to regulate the principles of gender-balanced leadership in the management of higher education institutions in general. The formation of the relevant regulatory framework is necessary not only at the national level (provisions of the “basic”

legislative act in the field of higher education), but also should be synchronized with the results of regional and local rulemaking, taking into account the relevant regional needs and autonomy of higher education institutions. As the analysis of existing acts of higher education institutions (local acts) shows, such acts may include both improved and substantively updated Gender Equality Strategies of higher education institutions, Gender Equality Plans in higher education institutions, regulations on all collegial governing bodies of higher education institutions, regulations on the procedure for resolving personnel issues (holding managerial positions), etc.

To answer any doubts that the introduction of “gender quotas” (the best option is the “40 and 60” quota, without “binding” to what percentage should correlate with a particular gender) will result in gender discrimination, the following should be noted. Indeed, the relevant instrument is a kind of “positive discrimination”, but it is important to remember that in the relevant phrase, the emphasis should be not only on its second component (“discrimination”), but also on the first (“positive”), which causes its association with temporary, forced measures, targeted measures aimed at overcoming stereotypes, shaping consciousness, educating leaders with gender competencies, providing equal opportunities for representatives of different genders, recognizing the real contribution of women and men and increasing their “visibility” in those areas of activity in which they have been underrepresented for a long time, etc.)

The institutional block of activities is conditioned by the need to support the process of forming and implementing a model of gender-balanced leadership in higher education institutions, because it is important not only to adopt regulations but also, and most importantly, to ensure their application in an effort to maximize the effectiveness of the latter. There are three levels of implementation of this idea: national, regional and local. Institutional support will ensure consistency and sustainability of the entire process. If the “bottom-up” option is chosen as the “basic” one, it is quite acceptable to form a separate unit (department, office, etc.) within the structure of higher education institutions whose functionality is related to ensuring compliance with gender equality legislation (gender legal expertise, gender reporting, gender audit and monitoring, formation of a gender portrait of the higher education institution, advisory, methodological, etc. work), with the Commissioner for Gender Equality as its head. The separation of a structural unit will ensure compliance with the systematic, comprehensive approach of the higher education institution to compliance with the legislation on gender equality in general, including access to leadership positions and participation in management decision-making processes. Such an approach can ensure timely response to new challenges, demands and risks, while simultaneously identifying and implementing relevant measures. It is also advisable to create appropriate units within the structure of regional public administration bodies (for example, a division within the Department of Education and Science of the relevant regional state administration) and the Ministry of Education and Science of Ukraine to ensure coordination of activities to comply with legislation on gender equality in higher education, including leadership in higher education institutions.

For the systematic formation of a cohort of leaders with gender competencies capable of realizing themselves in leadership positions in higher education institutions, it is advisable

to implement an educational block of activities, with the introduction of educational components (e.g., “Gender Studies”, “Gender Leadership”) in educational programs for students of all levels of higher education without exception, thematic educational resources for research and teaching staff, managers of all levels in higher education institutions, persons included in the personnel reserve for managerial positions, persons with leadership ambitions and ready to realize them in higher education, etc., targeted thematic educational programs at the request of the Ministry of Education and Science of Ukraine, at the request of regional public administration bodies in the field of higher education. All this implies intensification of rulemaking both at the level of development, adoption (amendment) of the Higher Education Standards, other acts of rulemaking of the Ministry of Education and Science of Ukraine, and acts of regional and local rulemaking. To ensure the stability of the relevant activities and the fullest possible implementation of their results, it is advisable to create training centers on the basis of higher education institutions (in the regions), with the regulation of the principles of their formation, functioning, resource provision, etc. Implementation of such activities will help to create a reserve of current and potential leaders in higher education institutions, improve their competence, which will facilitate timely response to the staffing needs of the leadership in higher education institutions of the region and the state, with a constant search for forms and methods of work with human resources that are relevant to the requirements of the time, timely response to the requests of the country, region, higher education institution and ensuring sufficient opportunities for their gender-balanced model, with guaranteed equal opportunities. Each of the identified blocks of activities cannot be considered separately, since only in their unity are there sufficient opportunities to regulate the principles and guarantee the formation of gender-balanced leadership at the level of higher education institutions, timely resource response to the requirements of the time, eliminate risks in human resources and ensure the implementation of one of the strategic priorities of the state development, fulfillment of Ukraine’s international obligations - the practical implementation of the EU Action Plan III for Gender Equality (GAP III)

CONCLUSION AND RECOMMENDATION

The search for ways to solve the problems of staffing, with guaranteed equal gender representation (in terms of gender distribution), including at the level of leadership of higher education institutions and the systematic formation of its reserve with gender competencies, seems to be expedient to use a whole cycle of activities, with their conditional division into three interrelated blocks and their representation at all three (national, regional and local) levels. The combination of the three blocks, namely: a) rulemaking (with the regulation of the principles of access to elected leadership positions and positions held by appointment by the head, the formation of a personnel reserve for all leadership positions, using the practice of “two persons in the reserve for each position, with representation of both sexes in the reserve), the algorithm for the formation of collegial governing bodies of higher education institutions (academic council, supervisory board, scientific and technical council, scientific and methodological council, competition commission, etc.

The formulated provisions may well be used in rulemaking activities both at the local level

- to regulate the principles of gender-balanced leadership in higher education institutions, to regulate procedural issues of admission of persons to leadership positions, to form collegial bodies of higher education institutions (supervisory boards, academic councils, scientific and technical councils, scientific and methodological councils, competition commissions, etc. These provisions may be of interest to higher education institutions in terms of determining thematic educational components for the formation of educational programs for training (retraining) of applicants, employees of higher education institutions who already hold senior positions or are in the personnel reserve, as well as for persons who wish to realize themselves in gender management in higher education. Also, the relevant provisions may be of interest to the legislator and other rulemakers (including at the state, regional and interregional levels) to regulate the principles of gender-balanced leadership in higher education, its monitoring, ensuring sustainability, as well as to educate leaders with gender competencies (in particular, to amend the Law of Ukraine "On Higher Education"). The provisions will also be of interest to anyone interested in gender issues, given the specificity of its resource and the peculiarities of its manifestation in various spheres of public life.

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IMPLEMENTATION OF LEGAL EDUCATION WORK IN THE CONTEXT OF ENSURING SUSTAINABLE DEVELOPMENT OF SOCIETY

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ABSTRACT. The study is devoted to the peculiarities of legal education work in general, the components of its practical implementation in Ukraine, as one of the components of the mechanism for ensuring the sustainable development of society. Effective implementation of legal education work has been used for decades to form the legal culture of the population, the ability to objectively assess facts and emerging circumstances, including unpredictable ones, and to provide legal education both for certain categories of persons who are somehow influenced by negative factors, conditions, factors, circumstances (special subjects for whom legal education work is carried out through the prism of preventive work to prevent the commission of administrative and criminal offenses), and for the general public. The effectiveness of such work directly depends on two factors: the first is the ability to convey information, to influence the legal consciousness of persons who absorb, assimilate and may apply such information in the future, including the ability to present information, which may also depend directly on the information and communication skills of the speaker or speakers. The second factor is the desire to listen, learn, memorize and be able to apply the acquired knowledge, skills and abilities. The article discusses the importance of legal education activities for ensuring sustainable development of society, ensuring, including through raising legal awareness of society, a reasonable balance between the needs of society today and ensuring protection of the interests of society as a whole, and achieving a level of legal awareness of the population which will ensure a long-term perspective of legal education of future generations.

Keywords: legal education, legal culture, legal education of the population, information and education activities, ensuring sustainable development of society.

INTRODUCTION

The formation of the concept of sustainable development of society, the need to ensure all its components, both general and narrow (special), requires considerable hard work, while the formation of the consciousness of the population capable of an objective assessment of their actions and the actions of others, the ability of each person to protect themselves, their

rights, freedoms and legitimate interests, including the knowledge of the mechanisms of such protection, the competent authorities to which they should apply and receive assistance as soon as possible, requires no less effort. The latter is ensured, in no small part, through the mechanisms of legal education provided by the competent authorities (officials of these authorities) individually or in cooperation. One of the ways to implement legal education is its direct connection with ensuring the quality of education, including legal education, which is directly related to the implementation of the global sustainable development goals by 2030 ("Transforming our world: the 2030 Agenda for Sustainable Development", n.d.), proclaimed by the United Nations General Assembly resolution No. 70/1 of September 25, 2015, and, as a result of their adaptation to Ukraine, the implementation of the adopted Sustainable Development Goals: Ukraine" until 2030 (On the Sustainable Development Goals of Ukraine for the period..., 2019).

Both the former and the latter were adopted with the aim of ensuring a promising bright future for the United Nations member states, and it was emphasized that the implementation of the plan to achieve the goals should involve, among others, representatives of scientists, experts, and representatives of public associations. One of the global goals, which in one way or another inherently encompasses the human rights education block, is "ensuring inclusive and equitable quality education and promoting lifelong learning opportunities for all" (para. 1.4 of the Decree, 2019), "promoting peaceful and inclusive societies for sustainable development, ensuring access to justice for all and building effective, accountable and participatory institutions at all levels" (para. 1.16 Decree) and "strengthening the means of implementation and intensification of work within the framework of the global partnership for sustainable development" (clause 1.17 of the Decree). Legal education plays a significant role in ensuring the same "peaceful and open society" with a high level of legal culture and legal awareness, minimizing the level of illegal actions and making each member of society aware of high responsibility for their actions to themselves, society and the State (On the Sustainable Development Goals of Ukraine for the period..., 2019).

The purpose of the study is to analyze the peculiarities and significance of legal education work for ensuring the sustainability of society based on the analysis of available sources. The object of the study is the social relations arising in the field of legal education. The subject of the study is the implementation of legal education work to ensure the sustainability of society.

A wide range of scientific achievements is devoted to the study of the issues of implementation of legal education, raising the legal culture of the population, in particular, those carried out by certain categories of persons, state bodies, including law enforcement agencies, local self-government bodies, public organizations, as well as in relation to certain categories of persons, including in the higher education system in the training of special subjects - future law enforcement officers.

For example, researcher Shulga A.M. conducted a study of legal education, legal culture and legal education of future law enforcement officers and identified their features. Researchers Kupchak M.Y.(2017) and Povstyn O.V (2017). paid attention to the legal education work directly carried out in the system of bodies and subdivisions of the civil protection service with a focus on the purpose, tasks and methods of such work. Researcher Rohozinnikova

K. swore her scientific work to the issue of legal education, which is carried out during the implementation of tasks by the subjects of free legal aid legal aid, that is, it is considered as one of the areas of their activity; specifics of practical implementation of legal education in the activities of legal aid providers. V. Kariy also devoted his work to the specifics of the practical implementation of legal education work in the activities of legal aid providers. also mention the works of researchers who have devoted their scientific works to certain aspects of the relationship between legal education and legal culture. The issues of legal culture of young people, in particular students, in particular, is revealed in the works of researcher T. Harasymiv (2017).

Despite the fact that the issues of legal education, legal culture, legal awareness, legal education, including in the system of legal education, legal clinical education, through the provision of legal advice (for example, by entities providing legal clinics of higher education institutions or entities providing free legal aid), improvement of the legal culture of the personnel reserve of special subjects, such as bodies and units of the National Police, civil protection services, etc.

The implementation of legal education, namely its effective implementation, is an important step towards ensuring the sustainability of society, ensuring the achievement of the Sustainable Development Goals set forth in the Decree of the President of Ukraine "Sustainable Development Goals: Ukraine" on the basis of the United Nations General Assembly resolution No. 70/1 of September 25, 2015, preserving the achievements of legal education of the population for the long term, strengthening the legal awareness of the population, such that it could be passed on from generation to generation, not decreasing, but improving together with the current legislation of the state, improving the legal education of generations through comprehensive influence, namely family ties, friendships, education, advanced training, professional development, participation in information and educational events to acquire or improve the acquired knowledge, skills and abilities, trainings, workshops, colloquia, webinars, which may be organized by public authorities, including law enforcement agencies. including law enforcement agencies (independently or in cooperation with each other), local self-government bodies, public organizations on the basis of their own or educational and cultural institutions.

MATERIALS AND METHODS

The methodological basis of the study consists of both general scientific and special legal methods. The study used the method of analysis, which helped to ensure a comprehensive review of existing approaches to legal education, in conjunction with the method of legal construction, and helped to identify the range of subjects of legal education and the range of subjects in respect of whom such work is carried out. The method of dialectical analysis made it possible to study the process of improving the methods and means of implementing legal education, including borrowing the positive experience of foreign countries and implementing it in practice in accordance with the peculiarities of the powers of law enforcement agencies and units. The logical method made it possible to highlight the peculiarities of legal education activities in general and to formulate a concept that would allow for full coverage of such peculiarities. The comparative legal method made it possible

to cover the possibilities of means and methods of legal education in order to determine the most effective ones for application in certain conditions to a particular circle of people. The methods of modeling and forecasting made it possible to build the most effective model of legal education work on the basis of comparative analysis to ensure the sustainability of society, achievement and preservation of a high level of legal culture of the population through general and individual legal education work of individuals, bodies, units of relevant bodies whose powers include legal education as one of the components of activities. The method of expert assessments made it possible to determine the place of preventive work (general and individual) in the mechanism for ensuring the implementation of legal education activities to ensure sustainable development of society. The above methods made it possible to study the issues of implementing legal education activities to ensure sustainable development of society at different levels and to identify the most promising model for achieving the components of the priority goals of sustainable development set by the state.

The study of the source base has shown how important an established mechanism of legal education is for ensuring sustainable development of society, formation of a population with a high level of legal culture and legal education, capable not only of protecting and defending their rights, freedoms and legitimate interests, but also of promoting compliance with the current legislation of Ukraine, the norms of international legal acts ratified by the Verkhovna Rada of Ukraine, the norms that establish responsibility for violation of them, and spreading their own position.

In order to determine the importance of legal education for ensuring the sustainable development of society by ensuring the implementation of certain priority goals identified by the international organization and adapted for Ukraine, we analyzed “Transforming our world: the 2030 Agenda for Sustainable Development”, n.d.), proclaimed by the United Nations General Assembly Resolution No. 70/1 of September 25, 2015, with each of the 17 global sustainable development goals considered from the perspective of their implementation in national legislation; “Sustainable Development Goals: Ukraine” until 2030, which were mentioned earlier and will be analyzed in the main part of the study. It is worth mentioning one of the “basic” acts of Ukrainian legislation which is directly related to the implementation of legal education of the population, namely, the Decree of the President of Ukraine of 18.10.2001 No. 992/2001 “On the National Program of Legal Education of the Population”, The goal of the Program, in turn, is defined as: “raising the general level of legal culture and improving the system of legal education of the population, acquiring the necessary level of legal knowledge by citizens, and forming their respect for the law” (President of Ukraine, 2019). In its content, the mentioned Program defines its tasks directly related to creating conditions for citizens to acquire knowledge about rights, duties and freedoms, namely ensuring the adequacy of such conditions; implementing information and educational activities on the topics of the state legal policy and current changes in the current legislation; ensuring the principle of publicity and transparency of public information sources and free access to them for the population; improving the system of legal education of the population. In the context of the study of the implementation of legal education work among children and youth, it is worth mentioning the Law of Ukraine “On Protection of Childhood” (Verkhovna Rada of Ukraine, 2001), which defines the task of child protection legislation as “expanding

social and legal guarantees for children, ensuring the physical, intellectual and cultural development of the younger generation, creating socio-economic and legal institutions to protect the rights and legitimate interests of children in Ukraine”, the system of measures for the protection of childhood includes the implementation of conditions that provide for the comprehensive development of the child (physical, intellectual, spiritual, mental, social), and the components of such measures include the dissemination of information about the protection of rights, freedoms, and legitimate interests, and a mechanism for protecting the latter. Such a mechanism in national legislation takes into account the achievements and positive practices, recommendations of international law. Also, taking into account the aspect of the study directly related to the implementation of legal education work in the education system, it is worth mentioning the Law of Ukraine “On Education”, which defines the goal of education, namely “the comprehensive development of a person as an individual and the highest value of society, his or her talents, intellectual, creative and physical abilities, the formation of values and competencies necessary for successful self-realization, the education of responsible citizens capable of making conscious social choices and directing their activities for the benefit of other people and society, enriching on this basis the intellectual, economic, creative, cultural potential of the Ukrainian people, raising the educational level of citizens to ensure sustainable development of Ukraine and its European choice”, Therefore, education in its direct definition, namely quality education, has a direct impact on education, including legal education, and is one of the keys to ensuring sustainable development of Ukraine (Verkhovna Rada of Ukraine, 2001).

RESULTS AND DISCUSSION

The article deals with the importance of legal education for ensuring the sustainable development of society, with the international and national legal framework, and identifies several aspects (not an exhaustive list!) in which legal education is implemented, with a conditional division into: a) legal education as a component of certain types of law enforcement activities (on the example of the activities of the National Police of Ukraine); b) legal education as a component of general and individual prevention work, given its importance in reducing the number of committed and possible illegal acts; c) legal education in the education system (which includes general forms and special forms, depending on the subject of educational services), and the separation of legal clinical activities in it, which also includes legal education.

Legal education occupies a prominent place among the activities of public authorities, including law enforcement agencies, local self-government bodies, and public organizations, given that the effective implementation of legal education has been shaping the legal culture of the population for decades, as well as the ability to objectively assess facts, emerging circumstances, including unpredictable ones, legal education of both certain categories of people who are somehow influenced by negative factors, conditions, factors, circumstances (special subjects for whom legal education is carried out through the prism of preventive work to prevent the commission of administrative and criminal offenses) and a wide range of people (general subject), which may include different age groups, representatives of different professions, etc.

The effectiveness of such work directly depends on two factors: the first is the ability to convey information, to influence the legal consciousness of persons who absorb, assimilate and may apply such information in the future, including the ability to present information, which may also depend directly on the information and communication skills of the speaker or speakers. The second factor is the desire to listen, learn, memorize, and be able to apply the knowledge, skills, and abilities gained. Thus, the researcher Mannapova K.R.(2023), in her work cites the theory of the communicative square (by Friedemann Schulz von Thun), which, by its peculiarities, allows us to identify the problems and “barriers” of speakers and listeners in their interaction with each other, in communication. Therefore, according to this theory, the message of the speaker has 4 sides, namely: a) factual information; b) self-disclosure; c) attitude; d) appeal, instead of the “four ears model” , That is, the perception of the listening subject also has four sides: a) factual information; b) information about oneself; c) attitude; and d) appeal (call)(Mannapova, 2023). How does this model relate to the issues of legal education? When carrying out such work, when implementing the tasks assigned to it, its effectiveness will directly depend on both the presentation of information by the speaker and the second party, the subject who directly perceives the relevant information. And to the extent that the models of information presentation and its perception are relevant to each other, for example, presentation-factual content and perception-factual information; presentation-appeal and perception-appeal (call), the more effective the implementation plan will be, the clearer the content and the more realistic the tasks set for the activity. A separate aspect is the implementation of legal education work by individual bodies and units, which have a corresponding component as one of their activities. For example, legal education activities of the National Police of Ukraine as a component of administrative activities. Such activities, by their very nature, ensure constant communication with the public, increase the authority of law enforcement agencies, the level of trust of society as a whole, create a sense of security and raise the level of legal awareness of the population.

It is worth noting that in order to achieve the goals of such activities, the National Police periodically carries out preventive measures to explain the danger of committing socially harmful acts, with information about such measures being disseminated through the operational activities of the MIA information services. Thus, according to Article 9 of the Law of Ukraine “On the National Police” (Verkhovna Rada of Ukraine, 2015) the principle of openness and transparency is ensured, namely, the National Police ensures “constant informing of state authorities and local self-government bodies, as well as the public about its activities in the field of protection and defense of human rights and freedoms, combating crime, ensuring public safety and order”.

The legal education activities of the National Police are implemented through preventive speeches on certain aspects of the activities of such law enforcement agency; holding round tables, conferences, interviews, briefings to achieve preventive goals, legal education of the population; involvement of the National Police officers as guest lecturers in secondary and higher education institutions, involvement of such persons in the training of highly qualified lawyers and specialists in the field of law enforcement, etc (Kremova, 2022).

Prior to the introduction of martial law in Ukraine due to the threat to the independence and territorial integrity of the state, the National Police implemented a number of successful

projects directly related to law enforcement as part of the administrative activities of such a body. Thus, at the end of 2021, the project "Safety Educator" was successfully launched (National Police of Ukraine, n.d.), was organized by the Ministry of Internal Affairs together with the National Police. This project aimed to prevent the commission of offenses in the educational environment: the introduction of a position with specific functions in educational institutions - a security specialist in the educational environment, with a person applying for the appointment from among teachers, and the functions of training them entrusted to the National Police, together with the SES, etc. Another project aimed at maintaining the security of the population's existence and increasing the credibility of law enforcement agencies, legal education and raising legal awareness of the population is the Community Police Officer project (Unified Web Portal of Executive Authorities of Ukraine, n.d.).

This project is implemented through the signing of memorandums between the National Police and territorial communities; such activities of the National Police officers ensure preventive activities in all spheres of community life, ranging from educational activities (holding dialogues, preventive lectures in educational institutions), Internet security of the population to preventing the commission of offenses. One of the ways to implement the law-enforcement activities of the National Police is to cover information about the activities of such a body in the media, on the official website of the National Police, the official website of the Ministry of Internal Affairs, and the official pages of the National Police in social networks to encourage the public to raise their legal awareness, foster zero tolerance for committing offenses, and understand the social harmfulness of such acts, thus ensuring the prevention of offenses (Kremova, 2022).

