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# CONSTITUTIONAL LAW NORM: TOPICAL ISSUES OF STRUCTURE

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**Summary.** The specifics of the norm of the constitutional law of Ukraine in the context of enshrining in it the basic provisions of the constitutional and legal status of a person and a citizen are revealed. It is pointed out that the multifaceted system of constitutional law of Ukraine and all its structural elements consist of the norms of constitutional law. The latter are the basis of the institutions of constitutional law, as well as other parts of the system of constitutional law - natural and positive, general and special part, substantive and procedural, international and national, and so on. That is, the system of constitutional law of Ukraine cannot exist outside its normative dimension. In addition, law, and later its system, were formed on the basis of legal norms, which have historically stood out from other social norms - religious, moral, ethical, cultural, and so on.

It is noted that the position of the general theory of constitutional law, the study of the constitutional and legal status of man and citizen is closely related to the problem of determining the subject of constitutional law on the legal status of man and citizen. In this sense, in the science of constitutional law, there are at least two ways to answer the question. One of them as a subject of constitutional law interprets only the basic principles of the constitutional and legal status of man, and the other to the subject of the science of constitutional law also adds the problems of protection and maintenance of the constitutional and legal status of man and citizen. On the other hand, the coverage of the problems of the constitutional and legal status of man and citizen has a purely methodological relevance.

The establishment of the foundations of the legal status of a person by the Constitution of Ukraine marked the beginning of the process of compiling a new type of legal culture of our state and its citizens. At the same time, it is the prin-

ciples of the legal status of a person, formed outside the very institution of the constitutional status of a person, that bring to it the meaning that necessitates truly historical changes in our society.

**Key words:** constitutional and legal status of man and citizen, system of constitutional law, norm of constitutional law.

**Formulation of the problem.** The primary and one of the most important elements of the system of constitutional law of Ukraine is the constitutional legal norm (from the Latin norma - rule, model). Norms of constitutional law as components of the system of constitutional law of Ukraine in their entirety reflect the essence and content of this branch of law. Given this, they are sometimes compared with cells, as the basis of any living organism, biological system.

According to V. Fedorenko, this comparison is true for many other organic systems. Thus, the multifaceted system of constitutional law of Ukraine and all its structural elements consist of the norms of constitutional law. The latter are the basis of the institutions of constitutional law, as well as other parts of the system of constitutional law - natural and positive, general and special part, substantive and procedural, international and national, and so on. That is, the system of constitutional law of Ukraine cannot exist outside its normative dimension. In addition, law, and later its system, were formed on the basis of legal norms, which have historically stood out from other social norms - religious, moral, ethical, cultural, and so on. In this case, the rules of law have retained the properties inherent in all social norms in general.

Presenting main material. The content of the legal status of man is determined by all the norms and relations regulated by them that arise between the state and man in connection with its actual place in the socio-economic, political and spiritual-moral life of our society. These relations are very diverse, they cover various aspects of life and are therefore governed by the rules of not one, but almost all branches of law.

At the same time, constitutional norms play a special role here. Due to their general regulatory nature, they outline the position of citizens not in any one area of activity, but in its main areas. At the same time, they establish only the most essential, fundamental relations between the state and its citizens in connection with their place in the management of public and state affairs, leaving detailed regulation of such relations to the norms of other industries.

Any social norm, wrote the famous Ukrainian Soviet theorist of law P. Nedbaylo, is a rule of a general nature that reflects the needs of public life and is of guiding importance for the practical activities of people. Social norms arose simultaneously with human society in connection with the need to cover and regulate people's behavior by general rules. According to the scientist, "the norm is not a simple statement of facts, not a judgment about certain of their features, but a mandatory rule, a command that always requires certain results, the oc-

currence or non-occurrence of certain consequences. A norm is always a rule of proper and possible behavior within its limits, which obliges, forbids, allows this or that action or deed under certain conditions. The norm is an imperative that postulates a proper connection between people; it is caused by the threat of unfavorable consequences for anyone who deviates from its requirements". Such properties of the regulator of public relations are generally inherent in the norms of constitutional law.

Given the above-mentioned primacy of constitutional law on other structural elements of the multifaceted system of constitutional law of Ukraine, the study of their essence, content, legal properties and features of construction is a kind of "key" to knowledge of institutions and other components of constitutional law in general. In addition, unlike other structural elements of the system of constitutional law of Ukraine, the norms of constitutional law are one of the most studied in modern Ukrainian jurisprudence. Thus, only at the dissertation level the legal nature of the norms of the constitutional law of Ukraine has been studied several times in the last eighteen years (among such works, for example, the research of O. Stepaniuk; O. Sinkevych; J. Chistokolyany and others).

At the same time, the constitutional norms contain not only the initial data of the status of the person, but also fix all its main parties. Therefore, the constitutional status is rightly considered as the basis of the legal status of citizens.

It should be noted that the position of the general theory of constitutional law, the study of the constitutional and legal status of man and citizen is closely related to the problem of determining the subject of constitutional law on the legal status of man and citizen. In this sense, in the science of constitutional law, there are at least two ways to answer the question. One of them as a subject of constitutional law interprets only the basic principles of the constitutional and legal status of man, and the other to the subject of the science of constitutional law also adds the problems of protection and maintenance of the constitutional and legal status of man and citizen. On the other hand, the coverage of the problems of the constitutional and legal status of man and citizen has a purely methodological relevance. It means, according to T. Frantsuz-Yakovets, that due to the category of constitutional and legal status of man and citizen there is an opportunity to analyze its structure and constituent elements. In this case, the analysis acquires signs of complexity, because it examines not limited institutions of citizenship, legal personality, human rights and freedoms, responsibilities of citizens, guarantees of human rights and freedoms, etc., but one of the elements of the constitutional and legal status of man connected with others and forms a holistic system through which human relations with the state and other subjects of legal relations are established and regulated.

At the same time, according to the scientist, the problem of ensuring the constitutional and legal status of man and citizen is one of the key issues both in the science of constitutional law and in direct constitutional practice. This is due

to the fact that the very concept of "constitutional and legal status of man and citizen" is fixing the foundations of the relationship between man, state and society, outlines their rights and mutual responsibilities, establishes a system of ensuring, guaranteeing and protecting the rights of all participants.

The task of studying the principle of equality of rights of women and men, as well as its scientific, theoretical and practical content, can not be limited to analysis of the actual rights of these categories of persons and other elements of their constitutional status, which are enshrined in law. Indeed, an adequate understanding of what in reality is the constitutional and legal status of man, provides a detailed coverage of the foundations through which the system of human and civil rights is formed and through which the actual implementation of these rights. These fundamental principles are defined by the concept of "principles of constitutional and legal status of man." Their role and importance in the process of formation and development of relations between the state and the individual are explained by the fact that it is at the level of principles of constitutional and legal status of a person that determines whether the state ensures equality of human and civil rights and freedoms. defined in the Constitution of human rights and protect them, whether these rights are fully recognized by the state, whether there are restrictions on the exercise of human and civil rights, and if so, which, etc.

Thus, ipso jure, based on the understanding of the principles of constitutional and legal status of man as recognized and protected by law and the state basic principles on which the implementation of constitutional and legal status of man, it is necessary to recognize that the study of these principles and their specifics in the implementation of the constitutional and legal status of man, is an integral part of theoretical research in the field of constitutional law, the theory of human and civil rights.

According to the true statement of S. Lavrenyev, the importance of the institution of the constitutional status of a person in any modern democratic state is difficult to overestimate. In Ukraine, this is all the more difficult to do, because these institutes are associated not only with people's hopes for a decent legal way of life, but also with all the processes of transformation of the state and legal system of society. This is decisively explained by the fact that the constitutional status of a person has become the specific and legally significant form in which human rights and freedoms have found expression, which have determined and in many ways continue to be the most important cause of truly democratic changes in our society.

The establishment of the foundations of the legal status of a person by the Constitution of Ukraine marked the beginning of the process of compiling a new type of legal culture of our state and its citizens. At the same time, it is the principles of the legal status of a person, formed outside the very institution of the constitutional status of a person, that bring to it the meaning that necessitates truly

historical changes in our society. Therefore, it is quite natural growth of scientific interest of constitutionalists to questions of sources, the nature and legal value of the basic principles of the constitutional status of the person.

Thus, in particular, P. Rabinovych, M. Khavronyuk, V. Kravchenko, O. Frytsky worked on the problem of the principles of the constitutional and legal status of a person and a citizen, which, in turn, highlight the following principles:

1) the principle of equality in rights and freedoms and equality before the law, which follows from Articles 21 and 24 of the Constitution of Ukraine;
2) the principle of inalienability and inviolability of human rights and freedoms, enshrined in Art. 21 of the Constitution of Ukraine;
3) the principle of guaranteeing the rights and freedoms of man and citizen and the impossibility of their abolition;
4) the principle of inexhaustibility of human and civil rights and freedoms, enshrined in Art. 22 of the Constitution of Ukraine;
5) the principle of compliance with international standards of human and civil rights and freedoms enshrined in the Constitution of Ukraine (Articles 3, 5, 6, 8, 9);
6) the principle of unity of rights and responsibilities of man and citizen in accordance with Articles 23 and 68 of the Constitution of Ukraine.

In addition, some scholars highlight other principles of the constitutional and legal status of man and citizen. Thus, in particular, V. Kravchenko highlights the principle of human freedom. In his opinion, in Articles 21 and 23 of the Constitution of Ukraine, this principle determines her right to the free development of her personality, and the limit of individual freedom is the rights and freedoms of others. The scientist also highlights the principle of equality of people in their dignity (Article 21 of the Constitution of Ukraine). According to the Preamble of the International Covenant on Civil and Political Rights, the dignity of the person is a property inherent in "all members of the human family", recognition of human dignity, their equal and inalienable rights is "the basis of freedom, justice and universal peace".

P. Rabinovych and M. Khavronyuk in their work note a separate principle of the principle of preventing the narrowing of the content and scope of existing rights and freedoms, enshrined in Art. 22 of the Constitution, which does not allow narrowing when adopting new laws or amending existing laws. Also note the principle of prohibition of arbitrary restriction of constitutional rights and freedoms of human and citizen. Article 64 of the Constitution of Ukraine provides for the existence of certain formal limits to these rights and freedoms, and the fact that these limits must be determined only by law, only in cases provided by the Basic Law of Ukraine, and justified by relevant factors.

Finally, the principle enshrined in the Basic Law of our state (Articles 24, 23, 21), the principle of equality of rights of women and men (gender equality),

which, in particular, declares that equality of rights of women and men is ensured by: providing women with equal rights. men opportunities in socio-political and cultural activities, in education and training, in work and remuneration for it.

Without denying either the epistemological or practical value of the above approach to understanding and identifying the basic principles of the constitutional status of the person, it is impossible not to notice its one-sidedness. This is manifested, in the opinion of S. Lavrentyev already in the fact that such principles are universally recognized, and therefore, firstly, are not given by the state, but recognized by it, and secondly, are not formulated by the state and its bodies, and the international community, thus bringing to the constitutional status of the person universal values of natural rights and freedoms. Hence, according to A. Oliynyk, it follows that the methodology of their scientific analysis can not be reduced to the above rules. It should be extended to the natural-legal nature of the constitutional status of a person. This, in turn, makes it necessary to rethink both the category of "constitutional status of the person" and its structural entities, in a number of which are these principles.

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# DAS PHÄNOMEN DER FARBE IM SCHAFFEN VON W. BORCHERT

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**Summary.** The article deals with the phenomenon of color in the work of W. Borchert. The symbolic necessity of color is not absolute, because having variable use; it is characterized by freedom and the author's desire. The play of colors is subject to historical necessity, the internal rules of the text, and therefore color is an element of the author's artistic vision of reality.

The article describes the peculiarities of the functioning of color symbols in the work of W.Borchert and identifies their associative-semantic connections in the literary text, analyzes the compatibility of color names.

The color scheme helps to convey the subtlest moods of the writer, adds volume to the images and artistic expressiveness, completeness and sophistication to the characteristics of the reality that surrounded him. W.Borchert's prose is dominated by achromatic colors, which symbolize the hopeless, joyless, gloomy existence of people in conditions of complete collapse of life.

The use of color lexical units in a literary text is a means of expressing not so much opinions or views as feelings and emotions; therefore, using the color vocabulary used by the artist, one can reproduce the image of the writer himself and his inner self-awareness.

Color analysis emphasizes the style of the writer, the poetics of his works, reveals his tastes and preferences, highlights personal and private issues

The colorams Blau and Gelb are analyzed, which are realized in a new deep sense, which they acquire in this text, when there is an increment of new meaning to the basic conceptual meaning of the word. This also applies to the general use of color symbols in the author's fiction.

**Key words:** colorem, color phenomenon, color symbolism

Das Phänomen der Farbe ist Gegenstand des Studiums vieler Grundlagenwissenschaften und Bestandteil vieler Kunstarten. Dennoch hat Farbe kein allgemeines Konzept sowohl innerhalb einer der Wissenschaften als auch der gesamten wissenschaftlichen Richtung.

Aus psychologischer Sicht sind Farbempfindungen eine der spezifischen Reaktionen von Auge und Gehirn auf Frequenzlichtschwingungen. «Die Welt ist farblos, Farbe existiert nicht in der Natur, es gibt einen Eindruck von einer Realität, die in Farbempfindungen dargestellt wird. Infolgedessen wird die Realität des Farbbereichs vorgetäuscht "(Mostepanenko, 1992, S. 90-98). Die von der rechten und linken Gehirnhälfte erstellten Farbmodelle stimmen nicht überein - die Halbkugeln bevorzugen unterschiedliche Teile des Spektrums und liefern grundlegend unterschiedliche Ergebnisse:

1) Die rechte Hemisphäre ist natürlich auf den langwelligen Teil des Spektrums (rot) fokussiert und liefert ein Farbbild, das mit der sensorischen Wahrnehmung verbunden ist.
2) Die linke Hemisphäre ist auf den mittelwelligen Teil des Spektrums fokussiert (blau) und liefert ein Bild, das mit dem konzeptuellen Komplex verbunden ist.

Dies ist das Paradoxon der Farbe: Farbe enthält die Möglichkeit logischer und sensorischer Arten, die Welt zu kennen. Diese Eigenschaft der Farbe ist wichtig für die Philosophie, da Farbe in diesem Fall als Übersetzung des nonverbalen (sensorischen Bilddenkens) auf die Ebene des Verbalen betrachtet werden kann. Darüber hinaus assoziieren Psychologen Farbe mit menschlichen Emotionen: Jede Emotion hat ihren eigenen Platz im Farbraum, d.h jede Emotion entspricht einer bestimmten Farbe, und jede Farbe ruft die entsprechenden Emotionen hervor.

In Bezug auf die Linguistik wurde trotz eines ziemlich breiten Spektrums vielfältiger Forschungen auf diesem Gebiet noch kein klarer systematischer Ansatz für das Farbvokabular entwickelt. Daher scheinen insbesondere folgende Bestimmungen wichtig zu sein:

1) das Wort-Farbenbezeichnung selbst ist emotional gefärbt, das heißt, es benennt nicht nur die Farbe, sondern versucht auch, unsere Einstellung dazu auszudrücken;
2) Farbe kann explizit (durch direkte Benennung einer Farbe oder eines Merkmals nach Farbe) und implizit (durch Benennung eines Objekts, dessen Farbmerkmal traditionell in Kultur und Sprache verankert ist) ausgedrückt werden (Uporova, 1995, S. 52).

Farbe ist eine der Konstanten oder eines der Prinzipien der Kultur, die als eine Art Entwicklungsmodell dienen kann, das die Formen der Bildung, Entwicklung und Festigung im kulturellen Gedächtnis nicht nur allgemeiner, sondern auch national gefärbter kulturell bedeutsamer Konzepte widerspiegelt. Viele kulturelle Phänomene können nicht verstanden werden, ohne die Bedeutung von Farbe zu berücksichtigen.

Farbe ist eine der Hauptkategorien der Kultur, die einzigartige Informationen über die Farbe der Natur, die Originalität des historischen Weges der Menschen, das Zusammenspiel verschiedener ethnischer Traditionen und Merkmale der künstlerischen Vision der Welt erfasst (Zharkynbekova, 2013, S.109). Da Farbe ein Bestandteil der Kultur ist, ist sie von einem System von Assoziationen,

Bedeutungen, Interpretationen umgeben und verkörpert verschiedene moralische und ästhetische Werte.