During the period of martial law in Ukraine, the legal education activities of the National Police have acquired new features. Through the media, the National Police officers carry out law-education activities in the field of cybersecurity (safe use of mobile applications, mobile devices), transmission of information to collect evidence of crimes (dissemination of information on methods and means of transmitting such information), reporting on documenting crimes that resulted from armed aggression against Ukraine, preventive work to disseminate information on the dangers of collaboration in the controlled territories, temporarily In addition to aspects related to the armed aggression that has led to a threat to the independence and territorial integrity of the state, another aspect in which the National Police carries out legal education and prevention activities, raising public intolerance to this phenomenon, is the prevention of domestic violence. On August 3, 2022, the Ministry of Internal Affairs presented a mobile application (National Police of Ukraine, n.d.) to respond to cases of domestic and gender-based violence (equipped with a police call button), with media coverage to disseminate information to the public, in order to respond quickly to calls from victims of this type of violence and prevent an increase in such cases in the future. It should be noted that this list of aspects is not exhaustive.

Another aspect that should be considered is legal education in the course of general and individual preventive work of law enforcement agencies, given that the effectiveness of legal education directly affects the improvement of the legal culture of the population and, as a result, the reduction of the percentage of administrative and criminal offenses. Thus, general preventive work (general prevention), despite the large list of definitions that in

one way or another have common and distinctive features, are narrower or more extensive, has its own peculiarities. Several of them can be conditionally identified: a) a significant list of implementing entities, namely, public authorities, including law enforcement agencies, local governments, public organizations, enterprises, institutions, organizations, regardless of ownership, citizens - which, both individually and in cooperation with each other, provide an effective prevention of offenses as a whole, covering all areas where there may be risks of committing illegal acts under the influence of emerging negative factors; b) the subject of general preventive work is a general subject, a group of persons; c) focus on external factors (crime prevention is aimed at identifying negative external conditions, causes and factors that may affect the commission of illegal acts in the future); d) has an extensive list of forms of implementation (general educational activities, information and prevention work in cooperation with the media, quests, guest lectures, implementation of general large-scale (all-Ukrainian) prevention projects based on the positive experience of law enforcement agencies of foreign countries, etc. (the list is not exhaustive); e) has a “base” of relevant plans, developed strategies based on individual discussion (within the implementing entity) or on the basis of interaction of several implementing entities with discussion and consideration of ideas of other entities (Yevtushenko, 2024).

Analyzing the essence of individual preventive work, we can conditionally distinguish some of its features, such as: a) the subject of implementation is a designated responsible person (realizes direct contact with the person in respect of whom individual preventive work is carried out); b) the subject in respect of whom individual preventive work is carried out is of two types: 1) a person who has not committed illegal acts in the past and has not been brought to justice, but there are risks that such illegal acts may be committed; 2) a person who has committed illegal acts in the past and has been brought to justice and may repeat such acts; c) focus on individual factors (crime prevention is aimed at identifying individual characteristics of the person in respect of whom such work is being implemented, the environment of this person, his/her ideas, views, worldview, everything that is directly related to this person and may in the future influence the commission of illegal actions for the first time or repeatedly; d) has an extensive list of forms of implementation, including individual conversations, consultations, monitoring, as well as preventive accounting, administrative supervision, preventive rounds, depending on which classification criterion is chosen; e) has a “base” - individual plans of preventive work, etc (Yevtushenko, 2024).

Thus, legal education can be distinguished among the activities of individual and general preventive work with an emphasis on educating the population (in general or special subjects) in the spirit of observing the law, preventing the commission of illegal acts personally, and educating the population and promoting legal behavior by the example of bringing other persons to justice.

The final aspect to be considered is the implementation of legal education activities in the legal education system. Under such conditions, the relevant implementation is realized through: a) thematic meetings, roundtables, colloquia, conferences, webinars on relevant topics with methods of acquiring knowledge about current state legislation, international legal acts ratified by the Verkhovna Rada of Ukraine on the protection of human and civil rights, freedoms, legitimate interests, mechanisms of such protection, and liability for

unlawful acts under current legislation; b) legal education through the direct acquisition of knowledge, skills, abilities by students of special vocational education institutions and higher education institutions (competencies and programmatic learning outcomes) during the study of certain educational components (compulsory, elective) in accordance with the curricula of students; participation in information and educational activities organized by the educational institution; public authorities, including law enforcement, local authorities, including law enforcement agencies, local governments, NGOs, thematic stakeholders (guest lecturers), etc. c) legal education work among students of general secondary education (through the study of relevant disciplines and information and awareness-raising activities organized by the educational institution; public authorities, including law enforcement agencies, local governments, public organizations, etc;) d) organizing and conducting thematic trainings, professional development programs, internal and external academic mobility; e) conducting legal education through legal clinical activities (providing consultations, explanations, legal assistance to the public), etc. It should be noted that this list is not exhaustive.

CONCLUSIONS AND RECOMMENDATIONS

Thus, legal education work to ensure the sustainable development of society is of great importance in view of the fact that it provides the components of the selected priority goals of sustainable development, which are directly related to ensuring quality education, providing and enabling lifelong learning for all without exception, and through the provision of this component, legal education work is implemented, in particular, thus creating the relationship “quality education - legal education work”, and ensuring “access to justice for all and the creation of effective, accountable and participatory institutions at all levels, which is consistent with the research objective, and also by its specificity, legal education has various components, including thematic ones, which can be directly related to the dissemination of information on access to justice; is also “strengthening the means of implementation and intensifying work within the framework of the global partnership for sustainable development,” which is also reflected in the positive practices of the same outreach projects implemented in Ukraine, which have their roots in foreign experience (for example, the Community Police Officer project), as well as the addition of national legislation to the developments and valuable experience of international organizations, with the subsequent adaptation of these developments to national legislation and dissemination of information about innovations or improvements to existing norms among the population.

The formulated provisions may well be of interest to higher education institutions (use of materials for analyzing relevant topics as a separate content module of the educational component of the educational program; for preparing lecture materials for the thematic elective educational component for applicants within the free educational trajectory of specialties 081 “Law”, 262 “Law Enforcement” and within the university-wide elective components). The Regulations may be of interest to public authorities, including relevant thematic structural units (their officials), local governments, and non-governmental organizations to analyze the model of legal education and supplement it with regard to the

practical implementation of legal education plans, taking into account the specifics of each of them. The provisions will also be of interest to all those interested in the issues of legal education and its implementation to ensure the sustainable development of society.

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FORMATION OF COMMUNICATIVE COMPETENCE OF FUTURE VOCAL DISCIPLINES TEACHERS

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ABSTRACT. This article explores the structure of communicative competence and the principles underlying its development within professional activities. Through a scientific literature perusing, the paper identifies key components of communicative competence, including goal-oriented motivation, cognitive-linguistic elements, procedural-technological skills, and reflective-evaluative aspects. The structure of communicative competence is examined as a multi-component system, where each element plays a crucial role in achieving professional effectiveness. The article emphasizes the importance of the interrelation between structural components and the principles guiding the formation of communicative competence. Key principles ensuring effective development of communicative competence include objectivity, specificity, scientific approach, dialectical reasoning, determinism, integrativeness, professional mobility, motivation, self-organization, rational integration of collective and individual work forms, and practical application. The findings of this study can be applied in educational settings to enhance methodologies for developing communicative skills and competencies. The conclusions reinforce the necessity of a systematic approach to forming communicative competence based on the identified principles and components..

Keywords: communicative competence, pedagogical communication, structural components, formation principles, professional training, educational effectiveness.

INTRODUCTION

In the nowadays context of reforming the higher education system in Ukraine and integrating it into the European educational space, new demands are being placed on educators, particularly those teaching creative disciplines. One of the most significant among these demands is the ability not only to impart knowledge but also to communicate effectively, creating a conducive environment for the creative development of students. This is particularly relevant for vocal disciplines lecturers, who consider communication not merely as a tool, but an integral part of the educational process.

Communicative competence plays a crucial role within the context of training future vocal disciplines teachers as it determines the educators' ability to communicate effectively with students, motivate them to learn, and carry out educational activities at a high level. In case of increasing demands for the professional training of music educators, the issue of developing communicative competence is becoming more pressing and requires thorough

scientific analysis.

Vocal art entails a close connection between the teacher and the student, where every detail matter from intonation to non-verbal communication. A vocal tutor not only teaches the technical aspects of singing but also fosters students' abilities to express themselves, communicate with the listener, and moreover to convey emotions and ideas through music (Shumska et al., 2024). Therefore, it is extremely important for future vocal disciplines instructors to master communicative competence which includes the ability for effective communication, emotional understanding and adaptation to different communicative situations. As future educators, vocal teachers must not only master their craft but also possess the ability to effectively communicate and convey complex artistic, technical, and pedagogical concepts to their students. The unique demands of vocal instruction—where verbal, non-verbal, and musical communication intersect—necessitate a comprehensive understanding of communicative strategies that can foster a dynamic and engaging learning environment (Yotka, 2021).

This article delves into the structure of communicative competence, exploring its multi-component nature and the principles that guide its development within the professional activities of vocal teachers.

Drawing from a wide range of scientific literature, the article identifies key components of communicative competence: goal-oriented motivation, cognitive-linguistic elements, procedural-technological skills, and reflective-evaluative aspects. Each of these components plays a vital role in ensuring professional effectiveness and the ability to engage meaningfully with students. The study emphasizes the importance of interrelations between these structural components and outlines guiding principles for the formation of communicative competence. Principles such as objectivity, specificity, a scientific approach, dialectical reasoning, integrativeness, and professional mobility are discussed as essential for fostering effective communication skills in future vocal educators.

The theoretical significance of this study lies in its examination of contemporary approaches to developing communicative competence, grounded in the principles of pedagogical psychology, art pedagogy, and music education. The practical significance of this research focuses on creating and implementing effective teaching methodologies that enhance this competence among future vocal instructors.

The relevance of this research to important scientific tasks stems from the need to adapt pedagogical methods to current educational conditions, especially considering the growing importance of communicative skills in the learning process. This research is pertinent due to the demands of the modern labor market, where educators must not only possess professional knowledge but also communicate effectively with diverse audiences.

However, an analysis of current pedagogical practices reveals that not all graduates from higher education institutions preparing for teaching careers exhibit a sufficiently high level of communicative competence. This gap can adversely affect the quality of the educational process, diminishing students' motivation and hindering effective learning.

Therefore, the issue of future vocal tutors' communicative competence developing is of critical importance. It necessitates a comprehensive approach, including the creation and application of effective teaching methods designed to cultivate communicative skills and

abilities. This research aims to identify the most effective methods for this competence developing and to provide recommendations for their integration into the professional preparation of future educators.

MATERIALS AND METHODS

The study on the formation of communicative competence of future vocal disciplines teachers employed a comprehensive methodological framework grounded in a multidisciplinary analysis of scientific literature and empirical observation.

This study utilized a variety of scientific literature sources, focusing on research related to communicative competence within pedagogical contexts. This literature review focused on various domains such as education, linguistics, psychology, and pedagogy to develop a holistic understanding of communicative competence relevant to the professional training of vocal teacher. Emphasis was placed on studies examining the nuances of communicative competence among future music educators. Key components identified include cognitive, emotional, and behavioral aspects, which facilitate a comprehensive analysis of communicative competence in the realm of vocal education.

The methodological approach encompassed a theoretical perspectives analysis of the communicative competence development, as well as an evaluation of specific pedagogical conditions and practices that impact this development in prospective vocal educators.

The leading research method is the system method. A systematic approach was applied to synthesize findings from both the literature review and empirical observations. This approach involved constructing a framework for the formation of communicative competence, which incorporates key principles such as determinism, integrativeness, professional mobility, motivation, and self-organization. The framework also aimed to demonstrate how the rational integration of collective and individual work forms and practical application can be effectively utilized to develop communicative competence.

A qualitative content analysis of the reviewed literature was carried out to identify and categorize the components of communicative competence—goal-oriented motivation, cognitive-linguistic elements, procedural-technological skills, and reflective-evaluative aspects. This analysis also focused on recognizing the principles that guide the development of communicative competence, including objectivity, specificity, a scientific approach, and dialectical reasoning.

The study employed a comparative analysis to examine the interrelationships between the structural components of communicative competence and the guiding principles. This method was used to assess how these components and principles interact to enhance professional effectiveness in vocal disciplines teaching and to determine best practices for their integration into teacher training programs.

Scientific sources were employed to establish core principles and strategies that enhance the communicative skills development in music education. Additionally, these sources helped to identify factors conducive to effective pedagogical practices. To gain a deeper understanding of future vocal educators' communicative competence, methods such as comparative analysis and synthesis of information from diverse scientific sources were utilized. This approach enabled the knowledge generalization regarding the specifics of

communicative activity in music education and highlighted the key factors influencing its effectiveness.

By integrating these materials and methods, the study provides a comprehensive examination of the factors influencing the formation of communicative competence in future vocal discipline teachers. The findings aim to inform and improve pedagogical practices, enhancing the overall effectiveness of teacher training programs in this specialized field.

RESULTS AND DISCUSSION

The competence-based approach is a pivotal element in modern education, designed to prepare highly qualified specialists capable to thrive in a rapidly evolving world. This approach is particularly relevant in pedagogical training, especially in the context of vocal disciplines teaching.

The competence-based approach extends beyond mere knowledge transfer; it emphasizes the development of practical application skills. For future educators, this means not only possessing theoretical knowledge but also demonstrating effective communication, organizing the learning process, adapting to diverse educational situations, and fostering students' creative activities.

In academic settings, the competence-based approach serves as a transformative tool in education. Its primary aim is to cultivate and enhance personal and professional knowledge among future specialists. This modern educational paradigm enables students to build a comprehensive set of professional competencies. The underlying principle is that educational outcomes should encompass not only individual knowledge, skills, and abilities but also the capacity and readiness for effective and productive engagement (Ostapenko, 2015).

Implementing the competence-based approach involves restructuring the educational process to focus on activity-based learning. This approach transforms students from passive recipients into active participants who develop as individuals. It has proven effective in addressing educational and societal contradictions and has contributed to aligning education systems with global standards (Shevchuk, 2017).

A key advantage of the competence-based approach is its emphasis on developing a well-rounded set of skills that contribute to the holistic development of students. It integrates knowledge, abilities, and values, preparing graduates to be competitive in the labor market, where self-learning, critical thinking, teamwork, and effective communication are crucial.

In preparing future music educators, the competence-based approach is instrumental in cultivating essential professional competencies. Unlike traditional education systems that focused primarily on knowledge accumulation, this approach prioritizes the practical application and creative problem-solving abilities of students (Ostapenko, 2015).

For vocal educators, the competence-based approach facilitates the development of not only technical singing skills but also students' creative individuality, artistry, and emotional expressiveness. This demands that educators master diverse methodologies and engage in ongoing professional development. Furthermore, this approach enhances educational quality by focusing on achieving measurable learning outcomes, providing a more objective assessment of students' academic performance and their readiness for professional challenges.

The competence-based approach is crucial in forming communicative competence, which is fundamental to successful professional activity, especially for educators who must interact effectively with students, colleagues, administration, and parents.

Professional competence, as outlined by Sverdlyov and Rubtsova, includes several components: professional, social, personal, and pedagogical competencies. Professional competence involves in-depth subject knowledge, teaching methodologies, and an understanding of the educational environment. Social competence highlights the ability to collaborate and make responsible decisions, while personal competence emphasizes self-education and reflection. Pedagogical competence, which includes communicative skills and proficiency in information technologies, is integral to modern education (Kravets, 2023).

Pedagogical competence is particularly critical, encompassing communicative skills that enable educators to not only impart knowledge but also establish effective interactions with students and colleagues. Given its significance, it is essential to clearly define communicative competence and its development within professional training.

Communicative competence is a crucial aspect of a teacher's professional abilities, facilitating effective knowledge transmission, relationship building, and the creation of a positive learning environment. In contemporary education, where communication is vital to achieving educational goals, understanding communicative competence is increasingly relevant. This concept involves not only the ability to articulate thoughts clearly but also skills in listening, engaging in dialogue, arguing positions, and considering social and cultural contexts.

Kasyarum defines communicative competence as the ability to navigate pedagogical communication situations based on knowledge and sensory experience to address communicative tasks. It includes the readiness to understand one's own and others' motives and behavior strategies, as well as the ability to communicate effectively within business contexts to achieve professional objectives. Additionally, it encompasses mastering communication technologies that support effective knowledge transfer and create conducive learning environments (Kasyarum, 2019).

An examination of communicative competence various definitions reveals its multifaceted nature and significance in educators' professional activities. The complexity of this concept varies with different scientific approaches and research contexts, highlighting the need for further exploration. The table below summarizes key definitions of communicative competence from various researchers, illustrating it as a complex trait that integrates knowledge, abilities, skills, cultural norms, and personal qualities essential for effective professional interaction.

Table 1. The definition of communicative competence

Author	Main Idea About Communicative Competence
D. Hymes	Communicative competence is the knowledge of rules for understanding and creating the informational and social content of utterances.
O. Selivanova	Communicative competence is the ability to use linguistic knowledge, paraverbal means, norms, and rules of communication to effectively perform communicative tasks.

Author	Main Idea About Communicative Competence
S. Pochtyarov	Communicative competence is a set of communicative and organizational skills, including self-expression, argumentation, empathy, self-control, and communication culture.
L. Havrilyak	Communicative competence is a generalized communicative quality of personality, which includes knowledge, skills, and interpersonal communication abilities.
O. Kraievskaya	Communicative competence is an integral characteristic based on knowledge, experience, and motivation that allows communication to be conducted at a high level.
M. Halytska	Communicative competence is an integral quality of personality that combines general communication culture with professional manifestations.
I. Kohut	The communicative competence of a teacher is a conscious understanding of communication value for professional activity, including communicative knowledge, skills, ethical norms, and emotional intelligence.
O. Korniyak	Communicative competence is a component of basic competence necessary for performing complex professional tasks in diverse relationships and interactions.
N. Volkova and O. Lebid	The communicative competence of a teacher is an integral personal formation that ensures effective communication in professional activity through mastering communication technologies and enriching communicative experience.

Notes: Created by the author based on source Sypchenko, O., Haran, N., & Boiko, I. (2022).

To effectively cultivate future educators' communicative competence, it is essential to explore its structure, components, and development methods comprehensively. This involves examining both verbal and non-verbal aspects of communication, enhancing emotional intelligence, adapting to various communicative situations and audiences, and refining interpersonal interaction skills. Teachers must not only acquire professional knowledge but also master effective communicative strategies to ensure successful professional performance.

The analysis of scientific literature underscores the importance of two fundamental categories in understanding a teacher's communicative competence: pedagogical communicative competence and pedagogical communication. According to O. Borovets, pedagogical communicative competence is the outcome of mastering social experience, which develops gradually through personality growth. This process includes selectively assimilating others' experiences, imitating successful communicative models, and adapting interaction styles to identify the most effective forms of participation in communicative acts. A crucial aspect of this process is the teacher's personal experience in establishing communicative connections, which significantly contributes to their professional development (Borovets, 2016).

In the realm of professional-pedagogical communicative competence, several key components are essential for effective pedagogical communication. Research highlights the importance of a consistent need for diverse communication with students, the interplay of general human and professional elements of communicative competence, and emotional satisfaction throughout the communication process. Essential qualities such as cognitive, expressive, and managerial abilities are integral to a teacher's communicative competence, facilitating perception, understanding, influence, and emotional expressiveness. Developing these qualities enables teachers to perform their professional-pedagogical duties effectively,

including in pedagogical communication, which, while sharing general features with human communication, also has unique aspects. Pedagogical communication is closely tied to social needs and the ability to convey social and personal experiences. The success of this communication largely depends on the communicative competence of both teachers and students, influencing the effective exchange of knowledge and experience within the educational process (Borovets, 2016).

Given the critical role of communicative competence in teaching, clear structuring is necessary. Communicative competence, as a comprehensive personal characteristic, comprises multiple interacting components that underpin effective pedagogical activity. Without clear structuring, the fragmented development of these components may adversely affect overall professional preparation. Thus, communicative competence should be regarded as a multi-component system, where each element contributes significantly to effective communication in education.

Structuring communicative competence facilitates not only the organization of knowledge, skills, and abilities but also their targeted development during professional training. This structured approach enables teachers to navigate various pedagogical situations more effectively, adapt to evolving educational environments, and interact productively with students, colleagues, and parents. A well-structured communicative competence lays the foundation for developing other professional qualities such as pedagogical mastery, emotional intelligence, reflection, and innovative activity.

Based on an analysis of scientific literature on the structuring of communicative competence for future specialists, S. Haletskyi has proposed a structure of this competence consisting of several key components.

Table 2. The Structuring of communicative competence of future professionals according to Haletskyi

Component	Content	Detailed Description
Goal-Motivational Component	Level of interest and motivation to develop communicative competence	This component reflects personal interest in advancing communicative competence. It includes motivation to master modern information and communication technologies essential for effective communication and professional activity.
Cognitive Component	Systematic knowledge and skills in communication	This component encompasses systematic knowledge required for effective communication. It includes understanding communication, pedagogy, psychology, and social interaction mechanisms, along with personal qualities that support professional competence development.
Procedural-Technological Component	Skills and abilities to use communicative technologies	This component involves developing practical skills and abilities for effective communication. It emphasizes proficiency in modern information and communication technologies relevant to both learning and professional contexts.

Component	Content	Detailed Description
Reflective-Evaluative Component	Evaluation and self-reflection of the level of communicative competence	This component focuses on assessing the level of developed communicative competence. It includes self-reflection processes where individuals evaluate their communicative skills and their application in practice, with the assistance of information and communication technologies for evaluation and development.

Notes: Created by the author based on source Haletskyi, S. (2020).

This structure offers a comprehensive framework for developing communicative competence, which is crucial for effective professional communication.

Understanding how the structural components of communicative competence interrelate with the principles of its formation is vital for grasping its developmental process. Each component of communicative competence is intricately connected to specific principles that guide its effective formation and enhancement.

The Principle of Integrity emphasizes viewing communicative competence as a cohesive whole, where each component (goal-motivational, cognitive, procedural-technological, reflective-evaluative) interacts and complements the others. This principle ensures the balanced development of all components, preventing any single aspect from overshadowing the others.

The Principle of Continuity underscores the importance of ongoing updating and improvement of communicative competence throughout one's professional career. It is associated with the goal-motivational component, which drives continuous development, and the reflective-evaluative component, which supports self-monitoring and self-assessment.

The Principle of Individualization considers individual characteristics and needs in the communicative competence development. This principle relates to the cognitive and procedural-technological components, which must be adapted to the specific conditions and abilities of the individual.

The Principle of Activity Approach highlights the necessity of active engagement in real communicative situations to effectively develop competence. It is connected to the procedural-technological component, ensuring the practical application of communicative skills in various conditions.

The Principle of Reflection fosters awareness of one's actions and outcomes, promoting self-improvement. This principle is directly related to the reflective-evaluative component, which involves analyzing communicative activities and addressing areas for improvement.

These principles collectively facilitate the effective interaction of the structural components of communicative competence, fostering comprehensive development and professional growth.

In L. Nanyvska's research, additional principles are identified that further contribute to the formation of communicative competence. These principles enhance and broaden the general concept, offering a more detailed approach to competence development. The table below outlines these principles and provides a detailed description:

Table 3. Principles of communicative competence formation

Principle	Description
Objectivity	The formation of communicative competence relies on the accuracy of knowledge, achieved through the use of methods, techniques, and practices that provide an objective reflection of the surrounding world.
Determinism	The connection between professional preparation and the development of communicative competence, where professional experiences and growth influence the individual's communicative abilities.
Dialectical Logic	The application of dialectical thinking to outline the key paths of objective professional development, aiding in creating a logical sequence in the formation of communicative competence.
Truthfulness	Ensuring an accurate reflection of professional activities, which helps in forming a realistic understanding of professional requirements and communicative tasks.
Activity	The development of communicative competence through active personal engagement, involving deliberate efforts to improve communicative skills and abilities.
Specificity	The use of methods such as deduction, induction, integration, and syncretization to address specific aspects of communicative competence, tailored to practical needs.
Scientific Approach	Fostering a systematized scientific perspective that includes foundational scientific concepts, theoretical positions, and skills essential for professional growth.
Integrative Approach	Utilizing interdisciplinary connections to enhance the content of disciplines with practical tasks, leading to a more profound and comprehensive understanding of communicative knowledge.
Professional Mobility	Focusing on the ability of specialists to adapt quickly to various communication contexts, acquiring a set of self-educational competencies to meet professional challenges effectively.
Motivation	Establishing pedagogical conditions that encourage an active personal stance and the full realization of communicative potential.
Self-Organization	The importance of self-improvement, initiative, and the ongoing updating of knowledge and skills, contributing to professional growth and the enhancement of communicative competence.
Rational Combination of Work Forms	Balancing collective and individual learning methods to ensure a comprehensive approach to developing communicative skills and competencies.
Practical and Applied Orientation	Emphasizing the link between theoretical knowledge and its practical application to ensure effective professional activity and the development of essential communicative skills.

Notes: Created by the author based on source Nanyvska, L. (2020).

These principles enhance the formation of communicative competence by integrating scientifically grounded approaches and practical methods, thereby preparing highly qualified specialists.

Communicative competence fundamentally involves the exchange of information, emotions, values, and knowledge between individuals to achieve mutual understanding and influence behavior. It encompasses a range of professionally important qualities that ensure effective interaction in professional settings. For teachers, these qualities include empathy, reflection, fairness, tact, sociability, and flexibility. In the context of pedagogical activity, these

communicative attributes are essential for effective engagement with students, parents, colleagues, and management. They enable teachers to organize productive communication aimed at education, upbringing, and socialization.

Functions of Communicative Competence in Pedagogical Activity:

1. Educational: Facilitates the transfer of knowledge and skills to students through effective communication.
2. Developmental: Supports the personal growth and development of students through communicative interactions.
3. Upbringing: Helps to form moral and ethical values and behavioral norms in students.
4. Regulatory: Establishes behavioral rules and norms within the educational environment.
5. Diagnostic: Identifies students' needs, interests, and difficulties through communicative interactions.

Thus, communicative competence for teachers is more than just a set of skills; it is a fundamental aspect of professional activity, crucial for effective educational and developmental work.

CONCLUSION

The study of communicative competence formation in future vocal disciplines teachers reveals the critical role of a structured, multi-component approach in achieving professional effectiveness. By identifying the key components of communicative competence—goal-oriented motivation, cognitive-linguistic elements, procedural-technological skills, and reflective-evaluative aspects—this research underscores the importance of each element in shaping competent and effective educators. The findings highlight that communicative competence is not a singular skill but a complex, interconnected system that requires careful development across various domains. Communicative competence emerges as a fundamental aspect of professional training for future vocal teachers. This competence is an integrative personal quality that facilitates pedagogical activity and is developed through the interplay of cognitive, emotional, and behavioral components. To effectively cultivate this competence, it is essential to establish an educational and artistic environment that promotes empathy, musical reflection, and communicative skills.

The results of this research have significant implications for teacher training programs, particularly in the field of vocal disciplines. By adopting a systematic and principle-based approach to developing communicative competence, educators can enhance their methodologies to better prepare future vocal teachers for the complexities of pedagogical communication. The integration of identified principles and components into training curricula will ensure that future educators possess the necessary skills to effectively engage, instruct, and inspire their students. Training elements such as performance activities and vocal preparation play a pivotal role in nurturing communicative qualities. They enhance public speaking skills, refine speech techniques, and improve self-presentation. Key aspects of a successful music educator's role include the ability to provide constructive feedback, engage effectively with students, and adapt to their diverse needs.

Thus, communicative competence is crucial for ensuring a high-quality pedagogical

process in music education. It fosters a supportive environment that encourages students' creative development and sustains effective interaction within the educational community. In conclusion, the formation of communicative competence among future vocal discipline teachers is a dynamic and ongoing process that requires a holistic and strategic approach. By embracing the principles and components outlined in this study, educational institutions can foster a new generation of vocal teachers who are not only skilled in their craft but also capable of meaningful and impactful communication. This, in turn, will contribute to the overall effectiveness and success of music education program.

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PROBLEM ISSUES OF LEGAL REGULATION OF DIGITAL CONTENT IN SOCIAL NETWORKS: A COMPARATIVE ANALYSIS

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ABSTRACT. The article is devoted to the study of the concept of digital content, its legal nature and relationship with other concepts in the civil law of Ukraine. The article emphasizes the relevance of this topic in view of the active expansion of the influence of information technologies and social networks on human relations. The article analyzes various scientific approaches to defining the concept of „digital content”, its relationship with a digital thing. It is based on the norms of European law and the legislation of Ukraine, in particular the new law „On digital content and digital services”. It was determined that it does not fully regulate problematic legal relations. Arguments are presented that confirm that digital content cannot be considered a thing. In contrast to this, the author introduces the concept of „account” into the study and, using the concept of a broad understanding of things, expresses the position that accounts in social networks should be included in the category of things. Problematic issues of using accounts are given, which include, in particular, establishing the right of ownership of an account, inheritance of accounts, etc. To emphasize the relevance of the study, the judicial practice of Germany was used. A conclusion is made about the insufficiency of the development of the analyzed issues, as well as about its complexity and importance in view of the emergence of a large number of new legal relationships on the Internet.

Keywords: digital content, digital service, digital thing, account.

INTRODUCTION

The processes of digitization and informatization are currently constantly developing and implemented in all spheres of human life without exception. Various objects of the digital space have long gone beyond purely technological perception, because they acquire economic value. In this connection, new social relations are formed, previously unknown to the law and, accordingly, not regulated by it.

Also insufficiently researched is the phenomenon of social networks, which have ceased to serve purely as platforms for communication, their influence is growing and transforming. The range of problematic issues that arose in connection with this is very wide, because social networks are the result of the projection of real communication models onto the virtual plane.

Among the most problematic relations, one can note the relations related to the circulation of digital content and the provision of digital services. The relevance of this topic is primarily related to the fact that digital content is produced in one form or another by each of us every

day, this entire array passes from one user to another, solves some set tasks, or closes pain. This circulation of data in the digital environment has its own specificity and features.

The purpose of the study is to define the concept and reveal the problematic aspects of the legal nature of digital content in social networks, analyze the legal framework and formulate points of development of legislation in this area.

Among the scientists who worked on the development of doctrinal approaches to the above-mentioned issues, we can single out A. S. Slipchenko and S. O. Slipchenko (2020), Y. Michurin, (2023), Kroytor, V (2023, who devoted a separate dissertation study to this topic..

METHODS AND MATERIALS

To fully disclose the topic of the article, an analysis of domestic legal acts was used („On digital content and digital services”, „On copyright and related rights”, „On information”, the Civil Code of Ukraine and documents adopted in the European Union) (Verkhovna Rada of Ukraine, 2023a, 2023b, 2023c, 2023d).

The dialectical and system-functional research methods became the basis of the methodology. A comparative legal method was used to compare doctrinal definitions, outline common and distinctive features. The logical method was used in writing, structuring and design of thoughts, the formulation of conclusions was made using the methods of analysis and synthesis.

RESULTS AND DISCUSSION

Until recently, there was no definition of „content” in Ukrainian legislation, and this posed a significant problem for understanding and regulation. Directive 2019/770 of the European Parliament and of the Council (EU) of May 20, 2019 on certain aspects related to contracts for the supply of digital content and digital services became an important regulatory act in the international legal sphere, which fixed the concept of digital content.

The adoption of this document is a significant step towards the harmonization of law with objective processes in the digital sphere, which ensures adequate functioning of the latter. It was aimed at solving a number of important issues, such as protection of rights and guarantees for consumers of digital content, rights and obligations of the performer and consumer, rules regarding the content of digital content, conformity of digital content or digital service with the contract, legal remedies in case of lack of such conformity or failure to provide and how to exercise these remedies, as well as rules regarding the modification of digital content.

Thus, Article 2 defines that „digital content” means data that is created and provided in digital form. It is also necessary to pay attention to the fact that the Directive separately defines the concept of a digital service, which is a service that allows the consumer to create, process, store or access data in digital form; or a service that allows data to be exchanged in digital form or created by a consumer or other users of that service.

The appearance of the Directive also stimulated domestic law-making processes, because in view of the obligations to ensure the gradual adaptation of legislation to the EU acquis,

taken by Ukraine as a result of the ratification of the Association Agreement with the European Union, the European Atomic Energy Community and their member states, our state had to react by developing the relevant act (2014).

On March 2, 2024, the Law of Ukraine „On Digital Content and Digital Services” entered into force, aimed at regulating the relationship between the performer and the consumer regarding the provision of digital content or a digital service.

It is advisable to start the analysis of the term „content” with the fact that this word comes from the English language and means „content, essence”. In the scientific literature, there are different definitions of this concept. H. M. Stakhira in his research concludes that „digital content is an object of civil legal relations, a set of data that is created, generated, supplied and stored in digital form, with the exception of data that is the subject of contracts in the field of providing financial, legal and financial advisory services in electronic form, electronic medical services, as well as services providing electronic connection, gambling”.

Thus, according to V. S. Milash (2017), digital content in the broadest sense is the content and information content of a site, in particular texts, pictures, music and video, placed on an information resource, i.e., it is information embodied in a special form and placed in a special sources

The above-mentioned definition in terms of recognition of digital content as information must be analyzed through the prism of information legislation. Information - any information and/or data that can be stored on physical media or displayed in electronic form. The Civil Code relates information to objects of civil law, namely to intangible goods, and determines that objects of civil rights can exist in the material world and/or digital environment, which determines the form of objects, features of acquisition, exercise and termination of civil rights and responsibilities regarding them.

At the same time, there is a debate among scientists regarding the definition of the legal nature of digital content, which is very important for effective legal regulation of its circulation.

According to one of the scientific approaches, it is customary to attribute digital content to intangible goods, which include both information and the results of intellectual and creative activity. This position is motivated precisely by the intangible nature of this object, as well as the fact that digital content is a qualitatively new result of creative activity and is characterized by uniqueness, that is, it is an idea that finds its expression in a certain objective form and does not depend on a material medium (Kroytor, 2023).

Another category of scholars advocates understanding digital content as a thing. Among the reasons for understanding a digital object as a thing are the following: digitization, which results in the appearance of intangible objects that have property value; the practice of the European Court of Human Rights, where the rules on ownership apply to property in a broad sense, i.e. to objects that have property value.

It is worth noting that the concept of a broad definition of a thing is formulated in the doctrine. According to the Civil Code, it is customary to divide objects of civil law into tangible and intangible goods, and this division is exhaustive, that is, an object cannot belong to both categories at the same time. Turning to the provisions of Roman private law, the division of things into corporeal and incorporeal is analyzed. This involves the application of legal

fiction, that is, the extension of the legal regime of a thing to an object that does not have a material expression.

A.S. Slipchenko (2020) disagrees and is an opponent of this concept, noting that the criterion for dividing goods into material and immaterial is the physical nature of one or another good, the same criterion was set in Ancient Rome for the division of things into corporeal and incorporeal. Thus, what in Roman law was called corporeal and incorporeal things, in domestic law is denoted by the words „material and immaterial goods.” The scientist emphasizes that the modern conceptual apparatus is an expression of greater legal abstractions compared to Roman private law. After all, intangible goods today include not only property rights and services, but also the results of intellectual and creative activity, information, and personal non-property goods.

The concept of a broad understanding of a thing, in our opinion, can exist in the context of the emergence of new objects of civil law and legal relations that exist in the virtual dimension. Things are one of the most common types of objects of civil rights in civil circulation. It is impossible and impractical to establish an exhaustive list of things in the current legislation of Ukraine. The constant development of scientific and technical progress and the growth of people’s needs cause the constant emergence of new and new varieties of things. Relations between the participants of civil relations, which arise in connection with things (as well as other objects of civil rights), objectively need to be regulated. The order of legal regulation of civil relations in relation to the corresponding type of things, determined by a certain set of methods and means of regulatory influence established by legislation, is called the legal regime of things. But the application of the above concept to the concept of „digital content” seems unjustified and contradictory.

Things are one of the most common types of objects of civil rights in civil circulation. It is impossible and impractical to establish an exhaustive list of things in the current legislation of Ukraine. The constant development of scientific and technical progress and the growth of people’s needs cause the constant emergence of new and new varieties of things. Relations between the participants of civil relations, which arise in connection with things (as well as other objects of civil rights), objectively need to be regulated. The order of legal regulation of civil relations in relation to the corresponding type of things, determined by a certain set of methods and means of regulatory influence established by legislation, is called the legal regime of things.

Analyzing the changes made to the Central Committee in connection with the adoption of the new law, it can be concluded that the legislator has already made an attempt in one way or another to fix the category of incorporeal, namely digital thing. According to Article 1791 of the Civil Code, a digital thing is a good that is created and exists exclusively in the digital environment and has property value. A digital thing is virtual assets, digital content and other goods.

The specifics of the legal regime of digital things are determined by a special law. The analysis of the Law of Ukraine „On Digital Content and Digital Services” makes it possible to conclude that its norms partially duplicate the provisions of the above-mentioned Directive, in particular regarding the definition of terms, as well as the sphere of relations to which this law applies. It is also established that the concept of „digital content” covers computer

programs, applications, video files, audio files, music files, digital games and e-books.

The provision of digital content or a digital service to the consumer takes place after the conclusion of the contract within a reasonable period of time, without undue delay. The obligation to provide is considered fulfilled if the digital content (digital service) or any means that enable access to the digital content or its download become available to the consumer directly or with the help of a physical or virtual device chosen by the consumer for such purposes.

Subjective and objective criteria for compliance of digital content are established by law. These are description, quantity, quality, interoperability, compatibility, usability, availability of all necessary applications and instructions, provision in the latest version. However, the provisions of the law on subjective and objective criteria essentially only extend each other, but do not differ in content.

A separate section of the law is devoted to the legal consequences of the violation of the contract for the provision of digital content and/or digital service. The performer is responsible for any violation of the obligation to provide digital content and/or digital service. It was determined that the burden of proving the appropriateness of the provided content rests with the performer. The right of both the consumer and the executor to withdraw from the contract, as well as the legal consequences of such withdrawal, are enshrined. There are regulations that regulate the protection of consumer rights, as well as liability for the violation of these rights in the form of a fine.

It is worth noting that the law does not define the consumer's responsibility for breach of contract in any way, and there are no regulations regarding the form and content of the contracts themselves, the procedure for concluding them. We believe that these gaps significantly affect the relationship regarding the supply of digital content, and, taking into account the specifics of these contracts, it would be appropriate to fix their essential conditions, such as the subject, parties, price, term.

Investigating the essence of a digital thing, A.S. Slipchenko and S.O. Slipchenko (2020) come to the conclusion that the existing definition actually overlaps with concepts already available in civil law: the result of intellectual and creative activity, information, property rights, non-cash money, undocumented securities, services, personal non-property goods, etc.

The only common feature scientists single out is the digital form of their embodiment, which does not change its essence, as well as the essence of the digital thing as a whole. It was concluded that the legal nature of the above-mentioned concepts makes it impossible to apply provisions about things to them, and therefore these provisions cannot be applied to digital things.

This position is fully justified, moreover, the definition of digital content as a thing gives rise to a number of contradictions and problematic issues in legislation.

First, the impossibility of using the Law of Ukraine „On Copyright and Related Rights” for the provision of digital content or digital services. The main category of this law is the work. If we compare the concept of „work” and the concept of „digital content”, then the most reasonable and logical opinion is to understand them as essence and form. That is, the content acts as an external expression of a person's creative and mental activity, independent

of the material medium. The Law of Ukraine „On Digital Content and Digital Services” does not regulate the protection of the rights of the content creator in any way. We would like to emphasize that when concluding each contract for the supply of content, the interests of both consumers and performers-creators, as well as other persons who own certain property copyrights, must be taken into account.

In addition, the Law of Ukraine „On Copyright and Related Rights” already defines some concepts that are directly related to the definition of „digital content”. Such concepts include the following: website, web page. The relationship between the content and, for example, the web page on which it is placed, as well as the presence or absence of any rights to it from the owner of this web page, remains unregulated in any way (Prokopenko, 2021).

Thirdly, there is a draft Law of Ukraine „On Virtual Assets”, in which a virtual asset is defined as an intangible good that is the object of civil rights, has a value and is expressed by a set of data in electronic form. That is, this draft law already conflicts with the Civil Code and the Law of Ukraine „On Digital Content and Digital Services”, which classify virtual assets as digital things.

All of the above-mentioned facts make it possible to conclude that the legislator made a false step in assigning digital content to the category of things. Instead, there is another phenomenon of the virtual world, the closeness of the legal nature of which to the legal nature of the thing is still overlooked. It is about an account in a social network, in other words an account.

Account – formalized in accordance with Internet standards, a record on computer equipment (computers, servers) connected to the Internet, which identifies a user (for example, the owner of a website) on such equipment, contains data on access to part of the directories and computer program, computer equipment, and also defines the rights of such access, which enable the account holder to add, delete, change the digital content and data of the website, provide access to the website or its part, individual data to other persons , terminate the operation of such website or part thereof within the account.

Nekit K. G.’s social network account defines a personal page on which the user posts personal information, uploads video, audio and other materials, through which he conducts correspondence with other persons, and which can be managed only after the authorization procedure by entering the appropriate login and password.

If we support the comparison of the previously analyzed concepts with logical categories, namely, to determine that the work as an object of civil law is the essence, digital content is the form of its embodiment, then the account itself can be considered as a material incorporeal object that has property value. In other words, it is the account that falls under the actual definition of a digital thing according to the Central Committee.

In view of this, it is necessary to investigate the necessity and possibility of applying to the account in social networks the provisions about things, namely regarding the right of ownership, deeds.

It is known that the components of the right of ownership are three powers: possession, use and disposal. In this sense, digital ownership, unlike traditional ownership, is not exclusive – several people can own an object at the same time (that is, have control over this object). Thus, in the case of social networks, providers are those entities that also own

accounts at the same time as users.

If within the framework of traditional property relations, the owner satisfies his interests with his own actions, which allows them to be characterized as real, the specifics of virtual property relations are determined by the obligation between the provider and the user. Because the owner can independently use his virtual property and satisfy his interests without the help of others, but in order for him to be able to exercise this right, it must first be provided by the provider, who must constantly ensure the owner's access to the object belonging to him for the purpose of use by him. This again returns to the question that in the case of establishing virtual property, two types of legal relations arise - absolute property relations between the owner and third parties, and relative obligations between the owner and the provider.

In addition, the authority to dispose of an account (account) acquires its specificity because, unlike real-world objects, the alienation of virtual objects requires the assistance of the developer. That is, developers must ensure the transfer of virtual property from one person to another in the event of an act of alienation of such property. The issue of managing an account is acutely relevant, because the relations of sale and exchange of accounts objectively exist, but remain in the shadows both from the providers of social networks themselves and from legislative regulation.

The issues of leaving the account as an inheritance to other persons, the right of spouses to jointly own the account and its subsequent division also remain unregulated.