Das sprachliche System der Farbwahrnehmung unterscheidet sich vom wissenschaftlichen aufgrund seines Anthropozentrismus: Die Art und Weise, wie wir die Farbe eines Objekts beschreiben, wird sowohl von physischen als auch von psychischen Gesetzen der Wahrnehmung und des Wissens über die Welt sowie über die funktionale Verwendung der untersuchten Objekte beeinflusst. Jede Nation hat seit langem Farbe als eines der Mittel, um die Welt zu verstehen. Es diente als Symbol für das Wichtigste in der Natur und das Wertvollste im Menschen. Im Laufe der Zeit haben Farbbilder jedoch ihre kognitive Bedeutung verloren und eine ästhetische und spirituelle Bedeutung erlangt, und es ist die Farbe, die die innere Welt des Menschen auszudrücken begann. Im Laufe der Zeit hat sich der Anwendungsbereich von Farben im symbolischen Sinne erweitert. Farben wurden verwendet, um Raum und Zeit zu charakterisieren, wurden zum Symbol bestimmter sozialer Gruppen und anderer.

In disem Artikel wollen wir die Phänomene der Farbe in der künstlerischen Prosa von W. Borchert genauer betrachten, und zwar am Beispiel der Farbe *blau* und *gelb*.

*Blau* ist der Name der Farbe, die sich im Bereich des Farbspektrums zwischen Lila und Grün befindet. Die häufigste universelle Assoziation für diese Farbe ist *die Farbe des Himmels an einem klaren Tag,* die Farbe der Kornblumen. Etymologisch ist das colorem blau (althochdeutsches *blao,* mittelhochdeutsches *bla*) mit Verben assoziiert: gotischer *bliggvan*, althochdeutscher *pliuvan*, mittelhochdeutscher *bliuvan* - «*schlagen bis zu blauen Flecken*» (moderne Form *bleuen* - «*schagen»).* Blau hat ähnliche Wurzeln wie andere Sprachen: lateinischer *flavus*, litauische *baltas,* altslawischer *belu*.

Die Hauptbedeutung von blau ist die entsprechende Farbe, auf deren Grundlage freie und stabile Phrasen vorhanden sind. Wörterbücher zeichnen eine beträchtliche Anzahl von beiden auf. Ja, *blau* ist die Farbe einer sehr blassen Haut, die aufgrund äußerer (Kälte, Angst) oder innerer (Wut, Krankheit, Neid) Faktoren einen bläulichen Schimmer bekommen hat: *blaue Lippen, blaue Hände, blauer Zorn, blauer Neid.* Schmerzhafte Blutergüsse der Haut, die durch verschiedene Krankheiten (*die blaue Krankheit)* verursacht werden, sind die sogenannte Zyanose, ein starker Husten, dessen Anfall infolge Erstickung zu Blutergüssen der Haut führt, die der blaue Husten genannt werden.

Als Bestätigung der Etymologie ist das colorem blau oft Teil regulärer Phrasen und Redewendungen, die «Schlag», «Bluterguss», «Bluterguss unter dem Auge, geschlossenes Auge» bedeuten: *Im blau geben, den Rücken blau anstreichen, blau Fenster machen* ; *es ist blau gekleidet*, *blau angelaufen, blauer Fleck, blaues Auge*. Der letztere Ausdruck bedeutet auch «geringen Schaden erleiden» und ist Teil der Redewendung *mit blauem Auge davonkommen* - billig / leicht zu passieren; *ein blaues Auge wagen* - zu riskieren.

Die Hauptfarbbedeutung von *blau* bildet eine Reihe von terminologischen Verbindungen aus verschiedenen Bereichen, einschließlich des Militärs: *blaue Latscher* - Infanterie (nach der Farbe der Schulterstücke), *blaue Kinder* - Grenadiere (nach der Farbe der Uniformen); *blaue Jungen* - Matrosen (nach der Farbe der Kleidung).

Colorema *blau* hat eine andere gebräuchliche (ca. ab 1850) bildliche Bedeutung «betrunken sein, berauschen» - *er ist blau*, die aus dem Slang der Schneider (*Einen blauen Affen haben; von blauen Affen gebissen sein* – „einen Vogel haben“) zu einer Umgangssprache wurde ich selbst, betrunken sein, *blauer Zwirn* - trinken) und Soldatenvokabular (blau wie ein Veilchen, Kornblumenblau - betrunken sein).

Im Deutschen wird das Adjektiv *blau* auch mit der Bedeutung «frei sein», «laufen» assoziiert: *der blaue Montag* - frei, Freizeit, *blau machen (den Tag, die Woche)* - nicht arbeiten, laufen (gebraucht) im täglichen Gebrauch seit dem 19. Jahrhundert).

Basierend auf der metaphorischen Übertragung hat das Adjektiv *blau* die symbolische Bedeutung «glücklich», «fröhlich» in Kombination mit den Substantiven *Tag, Minute, Jahr*. In Kombination mit den Substantiven des Raums (Ferne, Tiefe) und den abstrakten Konzepten von *Gedanken, Träumereien, Möglichkeiten* bekommt *blau* die Bedeutung von Unsicherheit, Unbekanntem und Geheimnisvollem Die Weiterentwicklung dieser Bedeutung führt zu einem neuen Bedeutungsschatten - «unglaublich», «unmöglich», «überraschend», insbesondere im Ausdruck «*blaues Wunder*», der die ähnliche Semantik des Substantivs «Wunder-seltsam» verstärkt.

Das Adjektiv *blau* bedeutet auch «lügnerisch» (*blauer Dunst Nebel, Dampf, blaue Blümchen Ausflükte* - Lügen, Fabeln, Fiktionen) mit abgeleiteten Verben mit dieser Bedeutung (*vorblauen).*

So fungiert die Farbbezeichnung *blau* im modernen Deutsch als Name einer bestimmten Farbe (blau und hellblau) und in zahlreichen bildlichen Bedeutungen, die sich auf der Grundlage der Grundbedeutung mit vollständigem oder teilweisem Verlust der Farbkomponente entwickelt haben und Teil davon sind viele terminologische Verbindungen und konstante Phrasen. Offensichtlich ist der Anwendungsbereich einiger Bedeutungen des Adjektivs *blau* aufgrund der Zugehörigkeit zu einer bestimmten lexikalischen Schicht (z. B. terminologische Verbindungen aus einem bestimmten Bereich) oder der Semantik von Substantiven und Verben ziemlich begrenzt. (Kuslik, 1960).

In den Werken von W. Borchert nimmt dieser Farbname in Bezug auf die Verwendungshäufigkeit den dritten Platz ein (49 Verwendungen - 14,3%). Colorema *blau* gehört zu den «kalten» Farben, im Gegensatz zu beispielsweise rot oder gelb. Dies spiegelt bis zu einem gewissen Grad seine symbolische Bedeutung «Blau vor Kälte» wider. In dieser Verwendung findet sich blau in den Geschichten von W. Borchert «Die lange, lange Straße lang» und «Mein bleicher Bruder».

Unterwegs trifft Leutnant Fisher eine Frau und ihre Tochter, die wie die meisten Menschen in den Nachkriegsjahren hungern, so dass das Kind sehr dünn und erschöpft ist. *Das Kind friert ein, ihre dünnen, dünnen Beine sind so dünn und blau* - « so rot und *so blau*» (Borchert,1949, p.171,238). Blau bedeutet bei Borchert die Kälte, die ein Leutnants spürt, der an einem Sonntagmorgen draußen steht und sich über die Leiche seines Unteroffiziers beugt:

«*Noch nicht war etwas so weiss wie dieser Schnee. Er war beinah blau davon. Blaugrün* »(Borchert,1949, p. 171,238).

In der Erzählung «Vier Soldaten» hat einer der vier Männer, die in einem vernagelten Versteck dem feindlichen Hurrikanfeuer ausgesetzt waren, bläulichrote *(blaurote*) Lippen, die aussehen wie «... *zwei blaurote Striche im Barthaar*» (Borchert,1949, p. 167). Diese Farbcharakteristik, die vom Autor verwendet wird, um die Farbe der Lippen zu vermitteln, kann als Symbol für Erkältung oder Krankheit interpretiert werden. Die blaue Farbe in diesem Fall ist das Ergebnis der Kälte im winterfrostigen Russland, wie einer der Soldaten bemerkt: „*Ja, man zittert den ganzen Tag. Das kommt von der Kälte*»( Borchert,1949, p.167).

Das Adjektiv *blau* in Kombination mit getönten Adjektiven bei Borchert wird auch als «Farbe der Nacht» verwendet. Leutnant Fischer erinnert sich an seine Kindheitsängste - die Angst vor möglichen dunklen Kreaturen, die nachts lauern, wenn er zugibt: «*Und in den blaudunkeln Ecken warten die schwarzen Männer*» (Borchert,1949, p. 238). Kuckucksschmieden war am häufigsten abends zu hören und wurde mit dem Pfeifen von Lokomotiven in «… *blauschwarzen Vorstadtfernen*)» (Borchert,1949, p.238) kombiniert. In der Geschichte «Die Krähen fliegen abends nach Hause» wird *blau* vom Autor auch in der Beschreibung der Nacht verwendet, in der die Häuser alle *blau* sind und im weichen Abendlicht fast keine Kanten haben «*samtblau* und weichkantig (werden) im milden Vorabendgeleuchte «( Borchert,1949, p.39).

In der «Hundeblume» symbolisiert *blau* nüchterne Materialität und bürokratische Strenge: Die blauen Uniformen der Gendarmenwächter im Gefängnis sind damit verbunden : «*Da explodierte ein Bellen um uns auf uns zu – ein heiseres Bellen von blauen Hunden mit Lederriemen um den Bauch» (*Borchert,1949, p.25*).*

*Blau* wird in der Erzählung «Die Krähen fliegen abends nach Hause» als Farbe der Angst und Trauer gesehen. Hier betont der Autor, dass die Menschen von Traurigkeit und Hoffnungslosigkeit überwältigt sind, wobei Blau und Schwarz in einem Farbton kombiniert werden, was der Beschreibung noch mehr negative Farbe verleiht:

«… *Und in krägengesichtig, blauschwarz übertrauert, hockten die beiden Männer im öffentlichen (…) Sie sehen den Krähen nach, Timm und der andere, krägengesichtig, blauschwarz übertrauert*» (Borchert,1949, p.42).

Es ist offensichtlich, dass Borchert *blau* eine meist negative Bedeutung gibt und den Farbnamen blau in seinen Erzählungen hauptsächlich zu diesem Zweck

verwendet. In der Geschichte «Die lange, lange Straße lang» verwendet der Autor die Farbe *blau* jedoch als Symbol für das Erwachen des Lebens, wenn es um blaue Blumen geht, deren Betrachtung die Stimmung verbessert. Eine ähnliche Symbolik findet sich in dem Werk «Vor der Tür», und wir neigen dazu, die folgende symbolische Verwendung als Farbneologismus eines Autors zu betrachten:

«*Auf dem Braun der Ackerkrume*
*weht hellgrün ein Gras.*
*Eine blaue Blume*
*ist vom Morgen nass.*

*Auf dem Braun der Ackerkrume*
*weht hellgrün ein Gras.*
*Eine blaue Blume ---*
*Eine blaue Blume---*
*Eine blaue ---*
*Eine blaue ---*
*Eine blaue ---»*. (Borchert,1949, p.248).

Das Adjektiv *gelb* bezieht sich auf eine Farbe, die eine der Hauptfarben im Spektrum ist - eine Farbe, die der Farbe *reifer Roggenkornären oder Gold* am ähnlichsten ist. Das Wort *gelb* ist in westgermanischen Sprachen (althochdeutsch *gëlo,* mittelhochdeutsches *gel,* englisches *yellow)* gebräuchlich und etymologisch mit dem lateinischen *helvus* verwandt. Gelb ist nach dem Stamm mit Gold und Galle verbunden. Im Laufe der Jahrhunderte wurde festgestellt, dass gelbe Wörter in Grün (zu einem früheren Zeitpunkt) und in Gold (in der Neuzeit) in Gold verwurzelt sind. So sind gelb, Gold, Galle farblich verwandt: *Gold* - gelbes Metall, *Galle* – die Galle (gelb).

Der Hauptnominativwert von *gelb* ist die Farbe von Pflanzen, Blumen, Früchten und vielen anderen Objekten. Zahlreiche freie und stabile Phrasen erscheinen auf der Basis einer Farbenbezeichnung.

Das Adjektiv *gelb* bezeichnet die Haarfarbe: *gelbes Haar - goldenes, blondes Haar*. Diese Haarfarbe galt einst als besonders attraktiv. Im schwäbischen Dialekt hat sich ein Sprichwort erhalten, das die Bevorzugung gelber Haare bestätigt: *Um deiner gelen Haar willen geschieht es nicht.*

Das Adjektiv *gelb* wird auch verwendet, um die Hautfarbe als Zeichen einer bestimmten Rasse zu bezeichnen - *«gelbe» Rasse*. Daher entsteht - als Ausdruck rassistischer europäischer Ideologie – *„die gelbe Gefahr"* - eine «Bedrohung» der europäischen Kultur durch die sogenannte «gelbe» Rasse.

Das Adjektiv *gelb* ist in medizinisch-terminologischen Verbindungen und in umgangssprachlichen Ansprachen zu medizinischen Themen weit verbreitet. In der Verbindung mit dem Adjektiv *grün* bezieht sich das Adjektiv *gelb* auf die Hautfarbe mit Spuren von Schlägen (da *grün* und *gelb*, wie bereits erwähnt, Zwischenstadien der Resorption subkutaner Blutungen, d.h Blutergüsse, sind).

Das Adjektiv *gelb* vermittelt auch die Farbe ungesunder Haut: Eine kranke Person hat normalerweise einen schmerzhaften gelben Teint und bei einigen Krankheiten tatsächlich gelbe Haut (ausgedrückt in den Benennungen solcher Krankheiten wie: *Gelbsucht (die gelbe Galle)*. oder akute ansteckende Krankheit, die in den Tropen häufig vorkommt - das sogenannte tropische (oder gelbe) Fieber (*Gelbes Fieber*). Eine Augenkrankheit, die manchmal zu einem Sehverlust führt, bei dem die Pupille gelblich-grün (Glaukom) wird, wird in gelber Umgangssprache *der gelbe (grüne) Star* genannt - gelbes (grünes) Wasser.

In der Antike wurden viele Krankheiten, die im menschlichen Körper auftraten, als Folge einer Fehlfunktion der Leber und der Gallenblase angesehen, was zu einem spezifischen gelblich-grünen Farbton der Haut führte - *er sicht von der Galle gelb und grün aus* - und einer Person war schlecht gelaunt, «melancholisch». Daher erhält das Adjektiv mit der Farbkomponente *gelb* im Wort gelbsüchtig die Bedeutung *«irritierend», «giftig», «böse» («wütend*»): *gelbsüchtige Gedanken, Vorstellungen*. Die medizinische Tatsache, dass infolge eines Wutausbruchs eine schwere Störung ein Krampf der Gallenwege ist und die Galle in den Blutkreislauf gelangt, was zu einer Gelbfärbung der Haut führt, war die Grundlage für den Ausdruck: *gelb, gelb und grün im Gesicht vor Zorn, Ärgerwerden* (vergleiche mit der ukrainischen Version - werde grün vor Wut, Zorn, Trauer). In Kombination mit dem Adjektiv *grün gelb* ist ein Farbausdruck von Bewusstseinsverlust und Schwindel: *es wurde ihm gelb und grün vor Augen.* Seit der Antike waren Neid und Bosheit auch mit der Funktion der Gallenblase verbunden: *der gelbe Neid, Neidwurm*.

Im Mittelalter war *gelb* mit Unglauben, Heuchelei, Täuschung und Lüge verbunden: *die gelbe Lüge des Mistrauens, der gelbe Faden der Hauchelei.*

Die Farbbedeutung von *gelb* manifestiert sich auch in vielen anderen weit verbreiteten Phrasen, zum Beispiel *gelbe Rüben, das gelbe Kraut, gelber Lappen, das gelbe Pferd.*

Wörterbücher dokumentieren die Übertragung der Bedeutung von *gelb* «jung, unerfahren» auf den Menschen aufgrund der Ähnlichkeit mit jungen Küken: *Gelbschnabel*, *gelb um den Schnabel, um das Maul haben die gelbliche Jugend, ein gelbschnablicher Witz*.

In der Verbindung mit den Worten *Gewerkschaften, Presse, Literatur* erhält der Farbname *gelb* die Bedeutung «tabloid-sensationell, marktfähig, minderwertig» (im Ukrainischen - «gelbe Presse»). Die Übertragung der Bedeutung basiert sich hier auf der gelben Farbe der Umschläge, in denen solche Literatur veröffentlicht wurde.

*Gelb* ist zweifellos die hellste der chromatischen Farben; es ist am auffälligsten in der Ferne, auffällig. Daher trugen Verkäuferinnen Kleidung oder einen gelben Verband - *das gelbe Band* (in diesem Zusammenhang finden wir auf Russisch den Ausdruck - gelbes Ticket). Außerdem symbolisiert *gelb* oft Angst. Diese Assoziation wird in vielen Sprachen, insbesondere in Englisch, im Ausdruck

*to be yellow* - Angst haben und in der symbolischen Semantik des Wortes *chicken*, das Feiglinge neckt (Hühner sind als gelb bekannt), aufgezeichnet.