In this context, it is impossible not to mention the case that was considered by the Federal Supreme Court of Germany back in 2018. The legal process was initiated by the parents of the deceased 15-year-old girl with a demand to give them access to her page in order to find clues as to whether the girl could have committed suicide. At that time, the Facebook social network had already transferred her page to the so-called memorial status after an anonymous user reported her death. Because of this, parents could no longer see the page in its previous form.

Facebook justified its refusal to share the data from the deceased's account with the parents by the fact that it also concerns other people. After all, for example, the girl's interlocutors in the chat assumed that only she would read their correspondence, so if it is now read by a third party, it will violate their right to the protection of personal data. A lower court allowed the social network not to give parents access to their daughter's private correspondence. However, the Federal Supreme Court decided that the interests of the heirs of the deceased have more weight than the protection of the data of third parties.

In deciding to give parents access to their daughter's Facebook page, German judges rejected the argument of representatives of the social network that parents can actively use the account of the deceased in this way. As noted in the decision of the Federal Supreme Court, there is nothing to indicate that the parents had such an intention. In passing the decision, the court concluded that the digital inheritance of a deceased person, as well as his wealth or real estate, belongs to his heirs.

The court points out that in the event of the user's death, Facebook maintains contractual obligations regarding the continuous transfer of data and maintaining the confidentiality of communication, as well as ensuring the technical possibility of continuous access to the

user's data stored on the server.

It should be noted that social networks themselves have certain algorithms for determining the fate of an account in the event of a person's death. Thus, Meta Corporation, within its Facebook product, provides an opportunity to specify a person who will receive a rather limited range of actions with the data on the account in the event of the death of the latter user. Such an account receives the status of a „memorial account“, and the person who received access to this account according to the deceased's will cannot change either the name or the surname in the account of the deceased, no one can write posts on behalf of the deceased. Facebook will no longer recommend adding a person as a friend or wishing them a happy birthday. However, loved ones will still be able to see old posts and photos. Apple allows loved ones of the deceased to request access to or deletion of their Apple ID and the data stored in it. However, the existence of the above-mentioned tools does not indicate the existence of the phenomenon of „account inheritance“ in the sense of civil legislation.

CONCLUSION

So, the multi-aspect research conducted by us makes it possible to conclude that the legislative regulation is significantly lagging behind the emergence of new objects of civil law and the formation of new relations. Scientific developments related to digital content and digital things exist, but there is still no single approach to defining the fundamental starting points, such as the legal nature, place among other objects of civil law and the relationship with them.

The adoption of a new special law and amendments to the Civil Code of Ukraine are really necessary steps to harmonize our legal system both with European law and with objective reality. However, the analysis of these innovations shows that they were developed unsystematically. The provisions regarding the digital thing are inconsistent with already existing approaches to defining other objects of the virtual world, and are also very specific.

An important conclusion that had to be made during the research is that the problem is not limited to the absence of any one definition in the legislation or one law. Every day, the Internet begins to duplicate all existing social relations without exception into the digital plane. This means that in order to fully control these processes and ensure fundamental human rights and freedoms, it is necessary to approach their regulation in a comprehensive manner. This direction should be a priority for both legislators and legal scholars.

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CRIMINAL LIABILITY FOR VIOLATION OF THE PROCEDURE FOR CARRYING OUT INTERNATIONAL TRANSFER OF GOODS SUBJECT TO STATE EXPORT CONTROL AS ONE OF THE MEANS OF ENSURING COLLECTIVE INTERNATIONAL SECURITY

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ABSTRACT. The article makes it clear that a breach of a procedure for carrying out the international transfer of goods that are subject to national export control may be harmful to the national security of the state itself. This is why it is necessary to criminalize violations of international transfers of items under state export supervision. Different groups of factors influencing criminalization are revealed. Within the framework of the study, a review of the literature regarding the violation of the basic principles of criminal law and the factors which are the conditions of its introduction was conducted. Court practice materials were studied. It has been established that the criminal offense provided for in Art. 333 of the Criminal Code of Ukraine cannot be understood as a 'pure international convention', since the feature determining the violation of the regime of international transfers of goods subject to state export control is a sign. This is not a factor that arises from Ukraine's international treaties. Except for specific acts defined by the Convention on the Prohibition of the Development, production, stockpiling, and use of chemical weapons and their destruction.

Keywords: criminal liability, criminalization, export control, national security, international transfer.

INTRODUCTION

The establishment of an efficient system of measures for state oversight of operations is linked to the necessity of criminalizing breaches of the protocol for international commodities transfers. The connection of government control of exports is linked to the international transfer of goods. Especially, by establishing in national legislation not only control but also safety standards. This subject is highly pertinent in contemporary

circumstances. Consequently, the principles emphasizing Ukraine's national interests in state policy on export control should be created in accordance with political, economic, and militaristic considerations, the protection of which is vital for preserving national security. The defense of the sovereignty and territorial integrity of Ukraine, and ensuring its economic and information security are the most important tasks of the state, and the business of the entire Ukrainian people. Economic security is carried out by implementing effective measures aimed at eliminating or minimizing external and internal threats to Ukraine's economic potential, whose fundamental national interests include the sustainable development of the national economy, civil society, and the state to ensure the growth of the population's level and quality of life. Such measures include, in particular, the mechanism of state coercion, which is realized through the strictest type of legal responsibility - criminal. It is established for committing socially dangerous acts that infringe on the established order of economic activity and inviolability of state borders, including the order in export control. Effective export control over transfers of military and dual-use goods and the provision of relevant services in any state is one of the means of ensuring national security and fulfilling international obligations in the field of collective interstate security, which is due to such factors as international terrorism, the emergence of quasi-state territorial formations under the control of terrorist organizations and the creation and active involvement of private military companies in military conflicts.

MATERIALS AND METHODS

Distinguish issues about criminal liability for breaches of established procedures; concurrently, certain provisions concerning military globalization necessitate novel approaches to comprehending their essence, thereby warranting the identification of several new avenues in the evolution of the problem.

The process of the scientific study used theoretical, general scientific, and specific methods. Particularly, analysis, synthesis, deduction, induction, generalization, formalization, abstraction, and modeling should be included among the theoretical general scientific methods that became the basis for the preparation of all subdivisions of the dissertation research. The methods used in the study of the grounds for criminalization of violation of the procedure for carrying out international transfers of goods subject to state export control and the practice of imposing punishments for these criminal offenses. The first one is historical, followed by statistical. The systematic method was applied when studying the procedure for international transfers of goods subject to state export control as a subject of criminal law protection. The study of foreign experience in the regulation of criminal liability for violation of the procedure for carrying out international transfers of goods subject to state export control was carried out using the comparative legal method.

RESULTS

State export control is a complex of measures to control international transfers of goods, and their use by a legal entity or an individual, carried out by the central body of executive power, which implements state policy in the field of state export control, and by other

state bodies to ensure the protection of the interests of national security and by Ukraine's international obligations. In particular, violations of the requirements of legislation in the field of state export control are:

1) international transfers of goods without obtaining permits, conclusions or guarantee documents in the prescribed manner, or carrying out such transfers on the basis of permits, conclusions or guarantee documents obtained by submitting forged documents or documents containing inaccurate information;

2) concluding foreign economic agreements on international transfers of any goods or participating in their execution in a manner not permitted by this Law, if the business entity has knowledge that such goods may be used by a foreign state or foreign economic entity for the purpose of creating weapons of mass destruction or means of their delivery;

3) carrying out the international transfer of goods, even if the company has learnt that the goods will be handled for a different destination or by a different end-user from that specified in the contract, which is the basis for obtaining an international import certificate;

4) deliberate concealment of information that is important for deciding the issue of granting a permit, opinion or international import certificate;

5) carrying out international transfers of goods in violation of the conditions specified in permits, conclusions or international import certificates, including after making changes to a foreign economic agreement (contract) without the consent of the central executive body that implements state policy in the field of state export control, concerning the names and requisites of exporters, importers, intermediaries and end consumers, as well as the names of goods, obligations about their final use and provision of relevant guarantee documents;

6) conducting negotiations related to the conclusion of foreign economic agreements regarding the export of goods, the delivery of which is subject to a partial embargo to the relevant foreign state, based on the international obligations of Ukraine, without receiving the appropriate positive conclusion of the central executive body, which implements state policy in the field of state export control;

7) not submitting or not timely providing to the government authority carrying out the state policy in the area of national export control of statements and appropriate papers containing reports and relevant documents on the results of investigations referred to in paragraph 8 of this Article (Art.), as well as on the effective display of exports and imports of items on the basis of permits, reports or international import certificates obtained, of received permits, conclusions or international import certificates, and on the use of these goods for the stated purposes;

8) obstructing the performance of official duties by officials of the government export control and others, in the course of their professional responsibilities, or failing to fulfil legal obligations imposed on such persons;

9) groundless refusal to provide information and documents required by the central executive body that implements state policy in the field of state export control, or by another state body that carries out state export control within the limits of its powers, their deliberate distortion or concealment;

10) deliberate destruction of documents related to the conclusion and execution of foreign economic agreements (contracts) regarding the implementation of international transfers

of goods, on the basis of which permits, conclusions or international import certificates were obtained, before the end of their storage period.

International security is the state of protection of international relations from external and in certain cases internal threats, which is characterized by such features as 1) recognition of sovereignty and equality between states; 2) availability of international cooperation; 3) resolving the contradictions between states through peaceful settlement; 4) adherence to the basic principles and generally recognized norms of international law in its context. (O.D. Zverev, M.I. Prykhnenko 2022, p. 27-32).

Several scientific ideas on the nature of criminal responsibility were developed in the national criminal law doctrine, specifically:

- 1) as the application of a sanction;
- 2) penalty;
- 3) an obligation to endure certain restrictions;
- 4) a special type of legal relationship. In addition, scientists formulate more general, that is, those not due to the generic object, the determination of the direct object of violation of the procedure for the implementation of international transfers of goods subject to state export control.

In particular, according to Popovich, the direct object of the violation of the procedure for the implementation of cross-border transfers of the items subject to state control over exports is the established procedure for the implementation of cross-border transfers of the items subject to state control over exports. (V.M. Popovich 2022, p. 319 c.).

At the present stage, export control is an integral part of trade and entrepreneurship, which, as Gura and Novitsky, rightly note poly". (V.L. Gura, V.A. Novitsky 2021, p. C. 16-19).

This view on implementing criminal responsibility aligns with the third phase of „direct” criminal accountability, marking when the guilty verdict is officially upheld and enforceable.

Understanding the implementation of criminal responsibility is more valid because the division of it into steps encompasses different aspects. Consequently, if someone transgresses the procedure for transferring commodities abroad that are governed by state export control this person may 1) be released from criminal prosecution; 2) be punished with the possibility of release from serving, and 3) be punished with no possibility of release from serving.

From the materials of court practice, only a small part (9 judgments out of 100 researched court decisions for 2019-2022) can be considered as an exemption from prosecution with no penalty for violation of the procedure for export transfers under export control. Moreover, in 7 cases (7 decisions) exemption from criminal liability was carried out based on Art. 47 of the CCU concerning a person being placed on bail (reyestr.court.gov.ua/Review/104783229). In all of the above cases, the defendant has been in labor relations with the collective, which submitted a request for the transfer of the person to bail, the prosecutor did not object to the satisfaction of such a request. Regarding the right of a court to exempt a violator from criminal liability on the bail of the labor team, the case held by a court in the Volyn region of the Luboml district should be mentioned. The court examined a collective application for the exoneration of PERSON_4, the service and maintenance engineer of COMPANY_1. Thus, the court held that a violator can exercise this right provided he or she assures the

court of changing his or her social conduct by interacting with the public actively. The court referred to the fact and it can contain the next items: 1) a first-time offender; 2) the acts belong to a pennal offense, which is a misdemeanor or a low-level felony; 3) the actions do not relate to bribery offences or violations of road safety rules; 4) someone who committed the crime sincerely repented; 5) the collective of an enterprise is willing to accept someone as a surety and has applied to the court with a corresponding request; 6) someone who has no objection to the closing of the penal action; 7) conditions of bail are compliance with educational measures and compliance with public order determined by the team of the enterprise, institution or organization taking the person as bail. Additionally, the court determined that the criminal offense specified in Art. 12 of the Criminal Code of Ukraine (CCU) is not a serious crime and does not involve corruption (see Art. 45 of the CCU) or violations of traffic safety regulations. Additionally, the accused sincerely apologized for his actions, acknowledged his guilt, and expressed disapproval of the harm he had caused. In light of the aforementioned, the court determined that, following Art. 47 of the CCU, PERSON_4 was released from criminal liability for committing a crime as defined in section 1 of Art. 333 of the CCU, based on Art. 47 of the CCU in connection with his bail to the labor team of LLC „VB UKRAINE”, if he, within a year from the day of it, fulfills the trust of the team, does not avoid and violate educative programs in public order (register. court. gov.ua/ Review/96054894).

In two instances, a change in circumstances was linked to an exemption from criminal culpability. Specifically, Russia’s aggression against Ukraine was the primary driving force behind the Ripkinsky district court of the Chernihiv region’s judgment in case No. 743/1392/21 to exonerate the defendant from criminal accountability following Art. 48 of the CCU. February 24, 2022, in the resolution dated June 6, 2022. The court declared: „Presidential Decree No. 64/2022 imposed martial law after the Russian Federation initiated a military attack against Ukraine”. The established group, including PERSON_4, bought military-use items that were in demand at Ukrainian defense companies on Russian Federation territory.

These items were then concealed as other items, specifically parts and components for different kinds of equipment, and transported to Ukraine across the Republic of Belarus border, where they were purchased by economic entities controlled by a special group. It has to be noted that by executing the plan to import klystrons from the area of the Russian Federation via the Republic of Belarus to the territory of Ukraine, the chargers who had taken actions to reduce the defence potential of the hostage country and to improve the defence potential of the Armed Forces of Ukraine because companies who manufactured and repaired air defense systems were to buy the klystrons. According to Art. 11 of the CCU, a criminal offense poses a risk to the public when it causes or has the potential to inflict serious harm to a person, organization or the government. PERSON_4’s actions during the war between the Russian Federation and Ukraine, which included the provision of military supplies to Ukrainian defense companies, did not and could not cause damage to any person or to the public and the country.

Therefore, it can be said things have changed and that PERSON_4’s action is no longer a public danger. In addition, PERSON_4 is charged with the crime provided for in Part 2

of Art. 333 of the CCU, by Art. 12 of the CCU is not difficult. Taking into account the stated circumstances, the court holds that there are bases, specified in Art. 48 of the CCU, to release the accused PERSON_4 criminal liability related to the changed situation”.

Another basis for issuing a decision on exemption from prosecution under Art. 48 of the CCU is the loss of a person who is a danger to the public. The judgment rendered in case No. 584/868/20 by the Putivl District Court of the Sumy Region on July 17, 2020, serves as an illustration of this. It found that the accused „PERSON_4 committed a felony for the first time, which, based on art. 12 of the CCU, is a crime of medium gravity, he has not been held criminally liable before, he no longer serves as the head of the SEIM PVP, what he did was no longer a threat to anyone, but now he is a disabled person of the second group and his health has deteriorated due to burns on his limbs, which is confirmed by medicine documents, i.e. there are reasons to believe that due to the change in situation, he is no longer a person at risk of social disadvantage. Conviction that exempts from serving the sentence was due to the expiry of the statute of limitations (Art. 74, 49 of the CCU) and exemption from serving a sentence with probation (Art. 75 of the CCU) (8 sentences) (1 judgment). The fairly small share of exemptions from serving a sentence with probation (Art. 75 of the CCU) is explained by the fact that the courts applied exemption from serving a sentence with probation in the case of imposing punishments in the form of restriction of liberty and deprivation of liberty, which, as can be seen from the next subsection, is only an insignificant share compared to the application of punishment in the form of a fine, which is most often imposed by the courts.

When deciding on the exemption from serving a sentence with probation (Art. 75 of the CCU), the following factors were considered by the courts: 1) seriousness of the offense - violation of the law regulating international transfers of items controlled under state export control is a petty offense; 2) information about the accused's identity, such as the lack of a criminal record, favorable characteristics by place of residence, and employment; 3) the existence of mitigating circumstances, such as genuine regret, active assistance in solving the crime, and refraining from causing harm; and 4) the absence of circumstances that would have increased the accused's punishment. It is evident from five of the eight sentences that a plea deal reached between the defendant and the attorney and accepted by the court allowed for an exemption from serving a term with probation (reyestr.court.gov.ua/Review/90128597).

The September 15, 2022, decision in case No. 1-681/11 by the panel of judges of the Lviv Court of Appeal's criminal trial chamber, provides an example of an exemption from serving a sentence because the statute of limitations has passed. Thus, the decision of the Railway District Court of Lviv of 27 November 2015, by which PERSON_6 was found guilty of the criminal offense referred to in Part 1 of Art. 333 of the CCU, the sanction of which, in the wording valid at the time of its commission, provided for punishment in the form of a fine from one hundred to two hundred NMDH or restriction of freedom for a term of up to three years, or deprivation of liberty for the same term, with deprivation of the right to hold certain positions or engage in a certain activity for a period of up to three years or without such, from which it follows that the indicted criminal offense is a juvenile crime, concluded that more than four years had gone by since the day it was commissioned. Due to Clause 3, Part 1,

Art. 49 of the CCU, a person is released from criminal liability if five years have passed from the day he committed the criminal offense to the day the sentence becomes final - in the case of a minor crime, except for the case provided for in clause 2 of this part. The Lviv Court of Appeal determined to exempt PERSON_6 from serving the sentence following Part 5 of Art. 74 of the CCU in light of the aforementioned circumstances and the statute of limitations' expiration. (reyestr.court.gov.ua/Review/106302163).

DISCUSSION

At the same time, it is necessary to pay attention to the limited number of criminal legal studies, and, as a result, the presence of issues that are debatable or insufficiently researched. We believe that such issues can be attributed to the legal nature of the contravention of the order of the procedure for carrying out international transfers at the export control of goods, the social conditionality of the criminalization of this act, and the relationship between actions that result in administrative and criminal liability, foreign experience in regulating criminal liability for violation of the order of international transfers goods, a description of the elements of the criminal offense under consideration in the criminal law. The above substantiates the relevance of the research topic and the importance of a comprehensive study of criminal liability for violation of the order of international transfers of goods subject to state export control.

The concerns surrounding the primary direct object of the infringement of the protocol for executing international transfers of goods subject to export control, as dictated by legislation, remain contentious; the potential for designating an optional supplementary direct object of a criminal offense under Art. 333 of the CCU, which pertains to public relations in the domain of national or public security and international order, arises in instances where procedural violations constitute an encroachment on national or public security and international law.

Divergent opinions regarding the specifics of foreign experience in enforcing accountability for transgressions of the process for carrying out international transfers of products subject to state export control, including: 1) the absence of a general rule that would provide for responsibility for the specified act; 2) criminalization of only individual acts that are violation of the order of international transfers of goods subject to state export control, in particular, smuggling of objects, the movement of which is subject to special rules, including state export control; 3) relatively non-common regulations on liability for the illicit export of technologies, scientific and technical data, and services that can be used to create WMDs, their delivery systems, weapons, and military hardware for which special export controls are in place, as well as on illegal entrepreneurship in terms of breaking license terms when engaging in activities involving products controlled by special (state) export laws; 4) in individual states, the responsibility for violation of the procedure for the implementation of international transfers of controlled goods is determined by separate acts, which combine the provisions on different types of liability, except for criminal-civil law and administrative.

There has been substantial discussion over the position of penalties for breaking the law with regard to the international transfer of products that are subject to state export control. It has been established that the majority of the most severe penalties imposed, including those agreed upon by the parties involved in a plea agreement, are fines; the absence of a

general norm; criminalization of only certain acts that constitute a violation of the order of international transfers of goods subject to state export control, in particular, smuggling of objects, the movement of which is subject to special rules, including state export control; the relative infrequency of norms on responsibility for the illegal export of technologies, scientific and technical information and services that can be used in the creation of weapons of mass destruction, means of their delivery, weapons and military equipment and in respect of which special export control has been established, as well as on illegal entrepreneurship in violation of licensing conditions when carrying out activities with goods subject to special (state export) control.

CONCLUSION

It can be seen from the above that such forms of implementation of criminal liability as exemption from criminal liability without imposition of punishment and imposition of punishment with the application of exemption from serving punishment constitute practically equal shares in the method for enforcing criminal penalties for breaking the rules governing international trade in products that are subject to state export control.

Instead, the quantitatively largest share is the imposition of punishment with its subsequent execution (service). The public risk associated with the breach of international goods transfer regulations, subject to state export control, extends beyond the deterioration of a nation's economy, security, or defense capabilities; it may also possess international implications. The prerequisite for consideration of the procedure for international transfers of goods subject to state export control as an object of criminal law protection is the establishment of criminal liability for contravention of the specified procedure, which is a form of classifying a certain set of legal relations as the most important since their protection is carried out precisely using criminal liability. The creation of an efficient system of measures to establish national control over the implementation of international transfers from state export control by enshrining in national legislation both regulatory and protective norms is a prerequisite for the criminalization of violations of the procedure for carrying out international transfers of goods subject to state export control.

The protective function is implemented through the application of protective norms, the implementation of which involves the establishment of obligations, prohibitions, the use of coercive measures, and the establishment of sanctions that are punitive, including the establishment of criminal liability.

In this context, to being governed by administrative or economic law, the process for international transfers of products that are subject to state export control is also protected by criminal law. Enshrining in legislation criminal responsibility for committing a certain act should be based on the fundamental theoretical principles of criminal law science, including the determination of the place of relevant legal norms in the general system of criminal law protection. In this light, it is essential to examine the procedure for international transfers of products subject to state export control as a topic of criminal law protection.

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COMMUNICATIVE COMPETENCE OF A LAWYER IN THE CONTEXT OF INFORMATION SOCIETY DEVELOPMENT

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ABSTRACT. The article examines the issue of communicative competencies of lawyers in the information society. Modern society is impossible without communication. Human-centered professions are based on communication as the main element of interpersonal interaction. The author aims at studying the peculiarities of lawyers' communication competencies, taking into account the specifics of their profession in modern conditions. The article deals with the concept of communication as a social construct. The author raises the issue of the importance of effective communication in the legal sphere. The structure of communicative competence is defined. The skills required for the realization of communication abilities are indicated. The cognitive, behavioral and emotional components of communication are emphasized. The author defines the concept of communicative competence of a lawyer. The author notes the complexity and versatility of the legal profession, which affects the construction of communication in the legal sphere, with the constant development of the system of relations between the state, organizations and citizens, stimulating lawyers to build their professional competence on the basis of their own personal characteristics, personality structure, supplementing the specific requirements of the profession. The author names and analyzes the communication skills necessary for the professional communication competence of a lawyer, including oral and written communication, listening, empathy, team communication, conflict resolution, and ethical behavior. Possible areas for further research on the topic, the constant growth of new digital tools for lawyers are suggested. The challenges of ensuring cybersecurity are noted. Proposals are made for the continuous development of lawyers' communication competencies in the course of their studies and professional activities.

Keywords: lawyer, communication competence, communication skills, professional communication competence, information technology

INTRODUCTION

It is difficult to imagine modern society without communication, which accompanies it at all stages of development, in all spheres of life, is the basis of an individual's social existence, the basis for personality formation, a source of knowledge of oneself and the environment, and the basis for mutual understanding between people, a means of building personal and professional relationships. It should also be noted that communication is an important means of influencing the system of functioning of social relations, a tool for

managing social processes. Paying attention to the understanding of the predominant role of effective communication in modern social development, it is necessary to note the need to pay attention to a more detailed study of the topic of communication competence of a lawyer.

Socioeconomic professions or professions of the “person-to-person” type are subject-subject professions in which the subject of study, influence, development, and service are individuals, social groups, human communities, and social systems. This group of professions can also be called human-centered, since the object of professional influence in them is a person. All socio-economic professions are based on communication as the main tool for establishing interpersonal interaction, since communication takes up to 80% of the time in the professional activity of socio-economic specialists (Rudenko, 2007). Communication is the basis on which the effectiveness of professional activity depends and directly affects its efficiency. In the current conditions of society development, it is communication that can change approaches to professional interaction that will lead to the transition of the professional environment to a more tolerant, highly effective level (Turko et al., 2021).

MATERIALS AND METHODS

The research was carried out in alignment with the stated objectives, employing a diverse range of scientific methods to facilitate a comprehensive examination of communicative competence among lawyers, especially in the context of the evolving information society. These methods provided a multi-faceted approach to understanding both the theoretical and practical implications of communication in the legal profession. The key methods utilized include the general philosophical method, system analysis, synthesis, deduction, induction, and the dialectical method.

The general philosophical method played a crucial role throughout the research. It provided the foundation for formulating well-grounded, scientifically valid conclusions that aligned with the research’s objectives and tasks. By enabling a broad philosophical examination, this method helped analyze the concept of communicative competence as a social construct. This approach allowed for a deeper understanding of how communicative competence transcends basic skill sets, integrating broader social and ethical dimensions crucial for legal professionals.

The method of system analysis was critical in identifying and dissecting the intricate components of communicative competence as a social construct. By focusing on the interconnectedness of various communicative elements, this method enabled the study of how different aspects of communication — cognitive, emotional, and behavioral — influence the legal profession. System analysis also facilitated the investigation of how these components interact in a real-world legal context, highlighting the unique communication challenges lawyers face, especially in their interactions with clients, colleagues, and legal authorities. The system analysis also provided insights into how communicative competence can be cultivated and applied in different legal specializations.

In conjunction with system analysis, the method of synthesis was employed to draw conclusions about the overall effectiveness of communication across various legal specializations. The synthesis method allowed for the integration of findings from multiple

sources and perspectives, including different legal fields such as corporate law, criminal law, and human rights law. This comprehensive approach made it possible to assess the broader implications of improved communication skills on the legal profession, highlighting areas where enhanced communicative competence could lead to more effective legal practice and better client outcomes.

The method of deduction was used to draw specific conclusions regarding the relationship between effective communication and success in legal practice. By applying general theoretical concepts to concrete examples from legal cases and practice, this method enabled the formulation of targeted strategies for improving communication within the legal field. For instance, it helped identify specific communication skills that are critical for different legal roles, such as advocacy, negotiation, and mediation, and how these skills contribute to legal success.

Conversely, the method of induction was employed to derive broader, more generalized conclusions about the importance of communication in the legal profession. Drawing from specific instances of legal communication, including interviews with lawyers, courtroom interactions, and client consultations, the inductive method allowed for a more detailed understanding of how communication skills develop and evolve within the legal field. This method highlighted the need for continuous improvement in communication competencies as new challenges arise, especially in the digital age.

The dialectical method proved essential for identifying and addressing the contradictions inherent in legal communication. It was particularly useful in analyzing the dynamic tensions between various elements of communication — such as empathy versus objectivity, and persuasion versus truth-seeking — and proposing practical solutions to improve communication effectiveness. By recognizing these contradictions, the dialectical method helped formulate strategies to resolve conflicts in legal discourse, enhancing the lawyer's ability to navigate complex communicative situations.

Together, these methods not only yielded scientifically significant findings but also contributed to a deeper understanding of the crucial role communication plays in legal practice. The combination of philosophical, analytical, and practical approaches allowed for a holistic study of communicative competence. In particular, the research outlined promising directions for the further development of communication skills among legal professionals in the context of a rapidly evolving information society. These insights are vital for shaping the future of legal education and professional development, ensuring that lawyers are well-equipped to meet the communicative demands of modern legal practice.

RESULTS AND DISCUSSION

The current state of society imposes additional requirements on the professional activities of lawyers, which necessitates the search for ways to continuously improve the communication competence of lawyers as an extremely important component of their professionalism.

The pluralism of forms of manifestation of modern society requires building social relations on the basis of understanding, equality of freedoms and responsibility of each of their participants.

In order to clarify the essence of the concept of “communicative competence”, it is necessary to study it in the scientific literature.

Competence in Latin means a range of issues in which a person has a good understanding, knowledge and experience. There is also a distinction between the competence of an employee as the degree of his or her qualifications that allows him or her to successfully solve the tasks facing him or her.

If we look at the translation of the words of the term (“communicative” from English and “communicatio” from Latin), we can see that communicative competence is defined as the ability to communicate and convey information to another person.

The term “communicative competence” was introduced in the scientific literature by D. Hymes as opposed to linguistic (language) competence by N. Chomsky (1972), who believes that language competence is expressed in knowledge of the language (grammatical correctness). Disagreeing with Chomsky’s position, American scholars D. Hymes and J. Gumpertz (1972) determine that communicative competence is expressed not only in the knowledge of language, grammar and vocabulary, but also in understanding the situations in which communication takes place.

T. Valfovskaja (2001), V. Noga (2012), G. Danchenko (2002) came to the conclusion that communicative competence should be defined as the ability to establish and maintain the necessary contacts with other people

According to T. Krasheninnikova (2016), communicative competence is the ability to establish and maintain the necessary contacts with other people, which includes the ability to expand (or narrow) the circle of communication, understand the communication partner, and predict the consequences of various communication situations.

Baranovska L. and Sarazhynska I. (2008) concluded that communicative competence combines individual (personal), social (norms, values, standards of a particular society) and universal (culturally and historically determined) experience.

Given the interdisciplinary nature of the concept, we note that in modern psychology there are different approaches to understanding communicative competence, the main ones being: activity approach - communicative competence as a readiness (attitude) for activity; personal approach - communicative competence as a complex of personal qualities, understanding of communicative competence through the self-state; communicative competence as a personality ability, as a skill - a component of abilities.

The concept of “communicative competence” is also analyzed in detail in the study of S. Kozak. Summarizing the existing experience, he characterizes this category as based on knowledge and sensory experience, the ability of a person to navigate in communication situations, emphasizing that such an ability involves social and psychological training, that is, the further opportunity to learn to communicate. According to the scientist, communicative competence is always formed in a social context. The main factors that determine its development are the life experience of the individual and his or her general erudition, art, and special scientific methods. Studying the issue of communicative competence, S. Kozak paid special attention to the fact that “the actional level of communication is the communicative otherness of actions set by collective purposeful activity” (Kozak, 2001).

In his monographic study, D. Aleksandrov (2014) notes that communicative competence

implies not only the ability to conduct a dialogue, but also an orientation towards the partner as an equal subject of communication. According to N. Peregonchuk, communicative competence is a complex multidimensional formation that contains the following communicative qualities and properties: focus on communication, humanistic orientation, empathy, social intelligence, social facilitation. As a defining component of professional competence, it covers a number of hierarchically subordinated competencies: information, social interaction competence, competence in perceiving and understanding another person, inseparable from the reflexivity and empathy of the subject of communication.

The concept of competence includes a variety of knowledge, skills and abilities that should ensure effective communication. In this regard, a person should have a sufficient level of communication that can allow building effective communication in various social situations with any category of people.

The results of scientific research show that communicative competence implies the possession of a wide, diverse set of knowledge, skills and abilities. Among them are the ability to realize a communicative intention in a specific situation, regardless of the circumstances, while the strength and duration of emotions in each situation can vary significantly. In order for each individual to be able to effectively realize their communication abilities in society, they must have the following types of skills:

- 1) the ability to understand people and their relationships;
- 2) the ability to influence and help another person;
- 3) the ability to solve problems and resolve conflicts.

There are different approaches to understanding the essence of the concept of communicative competence in scientific theory and practice. We will consider two main approaches.

The first approach is associated with the names of such scholars as N. Gez, O. Kazartseva, O. Konstantinova, O. Pavlenko, and Y. Fedorenko (2005), who defined communicative competence through the concept of "knowledge, skills and abilities." Communicative competence is knowledge of the language, a high level of practical proficiency in both verbal and non-verbal means, as well as experience of language proficiency at a variable and adaptive level depending on a particular speech situation.

Supporters of the second approach believed that communicative competence is a person's ability to carry out communication interaction as a complex multicomponent speech activity, the nature of which is influenced by various factors.

Analyzing the structure of communication competence presented by modern scholars, we found different views and opinions in this area. On the one hand, communication competence is considered as an integrative formation and suggests that this competence includes cognitive, behavioral and emotional components. The cognitive component includes the orientation, psychological knowledge and perceptual skills of a specialist. It also includes knowledge of the personality and communication partners. According to V. Bolotov, the content of the behavioral component of communicative competence includes the ability to effectively use various means of verbal and non-verbal communication. Regarding the content of the emotional component, the scientist emphasized the importance of experiences in various forms of communication, positive feelings and attitudes towards the

communication partner (Bolotov, 2013). Three aspects of communicative competence are important: linguistic, sociolinguistic and pragmatic. Each of these components is also divided into general categories of competence: knowledge, skills and know-how. The linguistic components include lexical, grammatical, semantic and phonological knowledge and skills, regardless of their sociolinguistic meaning and pragmatic functions in their implementation. The sociolinguistic component is determined by the sociocultural conditions of language use. Taking into account the sociolinguistic component makes it possible to significantly influence the communication of representatives of different cultures, even if the participants themselves do not suspect it. The pragmatic component includes discourse, functional and schematic competencies. This implies the ability to skillfully construct different language models taking into account the specifics of the genre, situation and topic (Vergasov, 2015)

In our opinion, based on the diversity of scientific opinions, it can be noted that communicative competence is a rather broad concept and a complex phenomenon that in the basic sense includes not only speech competence and activity, but also knowledge of the culture of communication, knowledge of the rules of behavior in society and the team, adherence to etiquette; it is closely related to such personality traits as education, tact, and tolerance in communication. Continuing the idea of the complexity of communication as a phenomenon, we note that communication competence is a set of knowledge, skills and abilities that allow a person to communicate and interact effectively in any circumstances of social and personal life, with different types of personalities, based on the life experience and culture of communication. Communicative competence is the result of a person's educational, cognitive and practical activities, as well as the result of their own life experience.

Proceeding from this concept, it is advisable to define communicative communication as a set of knowledge, skills and abilities based on knowledge of the rules of behavior and etiquette in society, education, tact and tolerance, the ability to establish, develop, change and maintain contacts with other people, communicate effectively, in different circumstances of public and personal life, with different types of personalities, based on the acquired life experience and culture of communication.

Since jurisprudence is a multidisciplinary profession, each specialty has its own peculiarities, a lawyer must not only work with the law, but also define, explain, prove, trust and convince. Therefore, he/she must be a "professional communicator", i.e., he/she must be able to actively use specific techniques to persuade people so that he/she can achieve communication goals with less time and effort (Kostytskyi, 2018).

A lawyer is a professional who has special legal knowledge, is deeply convinced of the exclusive purpose of law and legality for society, and is skilled in using legal tools to solve legal problems in the name of protecting the rights and legitimate interests of citizens (Gusarev, 2000). A lawyer in modern society is a specialist who is professionally trained to resolve social and legal conflicts from a legal point of view, in accordance with the law, fairly, on reasonable grounds and with the same standards of behavior for all (based on the principle of equality). The development of a new system of relations between the state, organizations and citizens, and the challenges associated with it, require a wider use of various communication techniques in the activities of a lawyer, and therefore the issue of communication training of lawyers becomes even more relevant.

The problem of the modern lawyer's communication competence is obviously extremely important from a practical point of view, since the success of a lawyer of any specialty depends on high-quality communication training. However, a specific definition of this parameter is difficult due to the lack of a clear interpretation. Therefore, we consider it necessary to clarify the term "lawyer's communicative competence" itself. V. Luhovyi (2009) argues that competence includes a set of interrelated qualities of a person (knowledge, skills, abilities, ways of doing things) defined in relation to a certain set of objects and processes and necessary for high-quality productive activity in relation to them. Molodychenko, following systematic generalizations, believing that communicative competence includes: motivational (need for communication, motivation to succeed) cognitive (knowledge of the psychological foundations of communication, in public speaking), knowledge of basic polemical skills, personal components (tolerance, sociability, empathy), as well as activity (communication skills, oratory skills in court debates, expressing one's own ideas). The implementation of these components in practice and their integration forms the communication skills of a lawyer. (Molodychenko, 2022).

A lawyer is "a person who has professional legal knowledge (basic and special) and the ability to apply it in practice." (Bilonozhko, 2018; Klak, 2017)

Today, professional lawyers need not only legal knowledge of academic law and its application in practice, but also the ability to effectively cooperate with colleagues, real and potential consumers of legal services, and the public.

Communication competence is one of the most important qualities of a lawyer, along with academic and practical knowledge, which is an integrated quality of a personality that allows him or her to solve professional problems at a sufficient level.

It should be noted that a lawyer has to present his or her communication skills and competencies not only in theory, but also in practice, and the peculiarity of a lawyer's activity is the ability to solve complex, unexpected and non-standard tasks.

Based on the requirements for legal activity, the qualities that should be inherent in a lawyer in the modern world are clearly distinguished, such as professional language, politeness, tact, and communication qualities, such as the ability to establish and maintain emotional connections, mental health; the ability to understand the inner world of the interlocutor (appropriate level of empathy), to take into account his/her uniqueness, intentions and prevailing emotional states; communicative competence (listening, empathy, friendliness, use of verbal and non-verbal communication, self-control); behavior in conflict situations; leadership skills; perseverance and integrity in defending decisions

When studying the communicative competence of a lawyer, we consider it as a systemic formation which can be characterized by the complexity of the structure, integrity and interconnection of elements operating at different levels of the organization, in information interaction with the environment, determined by various factors and conditions. This determines the priorities of a systematic approach to identifying the structural foundations of a lawyer's communication competence. The communicative competence of a lawyer is a set of professionally defined and personally significant values for an individual, knowledge, skills and personality qualities of a lawyer which ensure effective professional communication and problem solving.

The particular complexity of professional activity lies, on the one hand, in the detailed regulation of a lawyer's behavior, and, on the other hand, in the need to immediately solve extraordinary, complex tasks, which also emphasizes the importance of developing communication skills, abilities and critical thinking.

For example, when studying the communicative competence of law enforcement officers, where we can clearly see the complexity of professional activity, their communication should be systematic, clearly regulated by law and statute, perceived through the prism of universal values and protection of the interests of the state.

The communication competence of law enforcement officers is characterized by the ability to establish and maintain the necessary contacts with different people, the ability to qualitatively expand or narrow the circle of communication, understand the interlocutor, change the frankness of communication, and predict possible consequences of behavior or situations. Professional communicative competence is formed on the basis of personal qualities, life and professional experience in the conditions of a person's specific professional activity. They are realized in the system of knowledge, views, values and relationships that are important to him/her.

Thus, when communicating with offenders, they often change their style and manner of speech: they switch to the interlocutor's language, using slang, words of foreign origin, and swear words. As a result, offenders or criminals see them as "their own" and become more open. This, in turn, helps to obtain more information.

A lawyer's communication skills are manifested in relation to people, to oneself, in interpersonal relationships, the ability to control one's behavior, the ability to prove one's position, critical thinking, as well as in verbal and non-verbal tools and technologies for achieving communication goals.

At the same time, it should be noted that communicative competence should be viewed as a systemic and integrating process that has the following characteristics:

Communicative competence is a systemic, integrated process that has the following elements:

- diagnostic (recognition of the object, subject of communication, determination of the conditions of communication, goals of communication, possible contradictions or conflicts)
- prognostic (assessment of possible behavior, positive and negative aspects of future communication);
- programming (choosing a communication style, communication methods, writing a plan, if necessary).

As already mentioned, communication skills are influenced by social, psychological and educational factors, as well as personal experience, the structure of communication competence is closely related to the psychological structure of a lawyer's personality.

Communication skills are an extremely important component of a lawyer's professional and communication competence. Lawyers are constantly interacting with clients, colleagues, courts and other parties to litigation, and their ability to communicate effectively affects the quality of their work and success in their professional activities. Important aspects of communication skills in the context of lawyers' communication competence:

- oral communication: lawyers must be able to express themselves clearly and convincingly

orally (ability to speak in front of an audience, negotiate with clients, represent interests in courts and communicate with colleagues);

- written communication (the ability to write clearly and logically is essential for the preparation of legal documents, such as agreements, pleadings, contracts, letters, legal memoranda and other documents);

- listening: (effective listening helps lawyers understand the needs and expectations of clients, other parties and colleagues)

- empathy (the ability to perceive the feelings and positions of others helps build trust and create positive relationships with clients and other parties);

- ability to explain complex legal issues: lawyers should be able to explain information about legal issues to clients using accessible terminology and structuring the material for understanding;

- effectiveness in conflict situations: conflicts can arise in legal work (the ability to effectively resolve conflicts and negotiate is important to achieve the resolution of legal cases);

- team communication (lawyers often work in teams with other lawyers, advisors and specialists from other fields, and the ability to effectively cooperate and communicate with other team members is important to achieve common goals).

Communication skills help lawyers establish client trust and ensure the quality of legal services. The ability to cooperate is an important component of lawyers' professional and communication competence. In today's world, many legal cases and projects require cooperation and communication with other lawyers, professionals from other industries, clients and other parties:

- Teamwork: Many legal issues are resolved in a team environment. The ability to collaborate with other lawyers, attorneys, and professionals from related fields is essential. This includes understanding the roles and contributions of each team member;

- Communication with clients: working with clients requires effective communication. Lawyers must be able to communicate openly with clients, listen to their needs and take their input into account when resolving legal issues;

- Networks and connections: building networks and professional relationships is an important part of working in the legal industry. The ability to collaborate with colleagues and establish mutually beneficial relationships can help lawyers develop their careers;

- joint projects and partnerships: many projects and cases require collaboration with other lawyers or firms. The ability to join forces and work together is essential for successful legal cases;

- Conflict negotiation and resolution: conflicts and disagreements may arise in the course of collaboration. The ability to negotiate and effectively resolve conflicts is important to sustain collaboration in a professional environment;

- Personal skills development: Collaboration may require the development of personal skills, such as time management, planning and organization. Lawyers need to be able to manage their duties and responsibilities for collaboration to be effective.

Ability to resolve conflicts:

- Mediation and mediation: Future lawyers should understand and have skills in mediation and mediation. This helps them to promote peaceful conflict resolution and reach compromises between parties;

- Listening skills: lawyers need to be good listeners to understand the positions and interests of the parties to a conflict. Listening helps them identify the main issues and find ways to resolve them;
- Analyzing the conflict: the ability to analyze the root of the conflict, identify legal aspects and possible solutions helps lawyers develop strategies and recommendations for the parties;
- Expressing constructive proposals: lawyers must be able to express constructive proposals and arguments for conflict resolution. They can develop compromises and recommendations that contribute to a mutually beneficial solution;
- effectiveness in litigation: in some cases, conflicts require judicial resolution. The ability of a lawyer to conduct court proceedings, argue and defend clients is important in this context;
- ethical behavior: lawyers must adhere to high standards of ethics and professional conduct when resolving conflicts. This includes maintaining client confidentiality and confidences, as well as avoiding conflicts of interest.