Weil die Semantik und Symbolik von *gelb* nicht immer und nicht überall waren und jetzt negativ sind. Neben dem Symbol für *Bosheit, Neid, Eifersucht, Krankheit und Ausschweifung* symbolisiert die gelbe Farbe auch die Wärme und Anmut des Sonnenscheins, die magische Kraft der Liebe. Dank der dauerhaften Verbindung mit Sonnenschein bleibt es ein Symbol für lebensspendende Wärme, Glück und Freude. In der modernen Welt ist es auch die Farbe des Reichtums (aufgrund des Einflusses der Semantik des universellen «Goldes», das mit dieser Farbe verbunden ist), und im Osten war und ist gelb immer eine der am meisten respektierte Farben. (Kuslik, 1960)

In den Werken von W. Borchert wird das Adjektiv *gelb* sowohl mit positiven als auch mit negativen Konnotationen verwendet (29 Verwendungen - 8,5%). In der Geschichte «Die lange, lange Straße lang» versucht Leutnant Fischer, die gelbe Straßenbahn einzuholen. Hier wird der Farbname *gelb* vom Autor sowohl in denotativen als auch in symbolischen Bedeutungen verwendet. Im Vorkriegsdeutschland waren die Straßenbahnen gelb, daher werden sie vom Helden der Geschichte mit dem glücklichen, ruhigen Leben der Vorkriegszeit, der Kindheit, in Verbindung gebracht. Dieser Farbname wird vom Autor in der Erzählung 9 Mal mit einer positiven Konnotation verwendet, die durch die kontextbezogene Umgebung in Form von Beinamen *gut* und *wunderschön* («*mit der guten gelben Straßenbahn*») verstärkt wird. «*Ich will zur Straßenbahn. Die ist gelb in der grauen Straße ...»* (Borchert,1949, p.238). In der gelben Straßenbahn versucht der Protagonist, sich vor der völligen Dunkelheit, der Grauheit der Straße, zu verstecken, die ein freudloses, elendes Nachkriegsleben symbolisiert.

Als ein Symbol für Helligkeit, Licht und Freude ist eine kleine Löwenzahnblume im Leben des «Gefangenen № 432», der täglich in Begleitung von Kameraden einen Kreis entlang der üblichen Route in einem Kreis in einem grauen Hof mit einem Grasfleck macht. Die gelbe Blume wird zu einem begehrenswerten, wertvollen Objekt seines Traums:

*« Die Sehnsucht, etwas Lebendiges in der Zelle zu haben, wurde so mächtig in mir, dass die Blume, die schüchterne kleine Hundeblume für mich bald den Wert eines Menschen, einer heimlichen Gelieben bekam: Ich konnte nicht mehr ohne sie leben – da oben zwischen den toten Wänden» (*Borchert,1949, p.238*).*

Als der Gefangene schließlich pflückte und die gelbe Blume in einem Blechbecher in seine Zelle legte, vergaß er all den Kummer und betrachtete dieses Stück Sonnenschein, Freude und Glück in dieser elenden grauen Welt, in der er Tag für Tag leben musste .

Die leuchtend gelbe Straßenbahn, die an einem grauen Oktobernachmittag durch die grauen, halb zerstörten Straßen «schwebt», symbolisiert eine mögliche freudige Veränderung der täglichen Einsamkeit, wenn Fahrgäste in die Straßenbahn steigen und nicht wissen, wohin die Straße führt.

*Gelb* bei Borchert wird auch als Indikator für die Hautfarbe einer kranken oder toten Person verwendet. So, Tims gelbes Gesicht, das ohne Lebenszeichen liegt, sticht unangenehm im Schnee hervor. Tim wurde tot aufgefunden, als er im Wachturm ersetzt wurde, wo er starb.

Wie wir sehen können, weicht bei der Verwendung des Farbnamens *gelb* W. Borchert in seinen Prosawerken nicht von seiner Haupttechnik ab - der Farbopposition, wenn offen negative symbolische Bedeutungen positiven entgegengesetzt sind. Ebenso wie bei der Verwendung der Colorema *rot*, bei der wir den Gegensatz der symbolischen Samen «Blut», «Krieg», «Tod» und «Liebe», «Freude», «Glück», «Leidenschaft» und *grün* - «Krankheit», «Blutergüsse am Körper», «Unerfahrenheit, Unreife» - «Hoffnung, Leben», «Leidenschaft, erotisches Vergnügen», das Adjektiv *gelb* wird durch die Samen «Krankheit», «Tod», «Feigheit» dargestellt. , «Wut» und gleichzeitig «Helligkeit». «Freude», «Hoffnung», «Wärme».

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# SOMATIC RIGHTS: A MODERN CATEGORICAL APPROACH

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**Summary.** The author considers it appropriate to use the term "somatic rights" and not "personal", first, because of the explanation of the danger of possible pluralism in socio-humanitarian knowledge and the terminological similarity of the definition of "personal" rights with "personal" human rights and, according to -second, due to the fact that substantiating the legal scientific nature of the term "personal" rights, the main semantic load is precisely the word "personality"; these are rights that have an individual, "purely personal character."

**Key words:** conceptual and categorical apparatus, human rights, personal rights, personal rights, somatic rights.

In the context of the topic of our dissertation research, it is necessary to dwell on the issue of conceptual and categorical apparatus. Note that in modern scientific literature, a set of concepts of a particular field of scientific knowledge is called "conceptual-categorical apparatus", "terminology", "terminology" or increasingly "thesaurus". In addition, such an analysis will avoid the polysemy of the terms used in our work. As V. Kraevsky noted, the undemandingness of terminological unambiguity is a significant shortcoming that affects the development of our science and casts doubt on the affiliation of some works claiming scientificity to the field of scientific knowledge in general. The requirement of unambiguity is included in the number of indicators of scientific dissertation research " (Kraevsky, 2008, p. 39). Ye. Khrykov emphasizes the importance of clarifying the conceptual apparatus of the dissertation: "Due to the fact that dissertation research is an important component of modern science, their conceptual balance is an important condition for the development of scientific knowledge. That is, clarification of the concepts used by the researcher, their interpretation is a prerequisite for pedagogical research " (Khrikov, 2003, p. 18).

"Legal language is given considerable attention in theoretical and legal research," - writes A. Vengerov (Vengerov, 1998, p. 506). Legal language requires

unambiguous grammatical forms used, semantic uniformity. Most often, legal science uses terms, concepts borrowed from other fields of scientific knowledge, modifies them. Over time, they acquire a purely legal meaning, sometimes changing even their original meaning. In the legal language of many countries there are foreign terms, mainly derived from Latin" (Vengerov, 1998, p. 506).

Thus, I would like to focus on the issue of categories "somatic" and "personal" in the context of human rights. There is no consensus on the content and terminology of such rights. Moreover, the terminological aspect seems to us no less important, because the semantic unambiguity in law - is a necessity that avoids contradictions between the definition of the term and its legal essence, difficulties in interpreting the laws. Violation of the requirement of uniformity in definitions leads to the emergence of "terminological polysemy" (Kolesnikov, 2004).

We have already noted that for the first time such a concept in legal science was introduced by Doctor of Law V. Kruss. In his article "Personal (" somatic ") human rights in the constitutional and philosophical-legal dimension: to the problem" he identifies these terms, gives an understanding of the essence of these rights (Kolesnikov, 2004).

O. Lukasheva defines personal human rights as a category that is not subject to the state: "... this category of rights is characterized by the fact that the state recognizes the freedom of the individual in a particular area of relations, which is at the discretion of the individual and cannot be the object of claims of the state. It provides the so-called negative freedom. These rights, being an attribute of each individual, are designed to legally protect the scope of private interests, to guarantee the possibility of individual self-determination and self-realization of the individual "(Prava cheloveka, 2003, p. 142).

A. Kovler in his work on the anthropology of law devoted a separate chapter to personal rights (Kovler, 2002, p. 78), referring to the definitions and definitions presented by W. Cruz. In particular, points out O. Nesterova, researchers have identified the problem in the field of constitutional law and philosophy of law, but such provisions have served as a foundation for the construction of ideas about personal rights in the theory of law (Nesterova, 2015).

O. Starovoitova in his dissertation devoted to the legal mechanism of realization of somatic rights, defines their essence through the right to a body, and refers, again, to the definition of V. Kruss. At the same time, it is interesting that the whole set of problems associated with the legal regulation of somatic human rights, in full O. Starovoitov considers in a new direction in the legal science of "legal somatology". Scientists have tried to understand the problem of the human body from the standpoint of jurisprudence. In her works on somatic human rights, which are part of natural rights. The author draws attention to the fact that a person's right to his body is his natural and inalienable right. At the same time, quite correctly researching the legal mechanism of somatic rights of the person, it, unfortunately, does not give the author's definition of the central category in

the researched problems and represents only the historical and legal analysis of some rights (Starovojtova, 2006, p. 21).

O. Nesterova refers to V. Chkhikvadze, who points out, "the essence of personality is rooted in its body, external physical forms of the human body, as a material carrier of personal principle. To think differently means to absolutize the human consciousness as the only carrier of the personal principle" (Marksistko-leninskaya obshhaya teoriya gosudarstva i prava. Osnovny`e instituty i ponyatiya 1970, p. 471). At the same time, O. Nesterova determines that it is more correct to use the term "personal rights", in the legal interpretation it acquires legal significance, defines existence as a legal category, but does not deny the term "somatic rights", recognizing the possibility of their equivalent application and doctrinal recognition (Nesterova, 2015, p. 74).

At the same time, the same scientist notes that despite a number of scientific approaches to the problem of personal rights, the diversity of opinions and radically different understanding of the purposes of recognition of these rights by morals, ethics, religion, policy, studied in terms of law and philosophy, it follows that these rights, which are closely related to fundamental rights and physiological essence of man, depending on progress in biomedicine, are the product of modern society, require an appropriate mechanism of legal support and, of course. , is a large group of human rights. Personal (somatic) rights need to determine a worthy place in the human rights system and the system of Russian and international law (Nesterova, 2015, p. 76).

M. Lavryk, substantiating the opposite point of view, explains the danger of possible pluralism in socio-humanitarian knowledge, the terminological similarity of the definition of "personal" rights with "personal" human rights (Lavrik, 2005). Given the etymological dynamism, as well as the fact that in jurisprudence the term "somatic" was not used, we conclude - writes the scientist - that it may well be used to denote "somatic human rights", usually those belonging to the human body (or more precisely, the disposal of man by his body). In any case, it is necessary to specify the meaning of this concept and should take into account the fact that in the legal interpretation of the term "somatic" gets its meaning. When using this concept, a certain clarity in understanding is achieved, in addition, it is meaningfully suitable for this (indicates the relevant scope of these rights, emphasizes the object for which this group of rights and allocated) (Lavrik, 2005).

Interestingly, in our opinion, A. Smirnov, who defines, somatic human rights should necessarily be considered personal (subjective) human rights (not the state, not society, not religion) , because they are associated with the private, intimate life of man, they have a natural origin, arise in man from birth and are inalienable (from the standpoint of the concept of modern rule of law) (Smirnov, 2019). That is why, rightly writes Yu. Turyansky, the studied latest group of rights is sometimes distinguished as personal rights, which are a kind of personal rights, is civil, as the rights of the first generation (supporter of this idea is, in particular,

A However, such a terminological coincidence, the scientist considers not very appropriate, because the similarity of sound may lead to the identification of the definition of "personal" rights with "personal" human rights (Turyanskij, p. 138).

Note that M. Lavrik points out that at the end of the XIX century. under personal law - as opposed to property - understood what the object of which is a person, above all, it is a family and contractual relationship (Lavrik, 2005). However, in the middle of the twentieth century. the meaning of the term personal rights has fundamentally changed, and this began to mean political, labor, housing and other property and non-property rights of citizens that are not subject to assessment and are inseparable from their owners (Bolshaya sovetskaya enczіklopediya, 1954, p. 305). Over time, personal rights in Soviet law began to be understood as human rights, which in international law are called civil and along with political, economic, social and cultural rights form the basic human rights and freedoms (Baglaj, 2004, p. 191).

M. Lavrik also notes that the term "personal rights" is widely used by supporters of the concept of somatic rights, and their relationship with personal is often given in such a way that personal represent a kind of personal, which, however, is far from certain (Lavrik, 2005).

In general, writes Yu. Turyansky, we consider it reasonable to think that the newest possibilities connected with the corporeality of a person can be grouped under a single name - "somatic". The scientist motivates his position with the following provisions:

a) since the beginning of the third millennium in the post-Soviet space the scientific school of somatic rights has been developing quite successfully, scientists have generally identified the features, principles and preconditions for the existence of such rights, some of these provisions are practically implemented in law;
b) other names do not clearly reflect the substantive component of this group of rights, which may lead to dual interpretation, tautology and legal uncertainty;
c) the choice of the term of Greek origin indicates the universality of the concept, will avoid errors in translation (Turyans`kij, 2020, p. 138).

Arguing the above, the scientist Yu. Turyansky writes: "the legal nature of somatic rights is complex. On the one hand, it points to the personal capabilities of a person related to his body, organs and private life, reflects the principle of personal freedom. On the other hand, the protection of bodily and personal capabilities is an important element of human rights, so the state and public guarantee of the absence of unauthorized influence on the physical sphere is a component of the legal status of the individual. It is important not only the existence of the right, but the inviolability, protection and defense of this right by other entities - individuals, public authorities, officials, the state as a whole, the people and society. The basis of somatic rights is quite unusual, because a person can not only change

the natural basis of his body (by the way, not only his - this issue can be decided by parents or close relatives of a person in a dying state), but also makes demands / obligations ties to society regarding the perception of this corporeality, and to the state - regarding the protection of its choice, if it is legal. personality. The subject of somatic rights is not only the actual real objects, but also the hypothetical possible result, in particular certain moments of modernization, improvement, modification of their corporeality" (Turyans`kij, 2020, p. 138).

Substantiating the term "personal rights", V. Kruss defines them as rights "having a purely personal nature" (Kruss, 2000, p. 43). Let's try to determine what is "purely personal" or "purely personal manifestations of human personality." Fundamental here is the concept of personality. The word personality is quite ambiguous and is used in different senses in everyday life, philosophy, psychology and sociology (Kolesnikov, 2004, p. 49). Most often, the individual is defined as a human individual in terms of his social qualities, which are formed in the process of historically specific activities and social relations (Filosofskij slovar, 2001, p. 289). Hence, a person's personal qualities are derived from his way of life (Spirkin, 2004, p. 327).

Thus, we fully share the statement of M. Lavrik (Lavrik, 2005) that due to the terminological similarity of the concepts of "personal rights" and "personal rights", as well as the huge pluralism in socio-humanitarian knowledge on the category of "personality", and the fundamental impossibility of unambiguous definition of this the moment of whether corporeality is a purely personal characteristic of a person, in order to unambiguous legal terminology (as far as possible), we also propose to abandon the use of the concept of "personal rights". In addition, points out T. Matveeva, the possibility of different interpretations of this concept is so great that there are not even relevant to the jurisprudence of interpretation (Matveeva).

Thus, we consider it appropriate to use the term "somatic rights" and not "personal", first, to explain the danger of possible pluralism in socio-humanitarian knowledge and terminological similarity of the definition of "personal" rights with "personal" human rights and, secondly, due to the fact that substantiating the legal scientific nature of the term "personal" rights, the main semantic load is precisely the word "personality"; these are rights that have an individual, "purely personal character."

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# INTERTEXTUALITY AS A TRANSLATION PROBLEM (BASED ON T. PRATCHETT'S NOVELS FROM THE CYCLE "DISKWORLD")

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**Summary.** The article is devoted to the study of the application of the intertextuality theory to the translation of modern fantasy literature, which will allow to adequately interpret the culturally specific information contained in the intertextual elements. The aim of the article is to identify intertextual elements in T. Pratchett's novels that are relevant for adequate translation of the analyzed works and to consider the main methods of their translation based on comparative analysis of Ukrainian translations. It was found that translation strategies when rendering the intertextual elements are determined in every specific case depending on the pragmatic purpose of the translation, the type of source text and the addressee of the translation. The analysis of intertextual elements in the translations of T. Pratchett's novels into Ukrainian depending on the type of intertextual element, permitted to single out the methods of translation: 1) translation by equivalent; 2) replacement of the intertextual element contained in the original text with an intertextual element that evokes similar associations in the translated text; 3) translator's commentary; 4) compensation. It is concluded that the analyzed novels have strong intertextual connections with sources from mythology, folklore, classical and modern fiction, as well as with the cultural context of modern society.