The ability to resolve conflicts helps a lawyer to identify conflicts in a timely manner, understand their essence and mechanism of occurrence, find different approaches to their resolution, which will contribute to both increasing efficiency in professional activities and establishing relationships in interpersonal communication. (Zhuk 2018)

Despite the primary role of effective communication in social development, we must admit that forms of communication that can be considered unproductive, violent and based on the use of manipulative, authoritarian tools of interaction are still widespread.

Therefore, another important element of a lawyer's modern communication competence is the development of non-violent communication. Non-violent communication is an approach to communication that focuses on the importance of mutual understanding and recognition of the needs of all participants in the communication process as a factor of motivation to act - as opposed to mutual aggression, fear, guilt, coercion, threats

Analyzing the problematic issues of communicative competence of lawyers in the information society, it is undoubtedly necessary to note the impact of modern technologies on communication in the legal field.

One of the most notable changes brought about by technology is the emergence and widespread adoption of digital communication platforms. Video conferencing, such as Zoom or Microsoft Teams, allows lawyers to conduct consultations, negotiations, and even court hearings remotely. This significantly reduces communication time and increases work efficiency.

Email, chats and messengers have become the main channels of communication between lawyers and clients. This facilitates the rapid exchange of information, but also raises issues of cybersecurity and privacy, as the risk of data leakage increases. Lawyers must comply with new security standards.

As the use of digital tools increases, so do the risks of cyber threats, which poses new cybersecurity challenges for the legal profession. Lawyers should not only be aware of data protection issues, but also actively apply this knowledge in their daily practice, including the safe storage and use of confidential information.

The ethics of digital communication is becoming a key aspect, as technology affects the balance between disclosure and confidentiality. The use of technology must be accompanied

by ethical standards that guarantee the protection of clients' rights and the preservation of trust in the legal profession. Lawyers combine traditional communication skills with new knowledge of digital technologies. This requires constant training and adaptation to rapidly changing conditions, as well as the development of new approaches to communication that meet modern requirements.

In general, modern technologies have great potential to improve legal practice, but their impact on communication aspects requires careful consideration and responsibility on the part of lawyers. Successful integration of technology into the legal profession depends on the readiness of lawyers to meet new challenges and the ability to adapt to change while maintaining high standards of ethics and professionalism.

CONCLUSIONS

In our opinion, based on the diversity of scientific opinions, it can be noted that communicative competence is a rather broad concept and a complex phenomenon that in the basic sense includes not only speech competence and activity, but also knowledge of the culture of communication, knowledge of the rules of behavior in society and the team, adherence to etiquette; it is closely related to such personality traits as education, tact, tolerance in communication. Continuing the idea of the complexity of communication as a phenomenon, we note that communication competence is a set of knowledge, skills and abilities that allow a person to communicate and interact effectively in any circumstances of social and personal life, with different types of personalities, based on the life experience and culture of communication. Communicative competence is the result of a person's educational, cognitive and practical activities, as well as the result of their own life experience.

Based on this concept, it is advisable to define communicative communication as based on knowledge of the rules of behavior and etiquette in society, education, tact and tolerance, a set of knowledge, skills and abilities, the ability to establish, develop, change and maintain contacts with other people, communicate effectively, in different circumstances of social and personal life, with different types of personalities, based on the acquired life experience and culture of communication.

Communication competence is a set of communication knowledge, skills, and abilities that allow one to perform professional activities effectively and efficiently without resorting to pressure, provocation, or aggression. Despite the understanding of the primary role of effective communication in social development, we must admit that forms of communication that can be considered unproductive, violent, and based on the use of manipulative, authoritarian tools of interaction are still widespread.

Therefore, another important task for the modern communicative competence of a lawyer is the development of non-violent communication. Non-violent communication is an approach to communication that focuses on the importance of mutual understanding and recognition of the needs of all participants in the communication process as a way to motivate them to act as opposed to mutual aggression, fear, guilt, coercion, threats.

Modern information technology is an important element in the professional activities of a lawyer. This makes it necessary to combine traditional ways and methods of communication with rapidly developing modern information technologies, taking into account the

challenges posed by the latest communication tools, to ensure the necessary cybersecurity. In the context of the globalization of cyber threats, it is advisable to unify approaches to cybersecurity regulation and standardize security measures for effective communication and cooperation, at the national and international levels.

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PIC AS A SUBJECT OF PUBLIC CONTROL OVER JUDGES' ACTIVITY

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ABSTRACT. The article examines the legal status and activities of the Public Integrity Council in relation to public oversight of the practice of Ukrainian judges. The authors focus on how the PIC will be able to make a significant contribution to the reform of the judicial system, controversial issues concerning its powers, and suggest ways to improve its functioning. The main ideas presented in the article are as follows: The importance of the PIC is analysed: The PIC was created to ensure the assessment of the integrity of judges and judicial candidates, which helps to increase the confidence of the public in the justice system. The innovative approach allowed the citizens to participate in the selection of judges, which should prevent corruption. The article highlights the uncertainty of the status of the PIC, which is an auxiliary body without the power to take final decisions on the integrity of judges. This limits the PIC's influence, as its conclusions are not binding. A critical analysis of the problems of the legislation is made: gaps in the legislation are identified, in particular the legal status of the PIC is not clearly defined. This leads to legal disputes and litigation over PIC decisions, which affects the effectiveness of PIC activities. The article makes a number of recommendations for improvement: the authors suggest broadening the membership of the PIC to include experts from the private sector, who could contribute to the objectivity of the judges' assessment. It also suggests revising the procedures for selecting members and requiring declarations of assets and conflicts of interest. The author makes a prediction about the prospects for improving judicial reform: successful improvement of the PIC procedures will contribute to building public confidence in the judicial system and increasing its transparency. In general, this study examines the important role of the PIC in the judicial reform process, focusing on its impact on the selection of judges and shortcomings in the legal framework. The authors' proposals aim to strengthen public control over the judiciary by reforming the legal status and functioning of the PIC..

Keywords: PIC, judges of Ukraine, integrity, public control, selection, state body, power

INTRODUCTION

There is a tendency in the society to decrease the level of trust in the judicial system. Procedures for qualification evaluation of judges and competition procedures need improvement and development of clear and predictable criteria (indicators) of integrity and professional ethics. Different bodies involved in the qualification assessment of judges (judge candidates) use different approaches and different standards of proof when assessing the integrity and professional ethics of judges or relevant candidates.

There are no requirements and properly defined procedures for evaluating candidates for the position of judge (outside of the qualification evaluation procedure) for compliance with the criterion of integrity. The requirements of European partners, as outlined in the Memorandum of Understanding between Ukraine and the European Union within the framework of the new large-scale EU macro-finance assistance of January 16, 2023, identify the importance of the research that is being presented. This agreement specifically highlights the fulfillment of the following requirements in the area of the principles of law.

Improving the selection of judges:

- (a) make efforts to streamline the stages of selection and change their sequence;
- (b) review the length of the mandatory training period for judges;
- (c) approve and promulgate by the updated by the High Qualification Commission of Judges of Ukraine (hereinafter – the Commission of Ukraine), including clear evaluation criteria and evaluation methodology (2-3 quarters of 2023); and the launch of the procedure for the selection of judges on the basis of the improved base (4th quarter of 2023).

The PIC is an institution of civil society that is part of the system for ensuring the integrity of judges. Its purpose is to increase public trust in the integrity of new hires, but the regulation of its legal status contains many gaps that make its operations less effective. The Public Integrity Council (hereinafter – the PIC) faces contentious challenges when evaluating the ethical behavior and honesty of present judges and individuals for the same position; the flaws in the rules governing the PIC's status; and the absence of a scientific foundation for the creation of laws.

The problems of functioning of the judicial system as a whole and its individual elements were the subject of scientific research by V.M. Bevzenka, R.Z. Holobutovskyi, O.V. Honcharenko, R.V. Igonina, O.V. Krasnoborova, H. Ya. Nakonechna, S. Yu. Obrusna and other lawyers. It is worth paying attention to the works by S. V. Zhukov, who investigated and characterized the essence and elements of the administrative legal mechanism for ensuring the integrity of courts (Zhukov, 2019) and V.V. Kotskulych, who analyzed the ethical standards of legal behavior of judges, as well as the organizational and praxeological aspects of professional activity training and selection of judges as an important component of forming legal awareness of judges (Kotskulych, 2018). Some aspects of the activity of the subject of public control under investigation were investigated by R.S. Melnyk (2018). At the same time, it is necessary to state that the issue of normalization of the legal status of the PIC was investigated fragmentarily, and therefore requires a comprehensive study (LexInform, n.d.).

Furthermore, most of the research on this topic was done before the new forms of the Ukrainian law „On the Judiciary and the Status of Judges” came into effect (Verkhovna Rada of Ukraine, 2016). This fact presupposes necessity to study the problem of the activity of the

PIC as an institution of civil society in the modern realities of state formation.

The normative and legal basis of the legal regulation of the studied subject of public control is: the Constitution of Ukraine, the Law of Ukraine „On the Judiciary and the Status of Judges”, the Regulations of the Public Council of Integrity (Public Integrity Council, 2018), conclusions of a number of institutions of the Council of Europe, in particular the Venice Commission (n.d.), the Consultative Council of European Judges (CCEJ) (2024), the European Commission on the Efficiency of Justice (CEPEJ, 2023), the Committee of Ministers of the Council of Europe (2024).

The aim of the article is to establish the status of the subject of public control over the selection of candidates/judges, on the basis of a comprehensive analysis of the theoretical foundations of administrative and legal science, the norms of current legislation, to determine its role in the process of implementing the law and other legal acts in judicial sphere, to identify defects of legal regulation and to formulate scientifically based proposals to overcome them.

MATERIALS AND METHODS

The author establishes the methodology for researching the PIC established as a public authority which facilitates the work of the Commission of Ukraine, which, accordingly, is the main institution obligated to verifying information, providing final conclusions during the assessment of judges and candidates for the position of judge, and in particular, the author substantiates that objectification of being occurs through the methods of general theoretical, general scientific and special legal content in various combinations within the framework of the key methods for this article.

RESULTS

The level of trust in the judicial system in Ukraine was and still remains quite low. According to a sociological study conducted in 2020 by the Razumkov Center on the order of the Office of the Council of Europe in Ukraine on the attitude of Ukrainians to the courts, 1.7% of Ukrainians fully trust the courts, and another 11.3% rather trust the courts. At the same time, 40.6% do not trust the courts at all, and 37.4% rather do not trust them. According to the latest sociological survey conducted by the sociological service of the Razumkov Center from February 22 to March 1, 2023, within the framework of the MATRA Program project, financed by the Embassy of the Kingdom of the Netherlands, 59% of respondents in Ukraine do not trust the courts (the judicial system in general) (Razumkov Center, 2023).

Since 2019, a shortage of personnel in the judicial system began to accumulate in Ukraine. Slowing down reforms or sometimes imitating such implementation led to quick dismissals and the absence of the work of the body for the selection of judges, the High Qualification Commission, which resumed work in the summer of 2023.

The High Council of Justice's August 24, 2023 ruling No. 852/0/15-23 proposed to determine the number of judges of central courts – 5052 positions, commercial – 650 positions, district administrative – 663 positions, appeal courts – 1081 positions, commercial appeal courts – 247 positions, appellate administrative courts – 283 positions (High Council

of Justice, 2023), which makes a total of 7,976 people. On the other hand, as we can see from the statistical data of the Commission regarding the accounting of the positions of judges occupied as of 02.10.23, the actual number is only 4,981 persons.

The statistics clearly shows the urgent need to fill a large number of vacancies with candidates who must undergo a strict selection in accordance with the requirements and criteria of integrity, to review the existing selection procedures for vacant positions, which is one of the main tasks of judicial reform.

Part 3 of Art. 127 of the Constitution of Ukraine establishes competence and integrity as mandatory requirements for candidates for the position of judge (Verkhovna Rada of Ukraine, 2020). It is worth expanding the list of candidates for whom competence and integrity are mandatory requirements by including the positions of the High Council of Justice, the Commission and civil servants. It is interesting that the interpretation of the very concept of „honesty” in relation to the above-mentioned categories is not found in any of the normative legal acts of Ukraine, except for the Law on Public Service. This is a gap and can be a corruption factor in the selection of candidates for the relevant positions (Vavrynychuk et al., 2022).

The current stage of reforming the judicial system of Ukraine has put on the agenda the question of compliance of candidates for the position of judge, as well as the judges themselves, with the criteria of integrity.

In accordance with the conditions of Art. 127, Part 3, of the Ukrainian Constitution, „A citizen of Ukraine, not younger than thirty and not older than sixty-five years of age, who has a higher legal education and experience of professional activity in the field of law for at least five years, can be appointed to the position of judge, is competent, virtuous (emphasized by the author of the article, A. B. Maslova) and speaks the state language. The introduction of the term „virtue” gave rise to the question: what is virtuous? In the Latin language, there is a counterpart of the Ukrainian word integrity – „integritas”, which means prudence, integrity and completeness. And in a figurative sense – „purity, correctness and innocence.”

The root of this word has been preserved in the English language (integer – whole). The English word „integrity” denotes the state of wholeness, unity, as well as the quality of an honest person who has strong moral principles (Office of Integrity, NAZK, n.d.).

Judicial legislation has faced a problem due to the uncertainty of the concepts that are fundamental when selecting a candidate for the position of judge, which is further complicated by different approaches to determining the requirements for different positions.

Each assessment body creates its own methodology for compliance with the term integrity. As one of the standard requirements for judges, integrity is not sufficiently implemented in reality, as is professional ethics, and the assessment of these requirements is not always clear and transparent. The non-uniformity of terminology and criteria leads to certain manipulations of the concept of integrity in the process of choosing potential judges and in the vetting of existing judges (Vavrynychuk et al., 2022). We must state the fact that today there is no legally established concept of integrity for a judge in Ukraine.

At the same time, it should be noted that the Resolution of the Cabinet of Ministers of Ukraine dated March 4, 2023 No. 220 approved the State Anti-Corruption Program for 2023–2025 (Cabinet of Ministers of Ukraine, 2023). One of the principles behind the development

of this programme was to build public awareness of non-tolerance to corruption, promote a culture of integrity and respect for the rule of law. Regarding the solution to the legalization of the term integrity, we can note that the Procedures for qualification evaluation of judges and competitive procedures require improvement and the development of clear and predictable criteria (indicators) of integrity and professional ethics, which is clearly stated in Appendix 2 to the Resolution: 2.1.2.2.2. Development and submission to the Cabinet of Ministers of Ukraine of a law, that:

- 1) assessment of the suitability of candidates for the post of judge to the criterion of integrity in all procedures for the selection of judges is provided for;

- 2) the participation of the PIC in assisting the Commission of Ukraine to establish the compliance of candidates for the post of judge with the criterion of integrity for all procedures for the selection of judges is foreseen;

- 3) defines a new mechanism for considering the PIC's conclusions on the non-compliance of a judge (judicial candidate) with the criteria of professional conduct or confirming the capacity of such a judge (judicial candidate) to administer justice in case of such a conclusion;

- 4) the complete access to judicial files (files of candidates for the position of judge) for PIC members and authorized staff of the Public Council of Integrity secretariat;

- 5) provides for the establishment of the Secretariat of the Public Integrity Council, which assists the participants of the Council in the performance of their duties as defined by the law, and determines the source of funding for their activities;

- 6) the participation of the PIC in defining the schedules, terms and procedure for evaluation of judges and persons running for the position of judge is envisaged (Cabinet of Ministers of Ukraine, 2023).

The Law of Ukraine „On the Judiciary and the Status of Judges” (hereinafter – the Law) (Verkhovna Rada of Ukraine, 2021) detailed a number of constitutional changes, provided for the reorganization and re-certification of the entire judicial system.

It should be noted that this Law, as amended on June 2, 2016, balanced the interests of the judicial branch of government with the interests of the public through the creation of a special public body (Art. 87 of the Law of Ukraine „On the Judiciary and the Status of Judges”) – the PIC, – designed to assist the Commission in establishing the compliance of a judge (candidate for the position of judge) with the criteria of professional ethics and integrity for the purposes of qualification evaluation (Public Integrity Council, 2019). Innovations in the justice system have increased the role and participation of the public in judicial career procedures. In 2016, for the first time, the public was integrated into the procedure of information collection, information analysis, and monitoring regarding both candidates for the position of judge and acting judges. This happened for the first time at the level of law, at the level of formal law enforcement.

The PIC was created as a public body that contributes to the work of the Supreme Court of Justice, which, accordingly, is the main institution that verifies information and provides concluding remarks while judges and applicants for the role are being evaluated. As the PIC participates in the process of qualification evaluation of judges and candidates for the position of judge, its efforts should be directed at enhancing the judicial corps and guaranteeing the highest level of expertise.

During the period of its work, the PIC actively fulfilled the tasks set before it. Formed in 2016, it served two warehouses, and in 2019, the activity of the PIC was suspended in connection with the dissolution of the High Qualification Commission of Judges of Ukraine. At the first stage of work, from November 2016 to December 2017, the PIC participated in the evaluation of 381 applicants for the Supreme Court judgeship. The result of the assessment was 134 conclusions about the non-compliance of candidates with the criteria of integrity and professional ethics and 122 decisions on providing information to the Commission of Ukraine (Public Integrity Council, 2018). In its second composition, according to the report for 2019, the Commission analyzed 235 candidates for the position of judge of the Supreme Court and submitted 71 conclusions to the Supreme Court. As for the intellectual property court, the Commission was involved in data monitoring, analyzed 49 candidates for the first instance of the High Court on Intellectual Property, 17 candidates for the Appellate Chamber of the court, and 21 opinions were submitted to the Supreme Court of Appeals, of which 2 were canceled after processing the candidates' explanations. In total, during the activity of the second term of office, the Commission analyzed 1682 files of judges, prepared 612 draft decisions, provided 472 conclusions and information on 111 judges to the Supreme Court of Justice (Public Integrity Council, 2019).

The PIC is a public control body independent of the government and other authorities, which was created to ensure the effective operation of the judicial system of Ukraine and increase its integrity. The Commission is not a state body, it is characterized as a non-professional advisory non-administrative body that acts as an auxiliary body of the Commission for the purposes of gathering information and preparing conclusions on the integrity and professional ethics of judges and candidates for the post of judge, but at the same time does not make a final decision on whether to recommend a person for appointment as a judge.

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The powers, composition and conclusions of the PIC are regulated by both the Law and the Regulation (Public Integrity Council, 2018), which was developed taking into account the standards of the Council of Europe regarding the independence of the judiciary. The legal basis of the status and powers of the State Government is determined by Art. 87 of the Law of Ukraine „On the Judiciary and the Status of Judges”. Having analyzed the legislation on this issue, we made the following conclusions-observations, the consideration of which will significantly improve the work of the State Security Service and increase the percentage of trust in the judiciary.

The law does not clearly define the status of the High Council of Justice. In our opinion, it is worth recognizing the superficial regulation of the activities of the PIC within the framework of a single (underlined by the author A. B. Maslova) article, which does not even contain a mention of the adoption of the regulations of the PIC. Many questions remain unaddressed,

which causes misunderstanding in practice.

The District Administrative Court of Kyiv was the first to face this issue, where in 2017 lawsuits from candidates for the post of judge of the Court of Appeals as part of the Supreme Court began to be received, requesting that the PIC's conclusions be revoked. In some of these cases, appropriate decisions have been made in favor of claims. (Public Integrity Council, 2018; Unified State Register of Court Decisions, 2017).

According to established judicial practice, the State Administrative Court is not a state body with „authoritative powers” and therefore is not empowered to make a decision on confirming or not confirming the ability of a judge (candidate for the position of judge) to administer justice in the relevant court. The PIC is an auxiliary body of the High Qualification Commission of Judges of Ukraine, and not an advisory body with its own legal status. The conclusion of the PIC does not generate independent consequences for the judge/candidate. The status of the Council is not clearly defined in the legal acts that regulate the activity of the PIC (for example, in the Regulations of the PIC, approved by its decision No. 1/2016 dated 23.11.2016, this body is called an „instrument of the public”, established by the Law of Ukraine „On the Judiciary and the status of judges”, which has a journalistic rather than a formal legal character. At the same time, taking into account that, in compliance with the guidelines in Part 3 of Art. 87 of the Ukrainian Law „On the Judiciary and the Status of Judges”, members of the PIC can be representatives of human rights public associations, legal scientists, lawyers, journalists who are recognized specialists in the field of their professional activity, have a high professional reputation and meet the criterion of political neutrality and integrity, as well as the fact that, according to Part 5 of Art. 90 of the specified Law, public associations have the right to organize an independent evaluation of the judge's work in open court sessions, the results of which are recorded in a questionnaire containing information on the duration of the case, the judge's compliance with the rules of judicial procedure and the rights of process participants, the culture of communication, the level of impartiality of the judge, the level of satisfaction with the judge's behavior by the participants in the process, comments on the conduct of the process, other information, the PIC and public associations should be attributed to the subjects of administrative and legal protection of the integrity of judges as those who are delegated the relevant powers by law (Unified State Register of Court Decision, 2017).

Also, Art. 87 of the Law „On the Judiciary and the Status of Judges” provides a detailed description of the State Government's duties and relates to the support of the Supreme Court of Ukraine in establishing the compliance of a judge (candidate for the post of judge) with the criteria of professional ethics and integrity for the purposes of qualification assessment. This is the main provision that regulates the powers of the State Government. An analysis of the provisions of the Law shows that the State Administrative Court has the right to collect, verify and analyze information about a judge (candidate for the position of a judge) (clause 1 part 6 of Art. 87 of the Law), using exclusively open state registers (part 7 of Art. 87 of the Law). The powers exercised by the State Administrative Court in relation to the judge (candidate for the post of judge) are hereby limited.

The Regulation of the PIC is a continuation of the provisions of the Law and, in accordance with Clause 1 of Art. 2 of the Regulation, the main task of the PIC is to assist the Supreme

Court of Ukraine in establishing the compliance of a judge (candidate for the position of judge) with the criteria of professional ethics and integrity for the purposes of qualification assessment by providing information about them or conclusions about the non-compliance of a judge (candidate for the position of judge) with these criteria.

Conversely, the previous composition of the PIC did not agree with such a characterization and sought to have the legal status of a state body that has authoritative powers and makes binding decisions on other state bodies, namely the High Qualification Commission of Judges, which have consequences for judges/candidates for the position of judge, regarding which the PIC gives negative conclusions (Public Integrity Council, 2021). Such a position is a violation of conceptual approaches to the legal nature and the procedure for exercising public control over the activities of subjects of authority. In essence, the PIC seeks to obtain such methods of public control, which in their content will have signs of state control. In addition, non-state entities may not exercise powers that involve the resolution of specific legal tasks. Organizational and legal means of an authoritative nature cannot be a tool for the activity of entities that do not belong to state authorities. Decisions made by such entities may also not be binding.

An analysis of the provisions of the Regulation of the PIC and Communications indicates discrepancies between the powers of the State Administration of Internal Affairs and Communications provided by the Law and those established by the Regulation. According to the Law, the PIC has the right only to analyze and confirm facts about judges' moral character and professional conduct, but it lacks the authority to evaluate the reliability of court rulings. Since no one outside of the judiciary and judicial oversight can evaluate the legitimacy of judicial activities or conclusions, this clause conforms with European norms. Judges in the appeals procedure are accountable for their rulings (Kovacheva, 2017; High Council of Justice, 2024).

Due to its power, the PIC can only provide a view regarding the judge's honesty and personal ethics—not the legitimacy of his choices or actions. The PIC's conclusion is merely one component that should pertain to matters of professional ethics and integrity of judges and candidates for the position of judge. The job of the body (High Qualification Commission of Judges of Ukraine) is to evaluate a judge (or a candidate for the position of judge), specifically evaluating his skilled expertise, ethical, moral, and psychological qualities.

The law significantly narrows the circle of persons who have the right to be elected to the composition of the PIC. According to the Law (Art. 87), representatives of human rights public associations, legal scholars, lawyers, journalists who are recognized specialists in their field of professional activity, have a high professional reputation and meet the criteria of political neutrality and integrity can be members of the PIC.

The law provides for restrictions on membership in the PIC for certain categories of persons. According to one of the provisions (subparagraph 6, clause 4, Art. 87 of the Law), judges or retired judges cannot be members of the PIC. With regard to the public nature of the PIC, this limitation can be explained by the desire to create a body that is in no way part of the judicial system. However, the PIC takes an active part in the process of evaluating judges, and European standards for evaluating judges and candidates for the post of judge have already been established.

Such standards concern mainly judicial councils, but this is due to the general perception that the evaluation of judges is a process that takes place within the judicial system and is carried out by judicial authorities. Since there are no specific standards for the composition of the public body that assesses courts and applicants for the role; generic assessment standards can serve as a guide (Kovacheva, 2017; Council of Europe, 2024).

With the view to the provisions of Art. 87 of the Law, candidates for the members of the PIC have the necessary knowledge and skills in judicial legislation and the judicial system, but only this set of knowledge and skills may not be sufficient to perform the duties of assessing judges' and candidates' honesty and ethical behavior. The risk of a conflict of interests laid down in Art. 87 of the Law, between the members of the State Integrity Council who are lawyers and candidates/judges can be eliminated by expanding the range of candidates for members of the PIC.

In our opinion, the right to be a member of the PIC should also be given to representatives of the private sector from among managers or HR managers, psychologists and HR managers, etc., as individuals with good skills in evaluating candidates/employees and generating large volumes of data under time constraints could give an additional impetus to implementation functions of the PIC. They could also broaden and deepen the definition and public understanding of who represents civil society. In addition, members of the PIC with less knowledge and less professional interest in the formation of the judicial corps could better refute accusations of a conflict of interest between their duties as members of the PIC and their professional activities. The law should be amended to expand the circle of persons who have the right to be elected members of the Public Council.

The procedure for appointing members of the Executive Committee. In the case of expanding the circle of persons who have the right to be members of the PIC. It is also necessary to update the process for selecting PIC members.

Currently, Art. 87 of the Law „On the Judiciary and the Status of Judges” stipulates that „members of the PIC are appointed by meetings of representatives of public associations” convened by the head of the Commission, which should be evaluated as a positive approach. On the contrary, the Regulation does not cover the issue of the procedure for nomination and selection of the actual representatives of public organizations in the Council, i.e. those persons who will participate in the evaluation of judges. Amendments should be made to the law to expand the range of potential candidates for the members of the PIC and public organizations that can nominate candidates for members of the PIC, as well as to establish a revised process for selecting PIC members, which would provide that members of the PIC are appointed not only by representatives of legal public organizations, as well as representatives of public organizations from other spheres. It can be suggested that the process of their nomination and selection should also take place within the framework of an open procedure through a public hearing of their motives or concept of work. A declaration on property status and a declaration on the conflict of interests of the members of the PIC must also be provided. It would be good if, in addition to the resume, evidence of their professionalism was provided (diplomas of education, certificates of work experience, specialization, etc.). Members of the Central Committee must have unquestionable competence and integrity.

CONCLUSIONS

For a long time, society has expressed its distrust of a number of bodies in the justice system. The main factors that influenced the assessment of trust in such bodies were the doubts expressed in society about the integrity of their members and their possible decision-making in conditions of conflict of interests. At the beginning of 2023, the Committee on Legal Policy of the Supreme Council of Ukraine (Verkhovna Rada) decided to form a Working Group on improving the procedures for the selection of judges. The need to improve the mentioned procedures is connected, first of all, with the personnel shortage of judges and with the need to comply with the requirements of international partners. The personnel crisis of the judicial system requires optimization of the procedure for selecting judges while maintaining high criteria for checking candidates for integrity and competence. Therefore, it is quite expected that it is planned to simplify some stages of selection for the positions of judges (for example, to shorten the training period of future judges, etc.). There is also the issue of widespread involvement of the public in the selection procedures of judges of the first instance. It can also be about a qualitative rethinking and improvement of the activities of the PIC. In the future, such a procedure for the selection of judges should solve the problem of a shortage of judges in Ukraine, and the involvement of the PIC in this process should strengthen public confidence in the integrity of new personnel. We consider it necessary to note that even the high pace of competitions for the positions of judges of the Supreme Court in 2016–2017 and 2018–2019 caused many complaints from members of the public, as they did not always have the opportunity to check a candidate quickly and thoroughly and draw a conclusion about his virtue or dishonesty.

The work of the PIC ensured a high level of public awareness of the process of selecting judges and the representation of the general public in it. Better informed society can have both positive and negative effects on public opinion of judges. On the one hand, citizens are more informed, more aware of their rights and better aware of the need to change the system. On the other hand, they may respond disproportionately to negative messages about judges and pay disproportionately less attention to positive messages. As a result, the image of the judicial corps is formed, which is more negative than the actual one. If it were not there, the PIC has done an excellent job of incorporating the principle of civil society representation into the processes of judicial governance in Ukraine and forming the criteria and processes through which they are implemented. The resolution of such issues at the legislative level as the definition of the term „integrity”, the clear status of the PIC, rethinking of the professional requirements for members of the PIC and the procedure for their appointment will give impetus to the creation of a new, reformed and effective PIC.

The perspective for further scientific research should be the elaboration of separate regulations on the definition of the concept of integrity, methods of testing candidates for integrity during selection for the position of judges, as well as other officials of legal practice.

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LEGAL COMMUNICATION AS A POINT OF CONTACT BETWEEN LEGAL TRANSLATION AND COMPARATIVE LAW

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ABSTRACT. The present paper aims to provide a systematic account of the links between the communicative functions of comparative law and legal translation. The role of these fields in legal communication, as well as the essential interrelationship between law and language, are well-known, making legal communication one of the several points of contact between comparative law and legal translation. Yet, it seems further elaboration is needed on how their communicative functions relate and, perhaps, how they can be helpful to each other in pursuing the common goal of improving legal communication worldwide. This research problem is also important from the perspective of the interdisciplinary encounters of both fields, which, albeit intertwined, have distinct processes and aims. To achieve the above goal, the present paper – drawing on a review of legal translation and comparative law literature – identifies the communicative functions of comparative law and legal translation and juxtaposes them. This is done in an attempt to find similarities and differences as well as point out areas where these functions can be mutually useful. Based on the results obtained, it is submitted that comparative law and legal translation can support each other, but this does not happen automatically and is influenced by the awareness of the other field's intellectual repertoire as well as openness to interdisciplinarity, including in education. As the paper is theoretical in nature, it can be seen as providing a framework for future, empirically-oriented research into how comparative law and legal translation support each other in specific contexts.

Keywords: legal communication; intercultural communication; legal translation; comparative law; interdisciplinarity

INTRODUCTION

A 'comparative law turn' that is said to have emerged in translation studies (Wagner & Matulewska, 2023b) prompts a more profound reflection on the interrelationship between comparative law and legal translation. Such enquiries are essential, given that understanding between the representatives of these fields might not be sufficient, even if some signs of change for the better have been observed (see Biel, 2024; Glanert, 2014; Kusik, 2024b).

Clearly, there are multiple links between legal translation and comparative law, which can be noticed even through a cursory look at their major characteristics. Legal translation is 'the translation of texts used in law and legal settings' (Cao, 2007). Thus, its process occurs at the levels of both legal languages and legal systems (Pieńkos, 1999). In addition, the term

‘legal translation’ may refer to the related area of research, which has been gradually gaining recognition and autonomy and is even described as an ‘interdiscipline’ (Biel, Engberg, Martín Ruano, & Sosoni, 2019, p. 1; see Prieto Ramos, 2014). Comparative law, in turn, can be seen as ‘a shorthand for various ways to study and explain the differences and similarities between (broadly understood) legal systems’ (Husa, 2022). This field also has its theoretical and practical (applied) dimensions (Husa, 2015; Zweigert & Kötz, 1998). It needs to be emphasised, however, that comparative law and legal translation should not be considered the same thing, as is sometimes the case. Significant differences between them are related to their goals, the role of comparison in their processes and the scale of comparative enquiry they typically entail (Kusik, 2024b). This is not to say that there are no mutual links. In contrast, while being separate domains, comparative law and legal translation are rightly described as ‘intertwined and interdependent’ (Doczekalska, 2013).

Apart from the confrontations of the laws and languages of different legal systems or the phenomenon of legal transplants (see e.g. Jamieson, 2011; Kusik, 2024d; Pozzo, 2012, 2019), another common ground for legal translation and comparative law is the communicative functions they fulfil, including, in particular, their role in legal communication (Kischel, 2019, pp. 47–50; Šarčević, 1997). As defined by Osiejewicz (2020), legal communication is:

the whole process of providing legal information to its recipient and of gaining legal orientation, both as a result of learning about the sources of law, as well as on the basis of experience and knowledge of non-legal norms, such as morality or custom.

With the growing transnationality of legal regimes (Osiejewicz, 2020), the common interest that unites the international legal communication community is the comprehensibility and consistency of law, which is guided by the goal of ensuring certainty of law as well as gaining trust among its addressees (Osiejewicz, 2020). The potential of comparative law and legal translation in the area of legal communication – in a globalising world which is, nevertheless, diversified in legal and linguistic terms – is intuitively discernible even in the light of these concise definitions.

The prospects of interaction between comparative law and legal translation to enhance legal communication across legal and linguistic boundaries become even more apparent when one realises the interrelationship of law and language. Notably, ‘legal norms and institutions work only through language as normative creatures’, and legal language is ‘a form of discourse in which legally meaningful linguistic operations take place’ (Husa, 2023). Language (not to be confused with writing) is essential to law since legal norms need to be at least describable in language, and, what is more, almost any legal activity presupposes the existence of a sophisticated communication system (Tiersma, 2009). It can be added that ‘the interrelatedness of law, language, and culture shape the communicative framework in which legal discourse takes place’ (Pommer, 2008). For instance, it is argued that in legal practice, effective communication depends on the unity of meaning. This, in turn, means that if an act of communication spans different legal cultures, problems are likely to arise (Wilson, 2023).

In this context, it needs to be stressed that an act of communication becomes complete when an utterance is received and understood by the recipient. The fact that the recipient has, to some extent, learned the mental content the sender of the message wanted to communicate

can be referred to as the ‘communicative effect’. In this way, the goal of communication can be achieved in the form of certain behaviour that is expected from the recipient (Kielar, 2013).

In the light of the above introductory remarks, the present paper focuses on legal communication (in particular, its transnational dimension), which can be perceived as a point of contact between comparative law and legal translation. This statement, however, requires further elaboration in terms of whether and, if so, how the communicative functions of the two fields relate to each other and, perhaps, how they can support each other with the common goal of improving legal communication worldwide. The aim of this paper is thus to provide a systematic account of these links and perspectives.

Given the above research problem, the questions asked are as follows:

(1) What are the similarities and differences between comparative law’s and legal translation’s communicative functions?

(2) Can these fields support each other in fulfilling these functions, and if so, how?

(3) If the answer to question (2) is positive, what, if anything, can be done to help them support each other better?

It is hypothesised that (1) the communicative functions of comparative law and legal translation overlap to a certain extent; (2) they can be mutually supportive in some ways; and (3) this is influenced by an understanding of the other field’s fundamentals.

MATERIALS AND METHODS

The present paper is theoretical in nature and draws on a review of comparative law and legal translation literature. The review is focused on identifying the communicative functions of legal translation and comparative law and covers selected publications dealing with the communicative aspects of both fields, including introductory books and more specialised contributions. Based on this research, comparative law’s and legal translation’s communicative functions are identified and juxtaposed, which is supposed to help determine similarities and differences between them. This should make it possible to find potential areas in which both fields could be useful to each other and to draw some inferences as to whether any improvements could be made in this respect.

RESULTS

Starting from the communicative functions of legal translation, first of all, it needs to be emphasised that the common ground of different kinds of translation is that acts of translating are essentially acts of communication – like in other cases of verbal interaction (Hatim & Mason, 1997). In this way, translation can be defined as ‘an act of communication which attempts to relay, across cultural and linguistic boundaries, another act of communication (which may have been intended for different purposes and different readers/hearers)’ (Hatim & Mason, 1997). It is also noted that the translator is a special kind of communicator, as his or her act of communication is conditioned by another, earlier act, which he or she receives in an intensive way, interacting closely with the source text (Hatim & Mason, 1997). There are also other conceptualisations. For instance, in the light of Fillmore’s semantics,

translation can be seen as a complex act of communication in which the author of the source text, the reader as the translator and the translator as the author of the target text, and the reader of the target text interact (Snell-Hornby, 1995). Translation can be perceived as a special, mediated kind of communication, which is an active, additional step that takes place over the underlying communication process and changes its nature. As a result of translation, a new dimension is added to the communication process (Hendry, 2014). The communicative aspects of translation are emphasised in the Skopos theory, according to which a translation is perceived as communicating new and original content rather than delivering the same information, which has been put into a recodified form (Shuttleworth & Cowie, 1997). Whatever model of ‘translation as communication’ one adopts, it is clear that translation is a peculiar and complex type of communication where the translator, albeit working based on, and to some extent constrained by, a source message, plays an active role of the recipient of the source message and the sender of a new message. Linguistic and extralinguistic factors are involved in this process.

The characterisation of translation as an act of linguistic communication applies to legal translation, too (Dunin-Dudkowska, 2006). Legal translation has, indeed, been described as ‘an act of communication in the mechanism of the law’, which is no longer supposed to be regarded as a process of transcoding (Šarčević, 1997). Legal translation is also described as a ‘cross-cultural and interlingual communicative act and as a complex human and social behaviour’ (Cao, 2007). The translator is seen as a participant in the communicative situation of legal translation in which a number of factors come into play (Kierzkowska, 2002). It is claimed that a legal translator’s job is to ‘translate and facilitate communication across linguistic, cultural and legal barriers through the medium of language’ (Cao, 2007). Moreover, it can be said that a legal translator, in his or her capacity as a cultural mediator, is supposed to ‘to adequately communicate information about foreign law specifically taking into account the divergent previous knowledge of the target audience in order to avoid misunderstandings’ (Pommer, 2008). A legal translator is thus accurately described as ‘a cross-cultural communicator, mediator and information broker’ (Biel, 2015) who has ‘the task of effectively communicating legal information across the barriers of legal traditions and languages’, trying to avoid conceptual misunderstandings and to achieve transparency (Pommer, 2008). In the same vein, it is noted that legal translation ‘has been a permanent activity and a key issue in the dialogue among nations at both levels: private and public’ (Gémar, 2015). Indeed, translation, including legal translation, serves to assist potential communication partners’ interaction in multilingual settings if they are unable to use the same language code because they do not know the language of the other partner or this is required by the local law or internal protocol (Chromá, 2014). As put by Kocbek (2008):

To enable communication across language and cultural barriers either the language of one of the communicating parties or a third neutral language alien to them, but adopted as a common means of communication – a *lingua franca*, has to be agreed upon. In any case, such communication will involve a certain extent of implicit or explicit translating and interpreting.

Hence, translators’ contribution in a ‘global village’ era of frantic communication is considered irreplaceable. Not only does translation facilitate international business relations

but it also supports bilingual or multilingual countries as well as international organisations so that they can function in optimal conditions. Thus, one can conclude: ‘No translation = no communication’ (Gémar, 2015).

To identify the communicative functions of legal translation more precisely, it seems helpful to note that legal texts may have different communicative purposes, including normative purposes and informative purposes. The former texts are mostly prescriptive and include bilingual or multilingual legislation and documents establishing legal facts or creating rights and obligations. Texts of the latter type are mostly descriptive and include, for instance, legal scholarly works and correspondence between lawyers and their clients. Importantly, in the context of translation, the source text’s legal status and communicative purposes may differ from those of the target text. According to the above text types, one of the categories of legal translation is legal translation for normative purposes, where equally authentic legal texts are produced in bilingual or multilingual jurisdictions and in international contexts. This category also extends to private documents, such as contracts, if their texts in different languages are equally authentic. The communicative purposes of the source and target texts remain the same in this case (Cao, 2007). Legal translation for informative purposes, on the other hand, is intended to provide information, and the resulting target text is not legally binding. Another category that can be distinguished is legal translation for general legal or judicial purposes. These translations are also primarily informative but may be used as part of documentary evidence. They may even include ordinary texts not written in legal language, such as business or personal correspondence. However, due to their use in legal proceedings, such texts can produce legal consequences (Cao, 2007).

Based on the above overview of the communicative aspects of legal translation, its major communicative functions may be listed. Reference will be made to the achievement of the communicative effect and the purposes of translation mentioned above.

Legal translation’s most general communicative function is to make the sense of a text having legal relevance in one language (its legal sense) possible to be received and understood by users of another language. This overall function can be made more specific depending on a given communicative situation:

- In the case of translations for normative purposes, legal translation’s communicative function is to enable those bound by or otherwise concerned with (e.g. as advisors or commentators) a given target text to as accurately as possible learn about, generally speaking, the legal situation of the persons or objects that the law relates to, including certain persons’ rights, obligations and legal status.
- In the case of translations for informative purposes, legal translation’s communicative function is to enable those willing or supposed to learn some information about the content of a given source legal text (e.g. researchers, students or foreign investors) to do so as accurately as possible through the target text they will read.
- In the case of translations used in different proceedings, legal translation’s communicative functions would mix the previous two functions, enabling relevant parties concerned with these proceedings to learn certain information about a given source legal text as accurately as possible so that they can understand how it influences their own legal situation or the legal situation of certain parties or objects.

- In the case of intersystemic and hybrid contexts, i.e. those where different legal systems or hybrid systems, like the EU, are concerned (Biel, 2017) – most typical in translation practice – a communicative function co-existing with those listed above is to help those involved in a given interaction to cross not only the language barrier but also the barrier between the respective legal systems or legal traditions (or their elements entangled in a single system).

Moving on to the communicative functions of comparative law, it should, first of all, be noted that improving communication is considered one of the aims of comparative law. While today's world, on the one hand, is increasingly connected thanks to means of transport and communication, on the other hand, it faces cultural differences and potential conflicts. It is noted that misunderstandings and conflicts can be avoided by the fullest possible understanding of a foreign culture. Indeed, a major source of conflict is the unconscious assumption that everything must be similar to what it is like in one's home country (Kischel, 2019). It is argued that 'the key to effective and efficient legal communication between lawyers from different legal backgrounds is awareness of the risk that there will be misunderstandings – and why these misunderstandings are bound to occur' (Landbrecht, 2020). Most importantly, such misunderstandings result from the fact that a lawyer approaches any kind of legal analysis with the baggage of intellectual predispositions concerning how to conduct legal reasoning, which are often unconscious (unconscious convictions). These convictions pose challenges in discovering truth and, more problematically, in terms of how questions are asked and understood and how answers are given and understood. Unconscious convictions are thus likely to distort legal communication in which lawyers with different legal backgrounds interact (Landbrecht, 2020). Comparative law seems helpful in meeting the challenges, as it facilitates intercultural communication and leads to intercultural recognition and understanding. It facilitates the understanding of oneself and others (Örücü, 2021).

Better mutual understanding and concomitant improvements in communication should also contribute to preventing legal-cultural imperialism, which is the simplistic belief that the familiar solution of one's native system simply works better in terms of regulating certain areas of life. There is also the risk of self-imperialism, which is the overhasty and thoughtless use of elements from a foreign legal system based on their supposed superiority (Kischel, 2019).