**Keywords**: literary text, fantasy, intertextuality, intertextual element, methods of translation.

**The relevance of the research topic.** The translation of most modern literary works involves the analysis of intertextual links that gives rise to certain associations in the mind of the recipient. Careful study of the intertextual inclusions will

help interpret and reproduce adequately the culturally specific information contained in the intertextual elements. Obviously, today modern literature is characterized by artistic rethinking of man and the world, cultural ideas and the establishment of new relations between texts, an appeal to folklore and mythology at various levels, to a variety of familiar images used in literary works and modern mass culture.

**Analysis of recent research and publications.** The study of the intertextuality phenomenon, especially from the translation point of view of, is becoming increasingly important today (Denisova, 2003; Chernyavskaya, 2000; Fateeva, 2006). According to the definition of intertextual elements given by G.V. Denisova, there are "quotations stored in the memory of the speaker, which are consciously or unconsciously introduced as "fragments" of another text" (Denisova, 2003). It should be noted that the translation of intertextual elements is a difficult task, primarily because of some differences in the background knowledge of the addressee and the recipient. The relevance of this research can be explained by insufficient study of ways to reproduce intertextual inclusions in the translation of fiction works (Verbitskaya, 2009; Kamyanets, 2010; Klimovich, 2013; Prykhodko, 2017) in particular modern British fantasy literature.

The article considers the following text-forming elements, which for several decades have been united under the general name of "intertextual interaction" (G.V. Denisova, I.P. Ilyin, N.A. Kuzmina, L.V. Greek). Taking into account the postmodern specifics of T. Pratchett's works the reproduction of game features of English fantasy (O.S. Naumchyk), postmodern intertextual play (Gurbanska, 2014; Snikhovska, 2018), postmodern irony draws attention. (A.B. Kamyanets, T.E. Nekryach).

The object of research is the intertextual inclusions found under the analysis of works of art of modern English fantasy literature, namely the novels by T. Pratchett and their translations into Ukrainian. The subject of the study were the methods of transmission of intertextual elements in the Ukrainian language, offered by the Ukrainian translators of T. Pratchett's novels in their versions of the translation.

**Formulation of the purpose and tasks of the article.** The purpose of the article is to consider the theory of intertextuality, in particular its application to the translation of art works. The aim of the article is to identify in T. Pratchett's novels intertextual inclusions relevant for adequate translation and to consider the main methods of translation based on a comparative analysis of Ukrainian translations of T. Pratchett's novels. Methods of semantic, contextual and comparative translation analysis, as well as elements of literary analysis were used to study the textual material, which allowed to compare the original and translation and to implement intertextualisms and ways of their reproduction in Ukrainian.

The research was based on Terry Pratchett's novels from the Discworld series and their translations into Ukrainian: "The Color of Magic" and "Wyrd Sisters". In

the course of the research, 76 intertextualisms were selected for translation analysis by the method of continuous sampling from the works about Discoworld of T. Pratchett.

The choice of material can be explained by the fact that T. Pratchett's novels about the Discosworld attract the attention of readers not only for their unique style, originality of the plot and colourful characters. The creative work of the writer is essentially intertextual, full of vivid allusions, quotations, associative connections. At the same time, T. Pratchett's Discosworld is a kind of reflection of the real world. At first glance, the universe of the Discosworld may seem fantastic, because it is a huge disk resting on the backs of a turtle and four giant elephants. However, immersion in the content of the novels suggests that the fictional universe, inhabited by fairy-tale creatures, is the real world with all its shortcomings. Therefore, one of the most important problems of perception of these works is the reproduction in translation of a variety of semantic nuances and structural components of the text, taking into account the context of the work: historical, socio-cultural, literal, linguistic, etc.

**Presentation of the main research material**. T. Pratchett's universe is a parody not only of the fantasy literature, which can be traced in the names of the characters, their appearance, actions, etc., it is also a constant appeal to the demerits of modern society. Intertextual inclusions in T. Pratchett's works of are of great importance because they perform a sence-making function. They are presented in the form of direct quotations, plot echoes and transformed quotations, containing parody or paraphrases.

For example:

*On nights such as this, evil deeds are done. And good deeds, of course. But mostly evil, on the whole* (Pratchett, 1985). *Possibly the Creator of the universe got bored with all the usual business of axial inclination, albedos and rotational velocities, and decided to have a bit of fun for once* (Pratchett, 1985). – *Не виключено, що творець знудився з усіма цими банальними ексцентриситетами, паралаксами та альбедо, й вирішив хоч раз розважитися* (Pratchett, 2001). *... the gods … play games other than chess with the fates of mortals and the thrones of kings. It is important to remember that they always cheat, right up to the end* (Pratchett, 2001). – *боги … грають в ігри – не з шаховими фігурами, але з долями смертних і тронами царів* (Pratchett, 2017).

Therefore, in order to understand the meaning of the novels about Discosvit properly, it is necessary to take into account their intertextual nature.

The theory of intertextuality has been developed for several decades, but requires clarification of some theses and the system of terms and concepts in general. At the present development of philological science, intertextuality forms one of the leading scientific paradigms (V.E. Chernyavskaya, N.A. Fateeva). The term "intertextuality" was proposed by Yu. Kristeva in 1967 to denote the textual dialogues of fiction works in postmodernism historical era. The researcher de-

fined intertextuality as a property of texts to create some connections between them, due to which texts are able to refer to each other evidently or implicitly, as "textual interaction that occurs within a single text. For the subject of cognition, intertextuality is a sign of the way in which the text reads the story and fits into it" (Kristeva, 2004).

The theory of polyphonic narrative by M.M. Bakhtin is fundamental for the development of the concept of intertextuality. Bakhtin developed the concept of dialogism in terms of internal interaction of statements (Bakhtin, 1975). According to the researcher, dialogism has a huge stylistic power; it plays a special role in a literary work. M.M. Bakhtin asserts that the dialogic orientation of the word among other people's words creates new artistic possibilities. In accordance with M.M. Bakhtin's theory, the social context leaves a deep imprint on the literary work. Thus, any utterance is woven into the fabric of many other statements that shape it, and the writer is always in dialogue with both previous and contemporary literature (Grek, 2006). M.M. Bakhtin emphasizes that the text exists through interaction with another text, which results in a dialogue. The scholar develops the idea that "another's word" is an implicit word, because it has a double correlation and dialogic orientation is inherent in any word. No utterance or statement can be the first or the last, because it is a link in a chain of its own kind and cannot be studied outside this circle (Bakhtin, 1975).

The development and reciprocity with a number of humanities: literary criticism, linguistics, semiotics, and philosophy resulted in the theory of intertextuality in its modern form. As before, it remains a relatively new object of study, and researchers are interested in it because it presents new opportunities to decode texts. Obviously, the study of intertextual connections is relevant to the study of cultural interactions.

In poststructuralism, intertextuality is associated with the names of J. Derrida and R. Bart: the statement "the world is a text" (J. Derrida), in the light of which all human culture is considered a single intertext, and new texts are based on the literary tradition, a single cultural context. R. Bart formulated the concepts "intertextuality" and "intertext": "Excerpts from cultural codes, formulas, rhythmic structures, fragments of social idioms, etc. – they are all absorbed by the text and mixed in it, because there is always language to and around the text". The category of intertextuality is viewed in modern studies as a global textual category, as a phenomenon inherent in any sign system. It should be noted that intertextuality is not limited to connections in fiction; it exists in the texts constructed by means of other sign systems – in works of culture and art. There is every reason to speak about the intersemiotic nature of intertextuality, its ekphrasis and intermediality. Thus, intertextuality is a term that denotes a common property of texts, which is expressed in the presence of connections between them, through which texts (or parts of them) can explicitly (or implicitly) refer to each other this or that way. Therefore, the world seems as a text that

contains everything that has already been said, what is being said now or what will be talked about through the prism of intertextuality. The new can appear in it on the principle of a kaleidoscope: based on a combination of old elements there are various combinations, "centers of intertextual radiation" (Fateeva, 2006), which did not yet exist. According to Yu. Kristeva, an important feature of an artistic text is its non-isolation, mosaic feature, deconstruction of another text. This challenges traditional literary views on the possibility of the interaction of works of art and argues that intertextuality means the transfer of one or more sign systems to other sign systems.

In T. Pratchett's literary texts there is a great variety of functions of intertextual inclusions: stylistic function, compositional function, pragmatic function and text-forming function. In terms of translation, intertextual inclusions are those units that have a subtext, can be ambiguously perceived by the reader and help to convey to the reader an artistic meaning. Therefore, intertextual inclusions maintain the stylistic and compositional ordering of the text, they are carriers of the information contained in the subtext of the work.

While analyzing the possibilities and ways of intertextual elements' translation into another language / culture, it is necessary to proceed from the fact that the translated text in a foreign cultural community becomes a "generator of new values". A great number of factors – the pragmatic purpose of the translation, the type of a source text and the addressee of the translation – constitute a certain translation situation that in its turn determines translation strategies when translating intertextual elements.

Any intertextual element when translated has the translator study the "layers" of the most energetically powerful "nuclear" – intercultural and timeless – texts of the original language cultures and the language of translation, common to several cultures; as well as nationally specific texts" (Kuzmina, 2011). K.V. Kryukova, while studying T. Pratchett's plots and stylistic means used by the writer, faced the problems of translation caused by the implementation of palimpsest connections and the effect created. She marks which translation strategies are suitable for reproducing the specifics of intertextual elements in the English fantasy literature when translated into Russian (Kryukova, 2019).

Creating a parody of the real world, T. Pratchett turns to various spheres of human activity, so that the reader can recognize the real world in a fictional one. Mythology, fiction, historical events, and cinema are the most frequently used sources of intertextual inclusions in T. Pratchett's novels. Such investigators as K. Bryant (Bryant), W.T. Abbott (Abbott, 2002) and D. Andersen (Andersen, 2006) immerse themselves in the detailed analysis of the system of intertextuality of Pratchett's works. The researchers note that the architexts for T. Pratchett's humorous fantasy and parody of modern society are ancient myths of different peoples (Icelandic sagas, legends, etc.), the works of W. Shakespeare, G. Lovecraft, J. Tolkien, G.K Chesterton, and R.L. Stevenson.

Discosvit planet is a disk lying on four giant elephants that settle down on a huge A'Twin turtle:

*Through the fathomless deeps of space swims the star turtle Great A'Tuin, bearing on its back the four giant elephants who carry on their shoulders the mass of the Discworld* (Pratchett, 1985). *– Крізь безмежні простори космосу пливе зоряна черепаха Великий А'Туїн, несучи на спині чотирьох гігантських слонів, які тримають на плечах всю масу Дискосвіту* (Pratchett, 2018).

One can find several myths about such a world order; in addition, the author himself claims that the prototype for such a device of a flat disk was the Indian myth about the real world locating on the back of an elephant that stands on a tortoise shell. Thus, we can single out some Indian myths as a pretext for T. Pratchett's cycle about the discoworld. Thereby, the author reconstructs the world order of the archaic picture of the world, giving it a new parody or comic content:

*Something with a bit of sense in it. Harnessing – harnessing the lightning, or something. The imp gave him a kind but pitying look. "Lightning is the spears hurled by the thunder giants when they fight", it said gently. "Established meteorological fact. You can't harness it"* (Pratchett, 1985). *– «Може інший підхід до речей. Щось таке, в чому було б більше сенсу. Приборкання … загнуздання блискавки чи щось подібне». Бісик кинув на нього співчутливий погляд. «Блискавка – це списи, що їх жбурляють велетні-громовержці, коли б'ються один з одним, – м'яко зауважив він, – це встановлений метеорологічний факт. Її не можна приборкати чи загнуздати, як ти собі це уявляєш»* (Pratchett, 2017).

In the first novel of the series about the disco world ("The Colour of Magic"), the events take place in the fictional city of Ank-Morpork. The readers can recognize in its description their hometown. "This city lives forever and is original in its non-originality", remarked T. Pratchett. The name of the river Ank (symbol Anka, or Ankha is associated with Egypt and Pharaoh Tutankhamun) may be a reference to Egypt and the Nile, because sometimes this river sets fire to its own banks:

*The twin city of proud Ankh and pestilent Morpork, of which all the other cities of time and space are, as it were, mere reflections, has stood many assaults in its long and crowded history and has always risen to flourish again. Denied its usual egress, the river had burst its banks and was pouring down the fire-ravaged streets. Soon the continent of flame became a series of islands, each one growing smaller as the dark tide rose* (Pratchett, 1985).

In order to create the necessary artistic effect, T. Pratchett often introduces to his novels references to works of literature: "Alice in Wonderland" by L. Carroll, "The Phoenix on the Sword" by R. Howard, "Three Horsemen of Apocalypse" by K. Chesterton, "The Lord of the Rings" by J. Tolkien.

The following example: *Nanny ... also kept a cat, a huge one-eyed lorn called Greebo* (Pratchett, 2001) is an allusion to the Cheshire cat from "Alice in Won-

derland" by L. Carroll. The Cheshire cat disappeared gradually and only his smile remained in the air. The cat Gribo in the novel "Prophetic Sisters" is ugly, one-eyed, cunning and aggressive. However, Gribo cat does not disappear by itself, only his smile disappears when he realizes that they try to send him home. The disappearance of the smile seemed as strange as if the cat had disappeared and his smile remained:

*"Greebo's grin gradually faded, until there was nothing left but the cat. This was nearly as spooky as the other way round"* (Pratchett, 2017) – *«Посмішка Грібо поступово зникала, поки не випарувалася зовсім і не залишився один лише кіт. Це було майже так само моторошно, як якщо б кіт зник, а усмішка залишилася*» (Pratchett, 2018).

Strictly speaking, T. Pratchett intentionally calls the cat Greebo. The word "greebo" is associated with the biker movement of the 1970s ("Hell's Angels"). The word "greebo" was used to describe a sloppy-looking man with long hair dressed in skin, who wanted to join the movement, but lacking style could not do so. The appearance and behavior of the transformed Greebo are similar to the image of American bikers greebo. So using the name the writer gives an accurate description of the character that greatly helps the reader interpret the work correctly.

In "The Color of Magic", we also find allusions to "Treasure Island": T. Pratchett's character Blind Hugh is a hint of Blind Pew R.L. Stevenson, a greedy pirate of the XVIII$^{th}$ century:

*"Every nerve in Blind Hugh's body, which tended to vibrate in the presence of even a small amount of impure gold at fifty paces, screamed into his brain – the air of one anticipating imminent enrichment. […] his specialised senses detected an overpowering impression of money. A large gold coin … was in fact slightly larger than an 8,000-dollar Ankhian crown and the design on it was unfamiliar, but it spoke inside Hugh's mind in a language he understood perfectly. My current owner, it said, is in need of succour and assistance; why not give it to him, so you and me can go off somewhere and enjoy ourselves?"* (Pratchett, 1985).

**Literature of the fantasy genre.** In the first novels about Discoworld, which includes "The Color of Magic", T. Pratchett often parodies works of the fantasy genre. Pratchett himself noted that the novel was written as a protest against the fantasy boom of the 1970s. Thus, one of the parody objects in the novel "The Color of Magic" is the character of Conan by the American writer R. Howard:

*The only heroes he had much time were Bravd and the Weasel who were out of town at the moment, and Hrun the Barberian, who was practically an academic by Hub standards in that he could think without moving his lips* (Pratchett, 1985). – *Єдині герої, для яких у нього завжди знаходився час, були Бравд та Тхір, яких наразі не було в місті, та ще Гран Варвар, який за стандартами Серединних земель був практично професором, оскільки умів думати, не ворушачи при цьому губами – нібито мовчки* (Pratchett, 2017).

P. Howard's Conan is bold, rude, cruel to his enemies. In T. Pratchett's works Conan becomes the object of parody, because this character's appearance and behavior look comical. For this reason, T. Pratchett's Grand Barbarian is a brave hero, but has a weak intellect. Pratchett also ironizes the hero's appearance. In the novels about Discoworld, Gran is described as a stocky man with a small head and coppery skin:

*Even in the violet light his skin gleams coppery. There is much gold about his person, in the form of anklets and wristlets, but otherwise he is naked except for the leopardskin loincloth. He took that in the steaming forest of Howondaland, after killing its owner with his teeth* (Pratchett, 1985).

When translating intertextual elements, we singled out: 1) translation with an equivalent counterpart; 2) replacement of the intertextual element contained in the original text with an intertextual element that evokes similar associations in the translated text; 3) translation comment; 4) compensation.

1. Translation of intertextual inclusion by a relevant equivalent. It should be noted that Shakespeare's pretext was the focus of the writer: the novel "Prophetic Sisters" is filled with allusions to "Macbeth", in fact, this play by W. Shakespeare served as a source for writing the novel. The work is called "Wyrd Sisters" because the witches in the play "Macbeth" are sometimes called "weird sisters". In Norwegian mythology, "wyrd" is a prototype of witches and means "fate". In the scene of witchcraft at the hearth the author consciously deconstructs the ritual emphasizing its everydayness:

*As the cauldron bubbled an eldritch voice shrieked: "When shall we three meet again?" There was a pause. Finally another voice said, in far more ordinary tones: "Well, I can do next Tuesday"*. (Pratchett, 2001) – *Коли казанок закипів, дивний голос прокаркав: «Коли ще стрінемося ми під зливу, блискавки і громи?» Певний час панувала тиша. Потому інший голос звичним тоном відповів: «Ну, мабуть, наступного вівторка*» (Pratchett, 2018).

A quote from Macbeth (Act 2, Scene 1): *Enter three Witches.* First Witch: *When shall we three meet again In thunder, lightning, or in rain*? (Shakespeare, 1986).

In the example: *"Is this a dagger I see before me", he mumbled* (Pratchett, 2001) – a replica of one of Macbeth's most famous monologues (Act 2, Scene 1): *"Is this a dagger which I see before me, The handle toward my hand?"* (Shakespeare, 1986). Shortly before the assassination of the king, Macbeth sees a dagger, which he perceives as a sign of the inevitability of the assassination of the king. However, in the novel The Prophetic Sisters, the cowardly and vain Duke Flem kills the king to take his place. Then the duke begins to pursue the vision of a murder weapon, blood and a murdered king. T. Pratchett's novel "Prophetic Sisters" is a reinterpretation of the play "Macbeth" in the realities of Discovery, where witches are comic characters whose lifestyle causes a smile.

2. Replacing the intertextual element contained in the original text with an intertextual element that evokes similar associations

Here is another example of Shakespeare's intertext:

*All the disk is but an Theater, he wrote, Ane alle men and wymmen are but Players. [...] Sometimes they walke on. Sometimes they walke off* (Pratchett, 2001). – *Весь Диск – театр, в ньому жінки, чоловіки – усі актори. [...] Іноді вони приходять, іноді йдуть*. Compare: *All the world's a stage, / And all the men and women merely players: / They have their exits and their entrances* ("As You Like It"), (Shakespeare, 1986), where "buffoon" is not the most accurate, but the most understandable version of the phrase ending, in which "Dopey" is the name of one of the seven gnomes in Walt Disney's cartoon "Snow White".

*Do you use them as a raft, or just throw them to the sharks and sort of watch them sink?* (Pratchett, 1985). – *Ти використовуєш їх як рятівне коло чи просто згодовуєш акулам і спостерігаєш як вони, типу, тонуть*? (Pratchett, 2017).

3. Translation comment:

*"Oathbreaking, the theft of a horse, uttering false coinage—yes, I think it's the Arena for you, Rincewind"* (Pratchett, 1985). – «*Порушення присяги, викрадення коня, поширення фальшивих грошей – що ж, гадаю, тебе чекає Арена, Ринсвінде*» (Pratchett, 2017).

In this example, the intertextual unit "Arena" is translated by the equivalent "Arena", and the translator provides a interlinear comment, explaining this allusion:

«*Місце в Анк-Морпорку, на зразок майдану, де відбувався суд над порушниками закону; алюзія на давньоримський парк, де відбувалися бої гладіаторів та інші громадські події*».

4. Compensation:

*"Now an opening in the weather had given it an opportunity to strut its hour, and it was building up its role in the hope of being spotted by one of the big climates"* (Pratchett, 2001). – «*Та ось погодні умови склалися так, що перед нею з'явилося вікно можливостей – і вона вирішила докласти будь-яких зусиль аби її помітив хто-небудь із босів кліматичного бізнесу*» (Pratchett, 2018).

*"Because your boat hit the Circumfence", said the voice behind him. "The Circumfence?" he repeated. "Yes. It runs along the edge of the world", said the unseen troll. […] "Ah. You mean the circumference", said Rincewind. "The circumference makes the edge of things". "So does the Circumfence", said the troll* (Pratchett, 1985). – *«Бо ваш човен досяг Окружності», – сказав голос позаду нього (з такою інтонацією, що Ринсвінду відразу уявилися конвульсії потопленого човна та різні Істоти, що чатують на нього в коралових рифах*). *«Окружності?» – перепитав він. – «Так. Вона біжить вздовж краю світу», – відповів невидимий троль». […] – «Ага. Маєш на увазі Окружність», – сказав Ринсвінд. – «Ту окружність, що кладе край речам» – «Еге ж. саме це вона і робить», – підтвердив троль* (Pratchett, 2017).

The translator in the interlinear comment draws the reader's attention to the fact that the author uses an untranslated play on words. The edge of the disk is surrounded by the so-called "Circumfence", i.e. "long-circle fence, Fence", which is consonant with the actual circle "Circumference". The translator uses compensation to keep the pragmatic effect.

Ergo, shifts in intertextual information are inevitable if a translator uses such translation methods as replacement, translation commentary, and compensation. For this reason, the work of a translator is aimed at finding the maximum possible preservation of the author's intertextual idea. While preserving the function, pragmatics and associative connections of intertextualisms, translation is able to represent the work adequately in the translation culture with very few semantic losses.

**Conclusion.** The research carried out showed that T. Pratchett, a postmodernist writer, uses intertextuality to express his attitude to the world: fragmentation, irony, and parody. Through reference to classical pretexts, the author fits his text into a broad literary, historical and cultural context. T. Pratchett creates a solid intertextual basis for a fictional world. A specific feature of the analyzed novels is strong intertextual connections with the sources from mythology, folklore, classical and modern fiction, as well as with the cultural context of modern society. Intertextual inclusions in T. Pratchett's novels play a key role in the reproducibility of intertextual features of the original text, its linguistic and cultural adaptation to the conditions of the host environment.

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# STATE-BUILDING PROCESSES IN TRANSCARPATHIA: SOME ASPECTS

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**Summary.** The catastrophe of European civilization, which was the First World War, led to a giant change in the map of the continent after its end. Three empires disappeared from it — the Russian, the Austro-Hungarian, and the Ottoman. On their ruins there were a number of new state formations from the Gulf of Finland to the Adriatic Sea. The process of state formation, which covered almost the entire central part of the continent, despite the speed of its course (1918-1920), was not simple and led to ambiguous consequences. The northeastern territory of the former Kingdom of Hungary, which later became known as "Pidkarpatska Rus", was inhabited by Subcarpathian Ruthenians (Ukrainians), and the Ruthenians themselves became the object and subject of postwar international relations.

**Key words:** state-building processes, autonomy, reunification, Pidkarpatska Rus.

**Presenting main material.** The collapse of Austria-Hungary in late October 1918 accelerated the crystallization of views on the possible state and legal status of Hungarian (Subcarpathian) Russia and in the region itself. On November 9, Uzhhorod proclaimed the formation of the Ugro-Russian People's Council, headed by Uniate priests Simeon Sabov, Augustin Voloshin, and Peter Gebey, who focused on Hungary and supported the national program of the newly formed government of Mikhai Karoly about Hungary as a "central European". Such a program, developed by the well-known Hungarian liberal, Minister of Nationalities Oscar Iasi in the government of M. Karoli, was interesting, but belated and no longer popular. Uzhhorod "Ugro-Russian Council" had its supporters in the Berezhsky committee (county), Ugochansky and partly in Maramures [1].

On the same day, November 9, at a meeting in Staraya Lyubovna (now eastern Slovakia), the Ruthenian People's Council, headed by E. Nevytsky, was established, declaring its pro-Ukrainian orientation, albeit vaguely. Later, the Russophile group of A. Beskid came to its leadership, which moved its meetings to the

old Russophile center of Pryashev. But the Russophiles soon realized that their focus on Russia in connection with the Bolshevik coup and the civil war was unrealistic, moreover, dangerous. Together with the Lemko "Russian Council" from the northern slopes of the Carpathians, they created the "Carpatho-Russian People's Council" (December 21, 1918) of pro-Czech orientation. It was she who became the main leader of the idea of joining the Hungarian (Subcarpathian) Russia to Czechoslovakia [1].

The pro-Czechoslovak position was eventually taken by the Carpatho-Russian People's Council in Svalyava. Its composition was a kind of portrait of the young population of the social Subcarpathian industrial center. Unlike other "councils", where lawyers and priests predominated, Svalyava was headed by carpenter Mykhailo Komarnytsky. At the meeting on December 8, 1918, it adopted a resolution "to free the Russian people from the millennial yoke and unite with Greater Ukraine, where the Ruthenians also live" [1]. The Svalyava council sharply denied the right of the Uzhhorod All Ruthenians of the Ugro-Russian Council to speak on behalf of Subcarpathia. Her delegation submitted a memorandum to the representative of Czechoslovakia in Budapest on the accession of the territory of Hungary, inhabited by Ruthenians, to the Ukrainian state or to the Czechoslovak Republic. The head of the delegation M. Komarnytsky insisted that "the supreme command of the allied troops gave orders to the Ukrainian or Czechoslovak troops to occupy the territory of Hungary, which would allow its population to freely decide their Ruthenian fate" [2].

The easternmost "people's councils" in Yasinya, Maramorosh-Sigota, and Khust were pro-Ukrainian, expressing a desire to join the Western Ukrainian People's Republic, which was not accomplished as a result of the invasion of Galicia by Polish troops. The Maramures councils planned to convene an "all-Carpathian congress", and although they proclaimed the congress to be held in Khust on January 21, 1919, in reality it could not have been so. The western part of the territory, inhabited by Ruthenians, from Lyubovna to Uzhhorod, was already occupied by Czechoslovak legionnaires, the central part (Mukachevo-Svalyava-Beregovo) leaned towards the Czechoslovak orientation under a still strong Hungarian administration, as shown by the events in Jasina and Maramoros-Sigot. Thus, the "all-Transcarpathian" nature of the congress in Khust in January 1919 is probably a conjecture of some of its participants (M. and Y. Braschaiko) and national-patriotic historiography. No documents from this convention have been saved. At the same time, neither the historian nor the lawyer can recognize the record made by M. Brashchaiko several decades later.

The authorities of the newly proclaimed Republic of Hungary, M. Karoly, also made desperate efforts. Immediately after the collapse of the Habsburg monarchy, the Croats of Slavonia and Croatia, the Romanians of Semigrad and Banat, the Serbs of Vojvodina, the Slovaks of the Upper Land, and Slovakia withdrew from Hungary. Only the Ruthenians of "Hungarian Russia" agreed to negotiate

with the government in Budapest on the autonomy offered to them in November 1918. On December 10, O. Sabov, the government's adviser on Ruthenian affairs, O. Sabov, invited to Budapest 36 representatives of the Uzhhorod council of "Ugro-Ruthenians", who together with the so-called The Ugric-Russian Party signed a memorandum addressed to the Paris Peace Conference. It raised the issue of granting autonomy to the Ruthenians and protested against the capture of their territory by the Czechs, Slovaks, Romanians and other peoples. On December 21, the Hungarian parliament approved Law №10, which granted "autonomy to the Russian people living in Hungary" and created an allegedly autonomous "Russian Krajina." However, its boundaries remained uncertain. The executive body was to be the Ruthenian Ministry in Budapest and the governor in Mukachevo, and the legislative body was to be the Russian People's Council after its elections. All this indicated that the Hungarian government was maneuvering to preserve at least the remnants of "integral Hungary." At the same time, he seeks to leave such loopholes that would give him the opportunity to abandon these promises at the appropriate time. Even pro-Hungarian Ruthenian activists (A. Voloshin, P. Legeza, S. Sabov, etc.) understood this and demanded that the Hungarian government raise the issue of autonomy at the Paris Peace Conference. The government replied that "he has no ties to the Entente".

Annoyed by this answer, on January 1, 1919, Ruthenian activists appealed to the representative of Czechoslovakia in Budapest, Milan Goji, with a request that Czechoslovak troops occupy the territory of Subcarpathian Russia. A. Voloshin, P. Legeza and S. Sabova considered M. Godzha to be Madrophiles, so he demanded that such a request be made in writing, which they refused to do until the Czechoslovak troops entered Uzhhorod. M. Godzha behaved confidently, because he knew that at that time the Czechoslovak government already had a written request for the introduction of its troops into the territory of Subcarpathian Russia from representatives of the Presov and Svalyava Ruthenian People's Councils [4].

The easternmost part of Subcarpathian Russia underwent an interesting state-building development, namely the area of the upper Tisza inhabited by Hutsuls (Velykyi Bychkiv - Rakhiv - Yasinya). The Yasyn council was clearly pro-Ukrainian and even managed to establish contact with the ZUNR authorities. The Subcarpathian Hutsuls can be said to have been more prepared for this development, as they had long-standing close ties with the Hutsuls of the Galician side of the Carpathians, and were severely persecuted by the Hungarian military during the war. At the end of December 1918, the Hungarian authorities decided to "pacify" the area by military force. The Yasyn council was forced to go underground, but on January 8, 1919, it raised a successful uprising, disarmed the Hungarian military unit, proclaimed the "Hutsul Republic" and asked for help from the Western Ukrainian People's Republic. She did not receive significant assistance. After an unsuccessful attempt to expand the territory to Maramoros-Sigota, the council limited its power to the Jasina Basin, which it held until its occupation by Roma-

nian troops in May 1919. the introduction of Czechoslovak troops into its former territory and the expulsion of Romanian troops from there [5].

The Hungarian government of M. Karoli allegedly entered into "political competition" with the government of the Czechoslovak Republic in the territory of Subcarpathian Russia and in early 1919 began to rapidly form the administrative structure of the "Russian Krajina". On February 5, its interim government was approved, headed by O. Sabov and a representative in Mukachevo, A. Stefan. On March 4, elections were held to the provincial legislature, the Sejm. A week later, its first session began, which was immediately interrupted by deputies to protest the government's refusal to define the province's borders.

The same "national-political" combinations of the region tried to continue the communist regime of Bela Kun after the coup in Budapest in March 1919. In addition, the communist "proletarian dictatorship" did not recognize the rights of national minorities and its local body, Mukachevo directories, disbanded the Diet. and the council of the "Russian extreme" [6].

Thus, all of the above indicated that for the Hungarian governments of 1918-1919. the question of the autonomy of the Rus' Krajina was merely a political maneuver to maintain Budapest's control over the territory inhabited by Ruthenians.

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# CULTURAL BARRIERS IN COMMUNICATION AS LIMITERS OF TRUST FORMING IN MODERN SOCIETY

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**Summary.** The dynamics of modern changes and globalization processes are increasingly leading to situations of uncertainty in the relationship of social actors at different levels: from countries and regions to interpersonal ones. They are often based on economic and political issues. However, cultural factors, which acquire an ambivalent nature, «interfere» with the communication processes more and more actively. On the one hand, they promote mutual understanding, and on the other hand, they can become a barrier, thus forming situations of uncertainty. In such conditions, it becomes difficult to build trust between social actors. Namely, it is considered as the foundation of stability in relationships in modern society. Today we can say that the main socio-cultural barriers in these processes are: language barriers, stereotypes, differences in value systems (ethno-cultural barriers), locus of control, context, perception of space, perception of time, religious beliefs.

**Key words**: communication, trust, social interaction, intercultural communication, socio-cultural barriers

## 1. INTRODUCTION.

Trust is one of the most important resources for the stability of society. It determines the potential for constructive interaction in situations of insufficient rational arguments. However, in the face of constant uncertainty, the traditional emphases in the formation of trust between social actors are changing significantly. Social subjects are forced to use various additional sources of information to reinforce a trusting relationship with each other, social institutions, etc. One of the factors that has a strong influence on these processes is the socio-cultural characteristics of social subjects. These factors determine both the success of building trust between social subjects and mistrust. At the same time, mistrust between social subjects can reduce the effectiveness of their interaction and the quality of the performance of social functions. Therefore, in modern conditions, it becomes important to analyze the socio-cultural barriers of this process.

However, there is also a belief today that, by properly managing cultural differences, they can be turned into sources of additional resources rather than potential problems. And this can play an important role in building and strengthening trust between social actors.

This range of issues is of particular relevance due to global processes that intensify the practice of intercultural interaction. As a result, the formation of trust between social subjects is refracted both through situations of social uncertainty and through the intensification of intercultural interaction.

## 2. THEORETICAL ASPECTS OF INTERCULTUREL COMMUNICATION'S ANALYSIS

The social world depends on continuous communication between people. Without the transfer of information, the construction of social communities, social institutions and organizations is impossible. Communication becomes the object of sociological analysis from the moment of the rapid development of the media, when the social world loses its locality, and the communicative activity of social subjects begins to take on a global character, as well as when the complication of human relations (creation of branched social organizations, differentiation of spheres of human life) led to the need for a practical solution problems of relationships between people and social communities.

Intercultural communication especially interested scientists in the twentieth century. A number of linguists, anthropologists, including E. Hall, who is considered the founder of the study of intercultural communication as a field of cultural anthropology, K. and F. Kluckhon, J. Gumpers and others laid the foundation for scientific applied and theoretical knowledge about intercultural difference. For the development of intercultural research, the provisions of «understanding so-

ciology», the ideas of M. Weber, the theory of linguistic relativity by E. Sapir and B. Whorf, the concept of cultural relativism, the provisions of the interpretive anthropology of K. Geertz and a number of other concepts and ideas were of great importance.