Furthermore, comparative law contributes to projects seeking to unify or harmonise laws at a transnational or international level (Mousourakis, 2007). It is, in particular, noted that comparative law is critical to any Europe-wide project and the main tool in working to achieve European integration. While helping overcome exclusive nationalism, comparative law shows that 'the *ius commune novum* must be based on intercultural communication leaving room for diversity' (Örücü, 2021).

Comparative law's communicative role can also have a direct influence on lawyers' professional lives, being an essential aid in providing valuable legal advice. An important aspect is also the choice of language for a particular transaction, which interacts with the selection of applicable law (Kischel, 2019). Comparative enquiries into the patterns of representation and communication, preferences and expectations in a given legal system 'facilitate the acquisition of analytical skills that enable jurists from different legal cultures

to achieve a shared understanding of their respective intentions, positions and views' (Mousourakis, 2007).

From a different viewpoint, one can perceive intercultural communication as a prerequisite for comparative law. Notably, it can be said that law comparison – as cultural comparison – is only possible because there exist different legal cultures, which entail intercultural communication – leading to opportunities and risks of conflict (Seul, 2018). As it facilitates communication, comparative law is also supposed to be able to assist 'the development of an international legal language, and the production of bi-lingual or multi-language law dictionaries' (Mousourakis, 2007).

Interestingly, it has been observed that in the traditional approaches to researching and teaching comparative law, too little focus is placed on preparation for exchanges between lawyers in comparative law settings, namely legal communication between lawyers with different legal backgrounds. Hence, it is suggested that preparing for legal communication should be included among the traditional goals of comparative law (Landbrecht, 2020).

Communication in the context of comparative law may also be considered at a different level, namely, that of interactions between legal traditions. In this regard, the term 'communicative practices' has been used to denote 'the multiple ways in which legal traditions interact with one another by a combination of the circulation of legal ideas and the activities of legal actors' (Braun, 2019). Viewed from this perspective, legal transplants can be seen as a form of communication (Trikoz & Gulyaeva, 2023). It is argued that 'much depends on the degree of communicability of the transplanted institutions and recipient constructions, their ability to "speak" in life in a comprehensible language to the host legal culture' (Trikoz & Gulyaeva, 2023).

The above review of references to the communicative aspects of comparative law in the literature makes it possible to list comparative law's key communicative functions. However, it should be noted at the outset that the communicative role of comparative law does not seem to be placed in a position comparable to that of the communicative aspects of legal translation. This might be the case because comparative law can serve a number of different purposes, which are well-known from comparative law textbooks. Namely, it can contribute, among others, to legal education (Husa, 2015; Kischel, 2019), legislative activities (Tokarczyk, 1999; Zweigert & Kötz, 1998), legal unification projects (Siems, 2019; Zweigert & Kötz, 1998), international law (Demarsin & Pieters, 2023; Kischel, 2019) and legal interpretation (Kischel, 2019; Peat, 2019). At the same time, comparatists emphasise that comparative law does not need to justify its existence with practical applications, and it is sufficient for it to generate knowledge (Husa, 2015; Kischel, 2019). As a result, the role of comparative law in communication, recognised by some authors, is rather one of the several uses of comparative law. This notwithstanding, while it does not seem to lie at the core of comparative law, it can definitely support some of comparative law's other applications.

The umbrella heading for comparative law's communicative functions could be helping recognise and understand the similarities and differences between two or more legal systems in situations where such recognition and understanding can contribute to the achievement of the communicative effect by persons involved in these interactions. This means that comparative law, unlike legal translation, is not an act of communication itself,

but it can be helpful in acts of communication in situations where at least two legal systems are involved. This overall function can be made more specific in relation to several contexts:

- In the case of legal unification or international law projects, comparative law's communicative function is to help participants with different legal backgrounds understand each other's perspectives and to arrive at a common understanding of the legal situation, including relevant parties' rights and obligations, which the legal instruments jointly created by them shape.
- In the case of legal scholarship, comparative law's communicative function is to enable legal researchers with a background in one legal system to better understand legal researchers with a background in another legal system involved in the same scholarly project or undertaking – and vice versa.
- In the case of legal transplantation, comparative law's communicative function is to help all actors involved in a legal transplant thoroughly understand the legal ideas which are being, are to be or have been transplanted from one jurisdiction to another to help them effectively use the tools provided by the legal transplants paradigm (see Kusik, 2024e).
- In the case of transnational legal practice, comparative law's communicative function is to help lawyers with a background in one legal system to better understand lawyers with a background in another legal system involved in the same transaction or case – and vice versa – as well as to help them understand the relevant foreign laws or the interactions of different laws as well as the legal situations these laws shape.

A mere look at the contexts in which legal translation and comparative law can fulfil their respective communicative functions makes certain overlaps evident. Legal translation for normative and informative purposes plays a significant communicative role in legal unification or international law projects (see e.g. Osiejewicz, 2016) unless only same-language countries are concerned. Legal translation for informative purposes might be useful in the course of legal research projects in which scholars who not only have different legal backgrounds but also speak different languages participate (see e.g. Kischel, 2019). Furthermore, in the case of legal systems using different languages, 'massive translation efforts' (Graziadei, 2019) are involved in the legal transplantation process. Translations are obviously also used in legal practice (see Wilson, 2023).

Overall, in addition to the aforementioned overlapping settings in which legal translation and comparative law co-occur, it could be said that the communicative functions of legal translation in intersystemic and hybrid contexts and of comparative law in multilingual contexts are concerned with intercultural communication and with crossing the related barriers at the levels of legal languages and legal systems. These two levels are essentially related, which has been pointed out in the introduction. As one scholar has put it, translation studies and comparative law 'both mediate between cultures and try to grapple with the "foreign" and the "unfamiliar"' (Laske, 2013).

However, it is also necessary to note the differences between comparative law's and legal translation's communicative functions. First of all, as already mentioned, legal translation itself is considered an act of communication, and communication constitutes its essence. For comparative law, the essence is the pursuit of knowledge. Communication remains vital for it but still is only one of its uses. Secondly, legal translation is more focused on the linguistic

layer of legal communication, concentrating on legal terminology and the underlying concepts as well as on ensuring equivalence between texts and terms in different languages. Unsurprisingly, translation skills represent a distinctive part of legal translator competence (Kusik, 2023b). It should also be acknowledged that legal translators most often do not have a legal education (Alcaraz Varó & Hughes, 2002), even though they can be considered active legal discourse participants (Kusik, 2024c; but cf. Engberg, 2002; Zeifert & Tobor, 2021). Comparative law, on the other hand, is more focused on the substantive layer of intercultural legal communication, namely on the information about the various legal systems and the differences and similarities between them. Comparative law is also more likely to adopt a broader perspective of law, looking at it in many more dimensions than through the prism of legal concepts. These dimensions include, for instance, legal systems, legal mentalities and the realist model of law (Samuel, 2014). Obviously, the linguistic and legal layers cannot be separated, which does not mean that more or less stress cannot be laid on either aspect.

There are also contexts in which the communicative functions of legal translation and comparative law do not co-occur, or this co-occurrence is less explicit. For instance, in the case of intrasystemic legal translation, where translations are carried out within a single legal system, comparative law is rather not involved to a greater extent. Similarly, in the case of comparative legal research or other uses of comparative law relating to different jurisdictions using the same language, legal translation does not seem to be involved. However, as the differences between various English-speaking countries worldwide demonstrate, the legal varieties of one language may also differ. The methods developed in the field of legal translation may thus prove useful even in this case (see Kischel, 2019).

DISCUSSION

The identification and juxtaposition of the communicative functions of legal translation and comparative law in the preceding section makes it clear that the areas in which these functions can be fulfilled largely overlap. Moreover, the interrelatedness of language and law suggests that these very functions might be intertwined and influence one another. These ideas, elaborated on in the present section, are illustrated in Figure 1 below for greater clarity.

While the role of translation in comparative law has been ignored by many comparatists (Glanert, 2014), even though some positive changes have been observed recently (Biel, 2024), ‘translation is the hinge between the comparatist and foreign law; it connects familiar and unfamiliar through language’ (Husa, 2022). Kischel (2019) argues that ‘without translations, the enterprise of comparative law is almost impossible’, which is primarily due to the fact that one comparatist knows, to some extent, a limited number of languages. Moreover, when comparing laws of different jurisdictions, the comparatist will most often have to write down his or her findings in a certain language (Kischel, 2019). As regards legal transplants, which are more or less reliant on language for their substantive effect (Jamieson, 2011), legal translation can be seen as their ‘major conduit’ (Wang, 2010). This notwithstanding, legal translation may be a source of difficulties in the process of transplanting laws as well (Fedtke, 2006; Zygmunt, 2016).

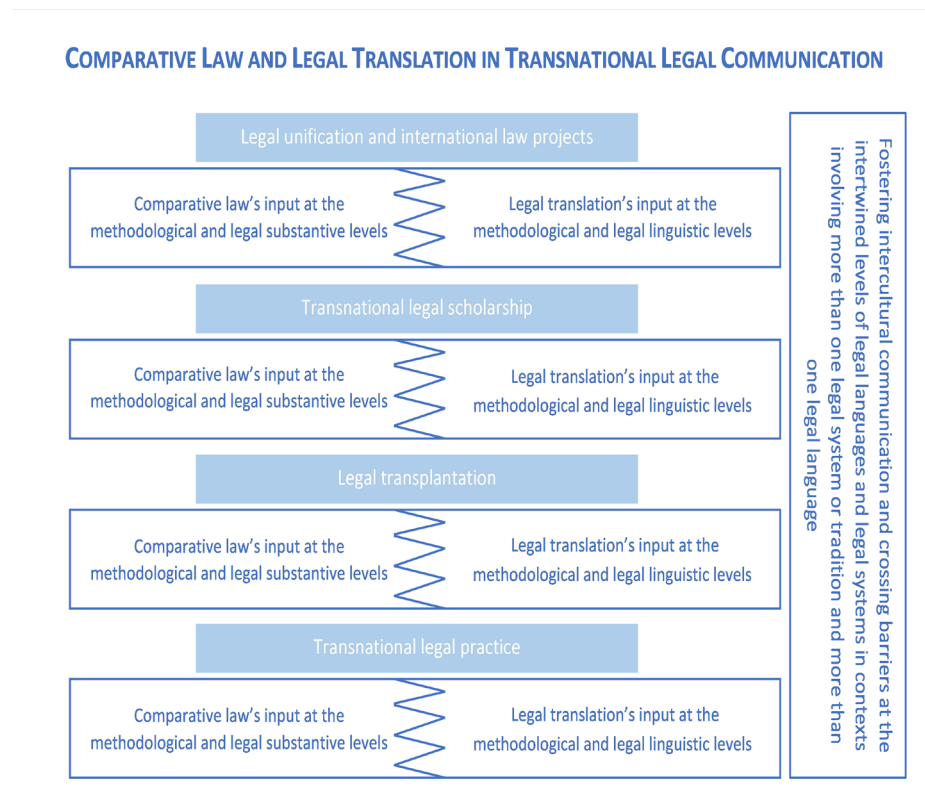


Figure 1. Comparative law and legal translation in transnational legal communication.
Compiled by the author.

Translation also plays a crucial role in the preparation of authentic texts of international legal instruments. The high quality of non-authentic versions, too, may be very significant, given the influence such translations have on the application and interpretation of a particular instrument (Osiejewicz, 2016). Hence, linguistic differences and wrong translations in this field will likely have serious practical consequences (Gutteridge, 1938, 1946).

Translation of various legal documents may also be necessary in private transactions or court cases concerning different legal systems. As is well-known, the globalising world entails such legal phenomena as cross-national contracts, international joint venture agreements, foreign and multinational corporate vehicles, export licensing and other forms of foreign investments (Wolff, 2011). Legal translators are needed to make the process of interlingual legal communication feasible and to provide participants in communication with an equal opportunity to express themselves, bearing in mind that a foreigner unfamiliar with a particular country's legal system and language finds himself or herself at a disadvantage (Wagner & Matulewska, 2023a).

Overall, it can be inferred that in all bilingual or multilingual contexts where comparative law is involved and fulfils its own communicative functions – assisting those concerned in navigating legal-cultural differences in intercultural communication – legal translation can support it at the linguistic level. It can do so by bridging the linguistic gap and helping get legal ideas across between users of different languages. Interestingly, lawyers could also harness legal translation tools for their purposes. As has been suggested, methods

derived from legal translation could be useful for practising lawyers (Wilson, 2023) and in comparative law research (Laske, 2013). In particular, it is argued that ‘starting from the underlying assumption that all texts are acts of communication, we can use as a cognitive model for comparative law the way a translator, as a mediator between cultures, approaches a text for translation’ (Laske, 2013).

Comparative law’s significance for legal translation is also noticeable. It has already been emphasised by a number of scholars. Some authors see comparative law as an element of a legal translator’s competence, general knowledge or training (de Groot, 1987; Doczekalska, 2013; Dullion, 2015; Kęsicka, 2017; Klabal, 2020; Piecychna, 2013; Prieto Ramos, 2011; Šarčević, 1997; Soriano-Barabino, 2016). In this regard, comparative law can be perceived as a background that provides translators with knowledge and skills needed for their job. A distinct facet of the relationship between the fields is the use of comparative law, or, more specifically, the adaptation of comparative law methods, for legal translation purposes (Kusik, 2023c). In this connection, it is worth noting that comparative law does not provide translators with ready-made terminological solutions. However, it can give them solid grounds to make translation decisions (Dullion, 2015), helping them decide which terms to avoid (Pieńkos, 1999, p. 176), create an explanatory translation (Galli, 2021) or identify potential natural equivalents (Monjean-Decaudin & Popineau-Lauvray, 2019; Soriano-Barabino, 2016). The above remarks rightly imply that translation of terminology is the component of legal translation for which comparative law is seen as the most relevant (Engberg, 2017).

It should further be noted that the usefulness of comparative law for legal translation does not, in fact, depend on whether a particular translation is for normative, informative or general legal or judicial purposes – as long as at least two legal systems are directly or indirectly involved in a given communicative situation. While translators can find translation equivalents elsewhere without engaging in probably more time-consuming (see Biel, 2008) translational comparative legal analyses (as this author prefers to designate the use of adapted comparative law methods in legal translation), it is clear that the comparative exploration of the respective legal realities at the micro, meso and macro levels can effectively help them find or create high-quality translation equivalents. The use of comparative law can thus contribute to the accomplishment of the goal of legal translation, which is to try to convey the legal sense of the source term (text) by means of the target term (text) (see e.g. Kusik, 2023a; cf. Kielar, 1977; Šarčević, 1997). It can be concluded that comparative law aids legal translation at the substantive level, allowing improvements to its quality through improved communication of the legal sense.

As already noted, the fact that legal translation and comparative law co-occur in numerous contexts implies that their communicative functions in those contexts may be intertwined, as law and language are necessarily intertwined. At the same time, comparative law appears to focus more on the substantive side of intercultural legal communication, and legal translation is more concerned with its linguistic side. The above discussion suggests that in such contexts, comparative law and legal translation could also mutually support their communicative functions, even though, as has been stressed, comparative law and legal translation remain intertwined but distinct domains. These remarks should not, however,

create a false impression that these fields are automatically and almost always useful to each other. It rather implies that there exists a potential for such mutual support, which does not mean that it is always taken advantage of. In contrast, there appears to be some ignorance between the representatives of both fields. Generally, as the present author has demonstrated in another paper, legal translation studies may be prone to creating a distorted picture of comparative law. Notably, there is relatively little in-depth discussion of comparative law theory and methodology in legal translation scholarship. Moreover, some legal translation scholars seem to have a reductionist view of comparative law and express a conviction, which is not grounded in the tenets of both fields, that legal translation naturally involves an exercise of comparative law (see Kusik, 2024b). Such an attitude definitely does not motivate deeper enquiries into what comparative law can offer to legal translators in their translation practice. Similarly, serious concerns have been raised over the frequent neglect of legal translation issues in comparative law literature (Glanert, 2014; see also Brand, 2009; Siems, 2019). Some comparatists who do refer to legal translation like to portray it as an obstacle or a source of problems for comparative law (Bogdan, 2013; de Cruz, 1999; Gutteridge, 1938, 1946; Sacco, 1991).

It is also possible to observe a tendency among comparatists to disregard the role of professional legal translators and to see a legal comparatist as a natural legal translator (see e.g. G  mar, 2014; Glanert, 2014; Legrand, 2020; Pozzo, 2012). As put by one author, ‘translation of laws from one language to another is a major world activity and is usually regarded as one of the functions of a comparative lawyer’ (Samuel, 2014). This attitude ignores crucial aspects of a legal translator’s unique competence, which is not a sum of the knowledge of at least two languages and legal knowledge.

The above observations seem to point out that while legal communication is clearly a point of contact between comparative law and legal translation, there is, perversely, a gap in the communication between these fields themselves, which might result in representatives of one field having a truncated view of the other field.

This, in turn, does not help take advantage of what the other field can offer. While legal translation and comparative law have a lot to share, in particular, in terms of improving the fulfilment of each other’s communicative functions (which, in fact, are often intertwined), greater awareness and understanding of the other field, including its theory and practice, would be useful. Such awareness and understanding are likely to provide their representatives with the ability to more consciously and more extensively draw on the other field’s intellectual repertoire. To do this, it would seem advisable to include comparative law and legal translation in, respectively, legal translator and lawyer education. Steps in this direction have already been proposed in the literature (Kusik, 2024a; Wilson, 2023).

CONCLUSION

The research results presented and discussed in the preceding sections make it possible to answer the questions asked at the outset of this paper and to test the hypotheses put forward.

Regarding the first question, it has been shown that the communicative functions of legal translation and comparative law are similar in terms of the contexts in which they are fulfilled,

including legal unification and international legal projects, transnational legal scholarship, legal transplants and transnational legal practice. They are also similar in that these functions typically involve crossing the cultural boundaries resulting from different legal languages and different legal systems. What is clearly different between the communicative functions of comparative law and legal translation is that while communication lies at the core of legal translation, which is itself an act of communication, it is one of the multiple purposes or uses of comparative law. Comparative law's communicative functions are also more focused on the legal layer of intercultural legal communication, whereas legal translation concentrates more on the linguistic layer of this communication. In the contexts in which comparative law's and legal translation's communicative functions co-occur, these functions are likely to be intertwined, which does not mean, however, that they are the same.

As for the second question, it has been found that legal translation and comparative law can be mutually supportive in terms of their communicative functions, with comparative law providing knowledge to be used and methods to be adapted by legal translators and legal translation fostering communication of legal ideas and, perhaps, also providing tools in contexts where comparative law seeks to fulfil its own communicative functions. Finally, an answer to the third question is that in order for both fields to help each other better, greater awareness of the other field would be advisable. Taking the other field's existence and intellectual repertoire for granted, which can be observed in both legal translators' and comparative lawyers' attitudes, seems to be an obstacle preventing the fruitful use of what the other field offers. Greater openness to interdisciplinarity – even in these inherently interdisciplinary fields – would thus be desirable.

The research has confirmed the first hypothesis, namely that the communicative functions of comparative law and legal translation overlap to a certain extent. This overlap can be observed at a rather general level, that is, in the fact of crossing cultural barriers in situations where at least two languages and at least two legal systems are involved. However, even though the contexts in which legal translation and comparative law fulfil their more specific communicative functions also overlap, these functions are not the same, as they are determined by the unique nature, including the specific goals and processes, of legal translation and comparative law. This notwithstanding, the second hypothesis, according to which legal translation and comparative law can be supportive of each other in certain ways, has also been confirmed. Moreover, regarding the third hypothesis, it has been confirmed that an understanding of the other field's fundamentals is advisable in order for either field to be able to take advantage of the other field's support.

The limitations of the present research need to be acknowledged. This study is mainly aimed at providing a theoretical and systematising account of the communicative functions of comparative law and legal translation. Clearly, it would be interesting to conduct case studies that would offer more practical insights into how the fields help each other fulfil their communicative functions and how this could be improved in a particular case. Thus, the present research, providing a theoretical framework, may be seen as an inspiration for future empirical research. Moreover, it should be noted that the list of communicative functions of legal translation and comparative law has been compiled by the author based on a review of comparative law and legal translation literature which, due to the wealth

of both fields' scholarship and the limited extent of this study, is not exhaustive. While the contexts in which the communicative functions of comparative law and legal translation are likely to be fulfilled identified in this paper seem to cover a broad scope of activities carried out in both fields, it is not excluded that other such contexts could be pointed out or that the functions identified could be arranged or presented differently.

Despite its limitations, the present paper elucidates one of the crucial points of contact between legal translation and comparative law, namely their significance for legal communication. Obviously, legal communication can take place in various contexts, from academia to lawmaking to legal practice. In each of them, the provision of legal information to the recipient can be considered paramount in achieving the respective goals that the participants in such interactions pursue. With the essential interrelatedness of law and language, this communication becomes much more challenging in transnational contexts, especially those in which different legal systems and different legal languages are involved (which is typically the case).

Given that 'the interrelatedness of law, language, and culture shape the communicative framework in which legal discourse takes place' (Pommer, 2008, p. 20), an effective combination of comparative law and legal translation – in which their communicative functions are coordinated and, despite these fields' distinct goals and processes, foster the same ultimate goal of legal communication – seems to be of crucial importance. Such a combination, however, is not automatic. It is the mutual awareness of each other's intellectual repertoires that can contribute to better comparative law, better legal translation and thus better transnational legal communication. This can be achieved through, first of all, not taking the other field for granted and, consequently, greater openness to interdisciplinarity, also in lawyers' and translators' education.

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