The term «communication» appeared in the scientific literature relatively recently and over several decades of the twentieth century became one of the key in social and humanitarian knowledge. The most general meaning of the term concerns the connection of any objects; in sociology, such objects are society and its constituent structures (Gorelov, 2009, p. 24).

Despite the rather short history of its existence, sociology has developed various interpretations of the phenomenon of «communication». For example, according to S. Borisnev, communication should be understood as «the socially conditioned process of transmission and perception of information under conditions of interpersonal and mass communication through various channels using different means of communication» (Krasnyh, 2003, p. 63). According to the definition of the sociological dictionary N. Abercrombie «communication is the transfer of information from one social system to another; information exchange between different systems by means of symbols, signs, images» (Aberkromby, Hill, Terner, 1999, p. 284). According to N. Luhmann, communication should be understood as «a certain historically-specific ongoing, context-dependent event» as a set of actions characteristic only of social systems, in the implementation of which there is a redistribution of knowledge and ignorance, and not communication or transfer of information, or transfer «semantic» contents from one mental system possessing them to another (Lumann, 2000, p. 77). M. Andrianov limits the understanding of communication to studies of semantic aspects of social interaction (Kochetkov, 2001, p. 34).

Generalization of various approaches to understanding communication allows us to pay attention to such essential characteristics of it as the presence of two or more participants in a process that is characteristic only for social systems, including the exchange of one or another information using different means. As the researchers note, the process of communication is a dynamic exchange of information between people that occurs at different levels: formal or informal, intellectual or emotional. Despite of technological advances in the field of communications, life every day requires us to communicate with each other on an interpersonal level (Birukov, 2003, p. 73).

Modern intercultural communication is determined by a number of their characteristic features. However, it cannot be argued that these features have the same type of influence on the communication process. For this reason, we consider it necessary to determine the main markers by which it is advisable to analyze intercultural communication.

## 3. MODERN BARRIERS OF INTERCULTURAL COMMUNICATION

Cross-cultural barriers are manifested at the level of content as a lack of understanding, which is usually determined by low level of intercultural competence. Communicative competence here involves not only grammatically correct spoken or written language, but also the acceptability of statements and behavior in accordance with the culture in the system of rules (Samovar, Porter, McDaniel, 2005). The following types of cross-cultural barriers can arise in the process of biased trustworthiness assessment:

1. *Language barriers*. Representatives of different cultures use different models of perception of social reality through symbolic systems, and this is reflected in their use of language structures, styles of oral and written communication. According to scientists, linguistic problems are often the first difficulties in dealing with other cultures (Matthews, Thakkar, 2012). Thus, formation and development of linguistic competence is viewed as important for development and effective implementation of cross-cultural trustworthiness assessment tool. Language competence lies in the skillful use of common language forms, understandable and accessible to respondents.

2. *Stereotypes*. Features of national and ethnic awareness of different cultures often are the hurdles of intercultural interaction. In this context the following aspects of consciousness are of particular interest: the trend towards ethnocentrism, i.e. negative evaluation of the propensity of other cultures through the prism of one's own standards; stereotyping of ethnic consciousness, which manifests itself in the formation of a simplified view of other cultures and their representatives; prejudice as a result of selective inclusions in the process of cross-cultural contacts, including sensory perception, negative past experiences, etc. These effects are particularly important as potential barriers in a situation of incomplete information about the identity of the respondents (LeBaron, *Culture-Based*, 2003). It is in the context of the masses that they can unduly reduce the effectiveness of cross-cultural communication.

3. The differences in *value orientations* or ethnic and cultural barriers. There is an axiomatic assertion that the behavior of social actors is determined by the values of their cultures (Johnston, 2018). One of the phenomena that is due to human nature inevitably accompanies intercultural relations, is ethnocentrism, defined as «a tendency to consider the norms and values of their own culture as a basis to evaluate and make judgments about other cultures» (LeBaron, *Cross-Cultural*, 2003).

Ethno-cultural barriers are based on social, cultural, ethnic and religious differences. Here, the main reason for bias is a poor knowledge of another culture. According to the scientists, «the barriers of this type due to the peculiarities of ethnic consciousness, mainstream values and stereotypes are manifested in communion. They also generated social factors associated with the ownership of the

participants of communication to various socio-cultural groups» (LeBaron, *Culture-Based*, 2003).

4. *The locus of control*. The main point of Rotter's theory of the locus of control is this: if a person perceives him or her responsible for everything that happens to him or her, the positive consequences of such behavior increase, and negative respectively weaken the possibility of similar behavior in similar situations in the future. If one accepts the consequences of behavior as independent of his or her control, but depending on the Fate, chance or other people, the previous model of behavior does not receive any reinforcements. The locus of control, as, no doubt, a profoundly personal feature, depends, however, on the culture to which a person belongs (Hall, 1976).

5. *Context*. An American anthropologist Edward Hall compares cultures depending on their attitude to the context, which is understood as the information that surrounds and accompanies the event, i.e. something that is woven into the significance of what is happening. Most of the information in highly contextual communication is already known to person, and only a small part of it is represented with words (coded, externally marked communication). Low-contextual communication is the opposite: most of the information is transferred through a sign code.

Accordingly, all cultures can be divided with this marker into high- and low-contextual. High-contextual cultures can be considered similar in terms of the accumulated historical experience, informational facilities and so on. By virtue of tradition and historical development of these cultures they do not change much over time, so the interaction with the world around the same incentive always causes the same reaction (e.g., cultures of the Arab world, Africa, Latin America, and Asia).

For members of a highly contextual cultures a lot is said and specified through non-linguistic context: the hierarchy, status, appearance of the office, its location and layout etc. All the necessary additional information is already laid in people's minds, and the interpretation of the message, without the knowledge of such hidden factors, is incomplete or incorrect, so the languages of highly contextual cultures use a lot of hints and subtext, figurative expressions, etc. High-contextual cultures are more often than not collectivistic (Hall, 1976).

Low-contextual cultures are less homogeneous, interpersonal contacts are strictly separated, so, according to Hall, whenever people come into contact, they need information about everything happening around. The bulk of the information is contained in the words, not in the context of communication; people often express their desires verbally without assuming that it will be understood from the communicative situation. In such societies, the greatest importance is attached to the speech (written and oral), as well as to discussing the details: nothing remains unnamed and unsaid. In such cultures people prefer direct and open communication style when things are called by their names. Examples of

such cultures are Germany, the UK, the Nordic countries, North America, Australia and New Zealand.

It should be noted that the scale of the Hall does not explain all intricacies of behavior: within the framework of the same culture one can find both high and low-contextual messages, people or demeanor. It is only the most typical or dominant type of interaction (Hall, 1976).

6. *Perception of space*. Different cultures have their own idea of the «personal comfort zone», which is combined with the appropriate emotional expressiveness and restraint. «People from different cultures have different understandings of body language as well as speech, oral or written. Despite the obvious differences of nonverbal behavior of different cultures, it is not always perceived as serious» (Gesteland, 2005).

Experts of cross-cultural communications believe that the differences in the following four aspects of body language are potentially the most explosive in the negotiations: proxemics (the behavior in space, the physical distance between the interlocutors), haptics (behavior of touches), ophthalmology (eye contact), kinestetics (body movements, gestures).

7. *Perception of time*. As it is noted, «a different perception of time often leads to confusion» (Johnston, 2018). In this context, Hall distinguishes monochronic and polychronic cultures. In monochronic cultures, people at any given length of time are busy with one thing, they strictly follow the plans, schedules and arrangements, to avoid wasting time. Punctuality is important to them, and delay is considered a serious violation of social norms. In polychronic cultures, people do several things at the same time, the relationship between people is more important than plans and schedules (Hall, 1976).

Robert D. Lewis in his comparison of cultures also uses similar categories. He divides culture into three types: monoactive (or linearly arranged) polyactive and reactive. Monoactive do one thing in the period of time, fully focused on it and operate on a predetermined schedule. Representatives of polyactive cultures easily rearrange and can do several things at once, but do not like to break off the conversation. Finally, reactive culture, typical for Asian countries, organize activities not on a strict and immutable plan, but according to the changing context in response to the changes. Lewis describes reactive culture as those, who «listen», as the representatives of these cultures rarely initiate action or discussion, preferring first to listen and find out the position of the other (Lewis, Weigert, 2012).

8. *Religious beliefs*. To single out and clearly define certain basic concepts of a given culture and the factors influencing the attitude of this culture to its members, to others, to events in their environment, presents one of the major challenges to a researcher. The researchers recorded the fear of the supernatural in all cultures, and this is manifestly expressed in religions and religious beliefs.

Religious beliefs are reflected in the demeanor and manners of subjects of communication. Ignorance of the religious beliefs of other cultures, lack of knowl-

edge concerning their specific features can cause misunderstandings and misleading assessment results.

## 4. CONCLUSIONS

To summarize, there are eight major barriers that have to be considered when developing a trust construction in modern society. Their analysis allows us to take into account potential problem areas when communicating under conditions of uncertainty in modern society. Knowledge of the system of such barriers can increase the efficiency of communication in the context of globalization.

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# THE RIGHT TO JUDICIAL PROTECTION OF FOREIGNERS AND STATELESS PERSONS IN CIVIL PROCEDURE OF UKRAINE

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**Summary.** The article is devoted to the theoretical and practical aspects of the right to judicial protection of foreigners and stateless persons in the civil procedure of Ukraine. The concepts of the right to judicial protection and the right to appeal to the court of defence are revealed, the basic constituent rights to judicial protection, the grounds for the appeal to the court, the subjects of such a right are defined.

As a result, the legislation on the realization of the right to judicial protection on the territory of Ukraine by foreigners and stateless persons has been investigated. The comparative analysis of free access to court, the presence of its restrictions on foreigners and stateless persons in accordance with the laws of different countries has been done.

On the basis of the analysis of the current legislation, the main problems of this right are identified and the main ways of their solution are determined.

**Key words:** civil justice, right to judicial protection, right to apply to court for protection, free access to court, foreigner, stateless person.

**Problem statement.** Each form of legal proceedings enshrines the constitutional right of a person and a citizen to judicial protection of violated rights and freedoms. In civil proceedings, courts consider cases to protect violated, unrecognized or disputed rights, freedoms or legitimate interests arising from civil, land, labor, family, housing and other legal relations, except for cases that are heard in other proceedings. The purpose of civil proceedings is to establish respect for a man and his rights, to establish justice, the rule of law and strengthening the rule of law and order in the state. Therefore, every

person, including a foreigner who applies to the court for protection, expects the full implementation, the effect of the basic principles of justice.

The value of the rights of foreigners to go to court to seek the judicial protection lies not only in the existence of these rights, but also in the ability to implement them. Therefore, one of the important tasks of the Ukrainian legislator is to create an effective mechanism for the realization of the right to apply to the court for protection and judicial protection by foreigners, stateless persons.

**Relevance of the research topic.** In connection with the active steps of Ukraine on the path to European integration, the content of legal relations in the society, particularly procedural, has changed radically and is characterized by an increase in the number of facts of participation of foreign citizens. In the scientific literature, much attention is paid to the concept of protection of human rights and freedoms, protection of the rights and freedoms of foreigners. In accordance with the Constitution of Ukraine, the priority of judicial protection of rights has been established. The advantages of the judicial form of protection lies in tha fact that it: 1) extends to an indefinite circle of people; 2) all rights and freedoms are subject to judicial protection; 3) the parties of the dispute and other interested people take an active part in proving the case in court. In view of this, it is important to establish the range of people who have the right to apply to the courts of Ukraine for protection and means of judicial protection, for a fair and public hearing and for personal participation in the proceedings, including foreigners and stateless persons.

**The state of the research**. In the legal literature, theoretical and scientific-practical aspects of the right to judicial protection of foreigners and stateless persons have been studied in the works of such scientists-lawyers as Z.V. Romovska, S.Ya. Fursa, S.S. Bychkova, N.Yu. Sakara, T.W. Drakohrust, E.Yu. Petrov, S.V. Sanin, O.E.Avramova, N.O.Chuchkova, L.M. Kosovskyi and others.

**The purpose and the task of the article** is to study the existence of the right to judicial protection and the conditions of its implementation by foreigners and stateless persons in the courts of Ukraine.

**Presenting the material**. The main place among all the rights enshrined in the Basic Law of the state is the right to judicial protection. Article 55 of the Constitution of Ukraine indicates that everyone is guaranteed the right to appeal in court against decisions, actions or omissions of public authorities, local governments, officials and public sevants [1, p. 16]. The Constitution of Ukraine guarantees everyone the right to seek protection in court. “Everyone” is not only a citizen of Ukraine and a legal entity registered in Ukraine, but also a foreigner, a stateless person, a foreign legal entity and an international organization. This right cannot be limited even in the case of declaring a state of emergency or martial law [2, p. 18].

The legal status of foreigners and stateless persons includes guarantees of their rights and freedoms which, in fact, are no different from guarantees of other

citizens' rights. The provisions of the Constitution of Ukraine also state: everyone has the right to compensation at the expense of the state or local self-government bodies for material and moral damage caused by illegal decisions, actions or inaction of state authorities, local self-government bodies, their officials and public servants while doing their duties (Article 56); everyone is guaranteed the right to know their rights and responsibilities (Article 57); everyone has the right to legal aid (Article 59); no one may be twice brought to justice of the same kind for the same offense (Article 61); constitutional rights and freedoms of a man and citizen cannot be restricted, except for the cases provided by the Constitution of Ukraine (Article 64) - they concern not only citizens of Ukraine, but also foreigners and stateless persons [3, p. 190].

This is what ensures the provisions of the Universal Declaration of Human Rights, adopted by the UN General Assembly on December 10, 1948. Article 7 states that all people are equal before the law and have the right, without any distinction, to equal protection by law. Article 8 recognizes the right of every person to effective restoration of rights by the competent national courts in case of violation of his general rights granted to him by the constitution or law [4, p. 12].

According to the International Covenant on Civil and Political Rights dated 1966, all persons are equal before the courts and tribunals (Article 14) and before the law and have the right without any discrimination to equal protection by law. In this regard, all discrimination should be prohibited by law, and the law should guarantee all persons equal and effective protection against discrimination on any grounds, namely race, color, sex, language, religion, political or other opinion, national or social backgrounds, property status, birth or other circumstances (Article 26) [5, p. 110].

The right to a fair trial is enshrined in the Convention for the Protection of Human Rights and Fundamental Freedoms dated 1950. To ensure compliance by the High Contracting Parties with their obligations under the Convention and its protocols, the European Court of Human Rights is established on a permanent basis (Article 19) [3, p. 191].

According to Article 55 of the Law of Ukraine «On the Constitutional Court of Ukraine» dated July 13, 2017, foreigners and stateless persons may be participants in constitutional proceedings, namely the subjects of the right to file a constitutional complaint, to verify the compliance of the Constitution of Ukraine (constitutionality) with the law of Ukraine (its separate provisions), which is used in the final court decision in the case of the subject of the right to a constitutional complaint [6].

Civil Procedure Code of Ukraine (hereinafter - CPC of Ukraine) in Article 4 also states that every person has the right, in accordance with the procedure established by this Code, to apply to the court for protection of his/her violated, unrecognized or disputed rights, freedoms or legitimate interests. Thus, the Code

of Civil Procedure of Ukraine enshrines one of the elements of the right to judicial protection - the right to apply to the court for protection. The waiver of the right to apply to the court for protection is not valid. No person may be deprived of the right to participate in the consideration of his case in the manner prescribed by this Code [7]. The expression of the right to judicial protection of foreigners and stateless persons in the civil proceedings of Ukraine is provided in Article 496 of CPC of Ukraine. Thus, foreigners and stateless persons, foreign legal entities, foreign states (their bodies and officials) have the right to apply to the courts of Ukraine to protect their rights, freedoms or interests [7]. The Law of Ukraine «On the Judiciary and the Status of Judges» also contains a norm that guarantees everyone the protection of his rights, freedoms and interests within a reasonable time by an independent, impartial and fair court established by law. Foreigners, stateless persons and foreign legal entities have the right to judicial protection in Ukraine equally with citizens and legal entities of Ukraine [8]. Another fact of confirming the right to judicial protection of foreigners and stateless persons on the territory of Ukraine is Article 3 of the Law of Ukraine «On the legal status of foreigners and stateless persons». According to the Law, foreigners and stateless persons legally staying in Ukraine enjoy the same rights and freedoms as well as bear the same obligations as citizens of Ukraine, except for cases as provided by the Constitution, laws or international agreements of Ukraine [9]. According to Part 1 of Article 73 of the Law «On Private International Law» foreigners, stateless persons, foreign legal entities, foreign states (their bodies and officials) and international organizations have the right to apply to the courts of Ukraine to protect their rights, freedoms or interests [10]. The provision of protection in this case is applied to all rights (civil, family, labor, etc.), the subject of which may be a foreign person, if it is not related to any requirements for mandatory residence in Ukraine, the purpose of arrival in the country, etc.

In addition, the issue of ensuring proper access to justice for foreign persons, including foreigners and stateless persons, is enshrined in the Ukraine-European Union Action Plan (approved by the Council of Ministers of the European Union in December 2004), the Law of Ukraine «On the National Program for Adaptation of the Legislation of Ukraine to the Legislation of the European Union» (March 18, 2004).

Based on the above, every person, including foreigners and stateless persons, has the right to apply to the court of Ukraine for protection.

Regarding the relationship between the concepts of the right to judicial protection and the right to apply to the court for protection, as noted by N.O. Chuchkova, it is obvious that these subjective rights are inextricably linked as a whole and its part. The right to judicial protection cannot be implemented without the right to go to court, while the right to go to court is an integral part of the right to judicial protection. In the process of implementing the right to judicial protection, the right to go to court is «separated» from the right to

judicial protection and becomes an independent procedural right [11, p. 42]. We also support this position, as we consider the right to judicial protection to be a broader concept, which in the sectoral legislation is realized through the right to apply to the court for protection (Article 4 of the CPC of Ukraine). T.V. Sakhnova in this regard also notes that the right to appeal to the court for protection is «separated» procedurally, becomes an element of the right to judicial protection and a legal fact that triggers the whole procedural mechanism [12, p. 285].

The content of the right to apply to the court of foreigners or stateless persons for protection as an independent procedural right may be disclosed through the right to own actions (the right to apply to the court to initiate proceedings) and through the right to require a judge to take actions to enforce the right to appeal to the court (the right to demand a court decision, the right to appeal the decision to refuse to initiate proceedings, etc.). Therefore, it becomes clear that the right to judicial protection of foreigners and stateless persons in civil proceedings is realized through their right to go to court for protection and combines substantive-legal and procedural aspects. The latter should include the right of such persons to sue, the right to sue submission, the existence of preconditions for suing and the conditions for implementing the right to sue by foreigners or stateless persons.

The legislation of Ukraine does not contain any restrictions or conditions for foreigners, the use of which is necessary to go to court [13, p. 302]. Refusal to accept a claim of a foreigner is possible only on the general grounds provided in the CPC of Ukraine (Article 186 of the CPC of Ukraine). For example, a judge refuses to open proceedings if: the application is not subject to civil proceedings; in the proceedings of this or that court there is a case of a dispute between the same parties, on the same subject and on the same grounds; there is one that has entered into force, a court decision or ruling to close the proceedings between the same parties, on the same subject and on the same grounds, or there is a court order that has entered into force, on the same requirements, etc. That is, there is no prohibition to apply to the court for the protection of these persons, which is confirmed by the absence of such a prohibition among the grounds for refusal to initiate proceedings. Accordingly, if a foreigner or a stateless person has filed a claim with the court of Ukraine (for example, as a party of a dispute), it will not be a manifestation of such a procedural consequence as issuing a decision to refuse to open proceedings, leaving the claim without action or return the application (Article 185 of the CPC of Ukraine).

It should be emphasized that the opening of proceedings in a civil case is a consequence of the implementation of the right to go to court. Satisfaction of claims or refusal to satisfy them is the result of the realization of the right of a foreigner, a stateless person to judicial protection. But in both the first and the second case, judicial protection of the rights, freedoms and interests of a foreign person took place.

The extension of the national regime in civil proceedings to foreigners is based on the principle of unconditionality and is not related to their residence in Ukraine. The norms of the civil procedural law, which define the rules of procedural legal and civil capacity, arbitrability, jurisdiction, procedural status of the parties and other rights and guarantees, apply to foreigners, regardless of whether the legislation of their state provides equal rights for citizens and legal entities of Ukraine. However, if a foreign state restricts procedural rights for citizens and legal entities of Ukraine, the legislation of Ukraine may, in retaliation, establish appropriate restrictions on the procedural rights of citizens, enterprises and organizations of those states in which such restrictions are allowed.

Norms on free access of foreigners to court are provided in international treaties of Ukraine. For example, Article 1 of the Agreement between Ukraine and the People's Republic of China on Legal Assistance in Civil and Criminal Matters provides that citizens of one state have on the territory of another state the same legal protection of their personal and property rights as citizens of their country. They have the right to apply to the court and other institutions which have jurisdiction over civil (commercial, commercial, marital, family, labor) and criminal cases, and may initiate petitions and perform other procedural actions under the same conditions as citizens of their countries. This provision is also applied to legal entities established on the territory of states in accordance with their legislation.

In Article 1 of the Agreement between Ukraine and the Republic of Georgia on Legal Assistance and Legal Relations in Civil and Criminal Matters it is stipulated that citizens of one state have the same legal protection on the territory of another state in relation to their personal and property rights as citizens of their state. This is also applied to legal entities established in accordance with the legislation of one of the states. Citizens of one state have the right to freely and without hindrance apply to the court, prosecutor's office, notary and other institutions of another state, which are responsible for civil and criminal cases, may appear in them, file petitions, file lawsuits and conduct other proceedings, acting on the same terms as citizens of that state.

According to Article 1 of the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters concluded between the Commonwealth of Independent member states (CIS), citizens of each state as well as persons residing on its territory, enjoy the territory of all other states-parties to the Convention regarding their personal and property rights with the same legal protection as the citizens of that state. Citizens of each state as well as other persons residing on its territory, have the right to freely and without hindrance apply to the court, prosecutor's office and other institutions of other states which have jurisdiction over civil, family and criminal cases, may appear in them, initiate petitions, file lawsuits and perform other procedural actions on the same terms as citizens of this state. These provisions are also applied to legal entities established under the laws of each state.

Thus, the subjects of law who are granted civil procedural protection, are citizens and legal entities of each of the contracting parties, and in accordance with Article 1 of the Convention of the CIS member states - also persons residing on the territory of each of the countries. They can be foreigners, persons with dual citizenship, stateless persons. The scope of legal protection provided to foreigners is determined by the national regime. The objects of civil procedural protection are personal and property rights of citizens and legal entities in legal relations, the consideration of disputes which belong to the competence of civil proceedings [14].

The court should not ask in each case the question of reciprocity, that is it should not find out in the course of a particular case, whether the legislation of a foreign state provides equal rights for individuals and legal entities of Ukraine. Meanwhile, the legislation of some states provides for the institution of bail to ensure reimbursement of court costs, which restricts the free access of foreigners to court. The essence of this institution is to impose on the foreign plaintiff the obligation to pay in advance to the court a certain amount of money to ensure court costs in case the defendant incurs them in case of rejection of the claim to the plaintiff - a foreign person [15, p. 6].

This institution is provided by the legislation of France, Belgium and the Netherlands and applies to persons residing outside these countries and to foreigners who reside in the state of the court but do not have a plot of land there. In Italy, a pledgee who has no property in that country is obliged to pay a bail, and in England a plaintiff who has a domicile abroad is obliged to pay a bail. The institution of bail is also provided by the legislation of Austria, Spain, Germany, known to the legislation of Poland, Hungary, Yugoslavia, but may not be applied on a reciprocal basis when a citizen of the country of court is exempt from providing costs in a country of which he is a foreigner.

Such an obligation is also provided in paragraph 110 of the CPC of Germany, paragraph 57 of the Austrian CPC, Articles 166, 167 of the French CPC (these Articles formulate the requirements for pre-trial security). This institution is also known to the legislation of Belgium, Sweden and other countries [16, p. 82].

Citizens and legal entities of Ukraine in case of appeal to the courts of these states were obliged to comply with the rules of caution judicatum solvi (ensuring that the court decision will be executed), directed against foreigners, who in practice created significant obstacles to access to judicial protection. This necessitated the inclusion in the agreements concluded by Ukraine of a special rule on mutual, free and unimpeded recourse to the court for protection, as well as on mutual exemption from bail to ensure procedural costs. For example, Article 43 of the Agreement between Ukraine and the Republic of Poland on Legal Assistance and Legal Relations in Civil and Criminal Matters stipulates that citizens of one of the Contracting Parties residing or staying on the territory of either of these parties and applying to the courts of the other Contracting Party may

not require the payment of bail for the costs of proceedings only because they are foreigners or because they do not have a place of residence or stay on the territory of the Contracting Party to which authorities they apply.

A similar rule is enshrined in Article 43 of the Agreement between Ukraine and the Republic of Moldova on legal assistance and legal relations in civil, family and criminal matters.

The Agreement between Ukraine and the Republic of Georgia stipulates that in the cases provided by law of the Contracting Parties, citizens of one Contracting Party shall be provided with free legal aid in the courts of the other Contracting Party and free legal proceedings shall be provided under the same conditions and benefits as citizens of this Contracting party (Articles 14, 16).

According to the Agreement between Ukraine and China, a citizen of one Contracting Party on the territory of the other Contracting Party pays court costs and is exempt from court costs on equal terms and to the same extent as citizens of this Contracting Party. This provision is also applied to legal entities established on the territory of one of the Contracting parties in accordance with its legislation (Articles 15 and 16).

The Agreement between Ukraine and the Republic of Lithuania on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters stipulates that citizens of one Contracting Party on the territory of the other Contracting Party shall be exempt from court costs on the same grounds and to the same extent as citizens of this state (Article 19). A similar rule is enshrined in Article 19 of the Agreement between Ukraine and the Republic of Estonia on Legal Assistance and Legal Relations in Civil and Criminal Matters.

The 1993 Convention of the CIS Member States provides that citizens of each of the Contracting Parties and persons residing on its territory shall be exempt from payment and reimbursement of court and notarial costs and expenses and shall have free legal aid on the same terms as its citizens. This rule is applied to all procedural actions, including the execution of court decisions (Article 2).

The issue of bail was resolved in the Hague Convention on Civil Procedure dated March 01, 1954 which provides that citizins of one of the Contracting Parties residing in one of those States and appearing in the courts of the other State as plaintiffs or third parties, no bail or pledge may be required in any form on the ground that they are foreigners or have no permanent or temporary residence in that State. This rule is applied to any payments that could be demanded from plaintiffs or third parties to cover court costs (Article 17). And in accordance with Article 14 of the Hague Convention on Facilitation of Access to Justice Abroad dated October 25, 1980 all natural and legal persons residing in one of the Contracting States and appearing in the courts of the other Contracting Party are released from bail [14].

For example, the Agreement between the USSR and Albania explicitly stated: “Citizens of one of the Contracting Parties and those residing on the territory

of one of the Contracting Parties may not be obliged to provide legal costs solely on the basis that they are foreigners or do not have a permanent place of residence, stay or location in this country "(Article 16) [16, p. 82].

Foreign persons on the territory of Ukraine pay court fees and bear other court costs equally with citizens of Ukraine. To protect their violated or disputed rights and legally protected interests, foreigners, stateless persons as well as foreign legal entities have the right to initiate not only lawsuits but also separate proceedings. This general precondition of the right to go to court is enshrined in Article 4 of the CPC of Ukraine, according to which each person has the right in the manner prescribed by this Code, to go to court to protect their violated, unrecognized or disputed rights, freedoms or interests. In addition, the possibility of instituting separate proceedings is provided in bilateral legal aid treaties and in multilateral conventions.

**Conclusions.** It should be understood that as a basic constitutional right, the right to judicial protection in civil proceedings is realized by the right to go to court for protection (Article 4 of the CPC of Ukraine), the right to sue, the right to sue submission (Article 184 of CPC of Ukraine), is guaranteed to everyone and has a substantive-legal nature. Thus, a court may not refuse justice if a citizen of Ukraine, a foreigner or a stateless person believe that their rights and freedoms have been violated or are being violated, obstacles to their implementation have been created or are being created, or other violations of rights and freedoms are taking place. The court's refusal to accept claims and other applications, complaints filed in accordance with applicable law, is a violation of the right to judicial protection which according to Article 64 of the Constitution of Ukraine cannot be restricted both for citizens and for foreigners and stateless persons. This Article also guarantees everyone the right to appeal in court against decisions, actions or omissions of public authorities, local governments, officials and public servants. This means that everyone, i.e. a citizen of Ukraine, a foreigner, a stateless person, has a state-guaranteed right to appeal in a court of general jurisdiction against the decisions, actions or omissions of any public authority, local government, officials and public servants if their decisions, actions or omissions violate or suppress the rights and freedoms of these persons or impede their implementation and therefore require legal protection in court. Thus, the right of foreigners and stateless persons to judicial protection in Ukraine is a measure of their possible behavior to demand in court that the person should perform his duty (substantive-legal aspect), as well as the possibility of foreigners, stateless persons apply to the court of Ukraine with a request to resolve a substantive dispute in order to protect their subjective right or legitimate interest (procedural aspect of the right to judicial protection). These rights are enshrined both in bilateral agreements on mutual legal assistance and in the domestic legislation of each state.

International agreements enshrine the principle of granting civil rights to foreigners and stateless persons on the basis of national regime. This principle

means that foreigners in this state have the right to protection of the same civil rights by the same means and in the same order as all citizens of this state, and cannot claim exceptions from the local law. That is, the civil procedural legislation of Ukraine does not contain restrictions or conditions, the fulfillment of which is necessary for foreign persons to apply to the court, which, for example, cannot be said about the legislation of other states. However, in order to remove obstacles to free access to justice, most countries have settled the issue of exempting foreigners from bail in legal aid agreements and legal relations in civil and criminal cases.

Thus, by analyzing the legislation, we can say that much attention is paid to the protection of the rights, freedoms of foreigners and stateless persons. It is determined that foreigners and stateless persons staying in Ukraine legally have the same rights and freedoms, but a foreigner and a stateless person do not have political rights. Therefore, on the basis of our research, we propose Part 1 of Article 4 of the CPC of Ukraine to read as follows: «Every person (including a foreigner) has the right in the manner prescribed by this Code, to go to court to protect their violated, unrecognized or disputed rights, freedoms or legitimate interests». From today's point of view, the mechanisms for implementing this right should be as effective and efficient as possible, based on the needs of national and international experience, in particular European standards.

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# THE HUMAN RIGHT TO TRANSPLANTATION: CONSTITUTIONAL PRINCIPLES

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**Summary.** The article is devoted to the issue of realisation of the right to transplantation in Ukraine. The conditions and procedure for transplantation in Ukraine are analysed. The current state of realization of the right to transplantation in Ukraine is characterized.

**Key words:** human rights, transplantation, the right to transplantation, realisation of rights, realisation of the right to transplantation, the right to transplantation in Ukraine.

**Formulation of the problem.** In the process of development of Ukraine as a democratic and legal state, European integration of Ukraine, scientific and technological progress, evolution of the fourth generation of human rights, development of medicine, development of transplantation in Ukraine, research on the implementation of the right to transplantation in Ukraine is important.

The study of the implementation of the right to transplantation in Ukraine is of great practical importance for the further development of Ukrainian legislation on transplantation, improvement of guarantees for the implementation of the right to transplantation in Ukraine, as well as to improve the practical activities of authorized entities. As a result, the study of the implementation of the right to transplantation in Ukraine is important for the development of modern science of constitutional law.

**The state of the study.** The issue of realization of the right to transplantation in Ukraine is relevant, and some aspects of it have been the subject of research by many modern scientists, in particular: I. Almashi, D.Byelov, M. Bryukhovetska, M. Hromovchuk, O. Zhidkova, Y. Panina and V. Stetsenko.

**Formulation of the problem.** In the process of development of Ukraine as a democratic and legal state, European integration of Ukraine, scientific and tech-

nological progress, evolution of the fourth generation of human rights, development of medicine, development of transplantation in Ukraine, research on the implementation of the right to transplantation in Ukraine is important.

The study of the implementation of the right to transplantation in Ukraine is of great practical importance for the further development of Ukrainian legislation on transplantation, improvement of guarantees for the implementation of the right to transplantation in Ukraine, as well as to improve the practical activities of authorized entities. As a result, the study of the implementation of the right to transplantation in Ukraine is important for the development of modern science of constitutional law.

**The purpose** of the article is to characterize the issue of realization of the right to transplantation in Ukraine.

**The objectives** of this article are: to formulate the author's definition of the concept of "realization of the right to transplantation in Ukraine", to analyze the conditions and procedure for transplantation in Ukraine, to characterize the current state of realization of the right to transplantation in Ukraine.

**Presenting main material.** As a result of the evolution of the concept of human rights, the development of society, scientific and technological progress, the development of medicine, a new generation of human rights is being formed - the fourth generation of human rights.

According to M. Bryukhovetska, the rights of the fourth generation are an independent legal category that meets the modern interests of the individual and his needs. These rights are closely linked to the physiological existence of the individual, which depends on the development of medical technology and society as a whole. They are a new phenomenon for all branches of law and require legislative consolidation and the creation of a clear regulatory mechanism [1, p. 51].

Y. Panina notes that traditionally the human rights of the fourth generation include the rights to artificial insemination, euthanasia, same-sex marriage, childfree family, gender reassignment, organ transplantation, cloning, use of virtual reality, the right to independent state intervention. life according to religious, moral views; the right to access the Internet. These rights of the fourth generation in the field of health (so-called somatic rights) include the rights to: artificial insemination, euthanasia, organ transplantation, cloning and sex reassignment. It should be noted that this list is not exhaustive and, obviously, will expand in the near future taking into account new advances in biology and medicine [2, p. 95].

Thus, the right to transplantation belongs to the fourth generation of human rights, which has been actively developing in recent years.

The issue of realization of human rights is an important element of the constitutional law of Ukraine. Unfortunately, in the current conditions of the conflict in Donbass, annexation of Crimea, large number of internally displaced persons in other regions of Ukraine from Donbass and Crimea, Ukraine as a state faces many challenges in ensuring proper implementation of human rights [3, p. 4].

The realization of the right to transplantation in Ukraine is an integral part of a single integrated system of human rights in Ukraine.

Thus, the realization of the right to transplantation in Ukraine is the implementation of the opportunities established by the current legislation of Ukraine, individuals in order to meet their needs and interests in the field of transplantation.

Important for the realization of human rights are: the UN Universal Declaration of Human Rights [4] of December 10, 1948, the International Covenant on Civil and Political Rights [5] of December 16, 1966, the International Covenant on Economic, Social and Cultural Rights [6] of December 16, 1966, which is the basis of international human rights standards. At the international level, December 10 is celebrated annually as International Human Rights Day.

The current legislation of Ukraine, in particular the Constitution of Ukraine [7], enshrines the catalog of human rights in Ukraine. The Resolution of the Verkhovna Rada of Ukraine "On the Principles of the State Policy of Ukraine in the Field of Human Rights" [8] of June 17, 1999 is also important in this area. At the same time, it is necessary to create appropriate conditions for the realization of the right to transplantation in Ukraine.

Article 13 of the Law of Ukraine "On the use of transplantation of anatomical materials to humans" [9] of May 17, 2018, which defines the conditions and procedure for the use of transplantation, which will be discussed below, is also important to ensure the implementation of the right to transplantation in Ukraine.

Transplantation is used only in the presence of medical indications and is carried out in accordance with industry standards in the field of health care with the consent of an objectively informed able-bodied person (recipient), except as provided by law. The patient's medical indications for transplantation are determined by the medical staff of the health care facility where the patient is being treated or treated. If the recipient is a person declared incapable in the manner prescribed by law, a psychiatrist shall be included in the consilium of doctors.

If the recipient has not reached the age of 14 or has been declared legally incompetent, the transplant is performed with the consent of his or her objectively informed parents or other legal representatives. In the case of recipients over the age of 14 or who are legally recognized as having limited legal capacity, transplantation is used with the consent of such objectively informed persons.

If the recipient is in an urgent condition that poses a direct and imminent threat to his life, medical care with the use of transplantation is provided without the consent of the recipient, his parents or other legal representatives.

If non-consent to the transplant may lead to serious consequences for the recipient, the attending physician must explain this to the recipient. If, after the explanations provided by the doctor, the recipient refuses to use the transplant, the doctor is obliged to receive a written statement from the recipient refusing to provide him with medical care using the transplant. If the recipient refuses to provide such a written statement or it is impossible to provide it, including due

to health conditions, the doctor draws up an appropriate act in the presence of two disinterested witnesses, which states the fact of providing explanations and refusal of the recipient.

In case of refusal of parents or other legal representatives of the recipient to provide medical care with the use of transplantation to a person under 14 years of age or declared incapable in accordance with the law, if such refusal may lead to serious consequences for the recipient, the head of health care immediately notify the guardianship authority, which no later than 24 hours from the date of application decides to consent or disagree with the provision of such a person with the use of transplantation, which can be appealed in accordance with the law, including in court.

If the living donor is a close relative or family member of the recipient (family donation), the decision on the possibility or impossibility of transplantation is made by the council of doctors of the health institution where the recipient is, based on the immunological compatibility of the donor and recipient. Relevant information is entered into the Unified State Information System of Organ and Tissue Transplantation.

If the medical council decides that the recipient cannot be transplanted from a living donor from close relatives or family members based on the results of determining the immunological compatibility of the donor and the recipient, the council may decide to use cross-donation. The procedure for the use of cross-donation is approved by the Cabinet of Ministers of Ukraine.

In the case of transplantation of anatomical material from the donor-corpse to the recipient, the donor-recipient pair is determined by the Unified State Information System of Organ and Tissue Transplantation.

The search for a donor-recipient pair is carried out during each entry of information on the donor of human anatomical materials, recipient or human anatomical materials into the Unified State Information System of Organ and Tissue Transplantation in automatic mode, taking into account the following indicators:

1) immunological compatibility of the donor-recipient pair;
2) the status of the transplant emergency (according to medical indications);
3) proximity of the health care facility where the anatomical materials of a person are removed for transplantation to the health care facility where the transplant can be performed (taking into account the method of transportation of anatomical materials and the optimal terms of their storage);
4) the possibility of priority transplantation to a minor recipient and a living donor who has previously provided anatomical materials (separately for transplantation of organs, tissues and cells);
5) preservation of the juvenile recipient after reaching the age of majority in order to receive anatomical material for transplantation;
6) anthropometric data;

7) other indicators determined by the central body of executive power, which ensures the formation and implementation of state policy in the field of health care.

After determining the donor-recipient pair, the authorized official of the central executive body that ensures the formation and implementation of state policy in the field of health care, immediately notifies the health care institution, the waiting list (lists) of which includes the recipient.

Actions of the transplant coordinator of the health care institution, the waiting list of which includes the recipient, the procedure for their commission, the actions of medical staff and the procedure for deciding on the possibility of using transplantation of recipient anatomical material from a corpse donor defined by the Unified State Information System of Organ Transplantation and tissues, or the impossibility of transplantation of this anatomical material to this recipient, indicating the reasons, conditions and procedure for re-searching for donor-recipient pairs Unified state information system for transplantation of organs and tissues of donor-recipient pairs, an executive body that ensures the formation and implementation of state policy in the field of health care.

In the context of the study of the implementation of the right to transplantation in Ukraine, it is appropriate to note that the formation and implementation of state policy on transplantation is provided by the executive authorities within their powers. The state promotes public control over the use of transplantation and / or the implementation of activities related to transplantation by associations of citizens in accordance with the law. It should be noted that the role of civil society institutions in ensuring the implementation of this right has increased, as well as improved international cooperation of Ukraine with some foreign countries in this area, but due to quarantine restrictions due to the coronavirus pandemic, there are many difficulties related to foreign trips of citizens of Ukraine, including for the purpose of transplantation abroad.

There were also delays in the launch of the Unified State Transplant Information System (which will contain data on donors and recipients in order to find a “couple” in time). UAH 26.23 million was allocated for its creation in 2018. Its test launch was scheduled for April 2020, but due to the lack of time to prepare the regulatory framework and the responsible governing body, the launch was postponed until January 2021.

But the main thing that the state had to provide first of all was to equip the hospitals that will perform transplants with devices for establishing the fact of brain death in donors. Without this, no transplant can be said in principle. According to the head of the public organization “National Movement For Transplantation” Yuri Andreev, 80% of institutions involved in this area are still not provided with the necessary equipment.

The Ministry of Health has launched a pilot project involving 24 health facilities that perform organ transplants. UAH 112 million has been allocated for this

project and in the first half of 2020, 14 organ transplant operations have already been performed. Next year, the Ministry of Health will ask for UAH 585 million in the budget, and Health Minister Maksym Stepanov expects that within 2-3 years Ukraine will be able to gain transplant independence and citizens will not have to go abroad for treatment. "As for transplantation. We want to gain transplant independence in 2-3 years. What does it mean? We do not want our citizens to go abroad for treatment, so that we do all the transplants here, "Stepanov said. Is it realistic to do it in such a period, when a lot of time has already been lost - experts again express doubts. Meanwhile, according to the Ministry of Health, organ and cell transplants in Ukraine require about 5,000 people each year, but more than 3,400 of them die without waiting for surgery… [10].

Cases of illegal transplantation of human organs or tissues are not uncommon today. Their performers are the so-called "black transplantologists" who serve the global black market of organ transplantation. Unfortunately, there are such cases in Ukraine as well. Thus, upon violation of the requirements of the current legislation on labor protection in one of the private medical centers in 2019, employees of the Boryspil Police Department opened a criminal case under Art. 271 of the Criminal code of Ukraine. During the investigation, police learned that illegal medical operations could take place there. According to the newly discovered fact, the police opened a criminal case under Article 143 (Violation of the statutory procedure for transplantation of human organs or tissues) of the Criminal Code of Ukraine and conducted an authorized search of a medical institution. During which officers of the Boryspil Police Department together with operatives of the Department for Combating Crimes Related to Trafficking in Human Beings of the Kyiv Region Police confiscated documents, technological equipment, in particular, cryo-cold chambers with various biological samples. Appropriate examinations are scheduled for the seized material evidence. Currently, the police are establishing the origin of the biological samples and for what purpose they were stored there [11].

Conclusions. Based on the above, we can draw the following conclusions. Proper implementation of the right to transplantation in Ukraine is important to guarantee and create favorable conditions for the realization of the right to life and the right to health of the citizens of Ukraine.

The concept of "realization of the right to transplantation in Ukraine" can be defined as the implementation of opportunities established by the current legislation of Ukraine, individuals in order to meet their needs and interests in the field of transplantation.

In order to improve the implementation of the right to transplantation in Ukraine, we consider it appropriate to start the launch and operation of the Unified State Information System of Transplantation in Ukraine as soon as possible.

There are prospects for further research in this area, in particular, on: comparative legal analysis of the implementation of the right to transplantation in

Ukraine and in the EU; protection of the right to transplantation in Ukraine; legal regulation of autotransplantation.

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# CONSTITUTIONAL AND LEGAL MECHANISM OF REGULATION OF STATE RELATIONS AND RELIGIOUS ORGANIZATIONS IN THE MODERN THE SLOVAK REPUBLIC

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**Summary:** It is pointed out that state guarantees for the practical implementation of the principle of freedom of conscience include, in particular, ensuring political conditions, freedoms and human rights, and equality of citizens regardless of their attitude to religion. No one shall be the object of any discrimination on the basis of religion or belief on the part of the State or of individuals. Equally important is the equality of all religions, all denominations before the law, ensuring the same legal status of religious organizations of different denominations, regardless of the time of their founding, the number of their followers, geographical origin. The constitutional and legislative consolidation of the realization of the right to freedom of conscience and freedom of the church also appears as a state guarantee. In particular, we are talking about the rights and opportunities for the functional manifestation of churches in various spheres of public life - social, cultural, educational, spiritual, the right to exercise them.

The article analyzes the state-church relations in Slovakia. The state guarantees of practical realization of the principle of freedom of conscience are described. The confessional features of the society in Slovakia are studied. The concept of "restitution of church property" is described. Problems of restitution of church estates and religious communities. The role of restitution in the development of confessional life in Slovakia has been studied. The influence of religion on the educational process is analyzed. The role of church and religion in schools in Slovakia.

Arguably, in contrast to the post-Soviet countries, Slovakia in the early 1990s developed its own strategy of restitution of church property, defined the range

of religious sites and ways to return them to the church. At the same time, the example of this country shows that at the new stages this process is complex and zigzag for both the church and the state. It is difficult to establish uniform rules for cases that require atypical solutions. At the same time, the experience of the Visegrad Four countries shows that in order to complete the restitution of church property, Ukraine needs to conduct a full inventory of religious buildings, create a single register of objects to be returned to the church. It is important to provide sources and procedures for financial compensation for damages caused to individuals in connection with property restitution procedures. In this context, it should also be noted that, by joining the Council of Europe, Ukraine has undertaken to restitute former church property.

**Key words:** church, state, religious organizations, Slovakia

**Formulation of the problem.** State guarantees of the practical implementation of the principle of freedom of conscience include, in particular, the provision of political conditions, freedoms and human rights, equality of citizens regardless of their attitude to religion. No one shall be the object of any discrimination on the basis of religion or belief on the part of the State or of individuals. Equally important is the equality of all religions, all denominations before the law, ensuring the same legal status of religious organizations of different denominations, regardless of the time of their founding, the number of their followers, geographical origin.

The constitutional and legislative consolidation of the realization of the right to freedom of conscience and freedom of the church also appears as a state guarantee. In particular, we are talking about the rights and opportunities for the functional manifestation of churches in various spheres of public life - social, cultural, educational, spiritual, the right to exercise them.

Analysis of recent research and publications. The topic of state-church relations has been studied by many domestic and foreign scholars. Among them: Novichenko NP, Moravchikova M., Palinchak MM, Jan Golonich, M. Tsipara and others.

Selection of previously unsolved parts of the overall problem. Peculiarities of state-church relations in Slovakia have been studied by many scholars. At the same time, there are still many controversial issues that need further research.

Formulation of the goals of the article (task statement). The aim of the article is to analyze the features of state-church relations in Slovakia, their development and specifics.

Presentation of the main research material. Began with the perestroika in the USSR and the fall of the Berlin Wall, the religious renaissance received a new impetus with the independence of the Slovak Republic in 1993. The growth of the general level of religiosity of the population, the number of functioning churches, temples, houses of worship, monasteries, religious communities, mass public

church rites and ceremonies, the presence and participation of church representatives in important state events, media coverage of significant events of religious life attributes of modernity.

According to legal scholars, in recent times in Slovakia, in addition to the Constitution, 22 regulations have been adopted governing various areas of state-confessional relations [1, p. 112]. They stipulate socio-political and organizational issues of interaction between the state and the church; conditions of economic, charitable, cultural and educational activities of religious organizations; worldview aspect of school and higher education; the possibility of functioning of church structures in the armed forces, correctional labor institutions, etc. The process of forming the legal field of the state reflected the cultural, historical, socio-economic, mental and other features of the state itself. It took place under the influence of society, but the role of the church was unconditional and influential in this aspect.

One of the most important processes that allows churches to achieve their economic independence is the restitution (from the Latin restitutio - restoration) of church property. Restitution of all church property is a legitimate right of the church, a means of restoring historical justice and one of the ways to achieve economic independence of the church and its free position in society and the state. From the point of view of the progress of social processes in the post-communist era (rehabilitation - restitution - transformation), restitution is one of the cornerstones of the regulation of relations between the state and the church and their legal support.

In the new social conditions, the issue of restitution of church estates and religious communities has acquired special importance and priority. In order to overcome the

The salaries of priests are divided into several groups depending on their rank, length of service and place of service (spiritual administration, church administration, spiritual educational institution, etc.) and can be increased by 30%. The state also participates in financing church expenses related to the provision of church administrative activities. These funds are provided in the state budget of the Slovak Republic for the relevant year within the funds allocated in general for all registered churches and religious associations. The state and local authorities may allocate a certain part of their funds for the renovation and repair of church-owned facilities, especially those registered as cultural monuments. The state provides assistance in the renovation and repair of church facilities, primarily sacred cultural monuments within the State Fund for Culture. The state may financially contribute to the reimbursement of other church expenses in accordance with the Law or other instructions (reimbursement of expenses related to real estate under the Law № 282/1993 on restitution, reimbursement of part of expenses related to the protection of sacred objects from theft etc.) [2, p. 95]. In some cases, the government of the republic from its own reserves provides one-time targeted financial assistance to churches and denominations [5, p. 19-20].

Recurrence of the communist regime's policy and restore justice in Slovakia, the Law № 282 on the Reduction of Certain Property Injuries Caused to Churches and Religious Unions was adopted in 1993, which entered into force on 1 January 1994 [2, s. 231-234]. The purpose of this law was to regulate the conditions and regime of return of most of the property that was illegally confiscated from churches for the period from May 8, 1945 to January 1, 1990, as well as the return of property confiscated after November 2, 1939 to Jewish religious communities. According to a number of researchers, in particular M. Palinchak [3, p. 95], M. Tsipara [2, p. 73] and others, the Law on Restitution of Church Property has solved this problem in terms of content and scope most consistently of all post-communist states. More than 1,200 buildings were returned to various denominations.

As in the socialist era, according to the Resolution of the Government of the Czechoslovak Socialist Republic № 578/1990 on the regulation of personal rates of priests of churches and religious unions, the salaries of clergy are now paid by the state. This legislation amended the Law № 218/1949 on the Economic Support of Churches and Religious Communities. Thus, the state renounced state control over the churches [4, p. 515]. Based on the Decree of 1990, the state provides individual churches with funds for the salaries of priests. Funds are allocated from the state budget of the Slovak Republic for the relevant year in accordance with the laws on the state budget of the Slovak Republic and are updated annually.

The Agreement between the Orthodox and Greek Catholic Churches, signed in 2001 by Bishop Jan and the Apostolic Exarch of Košice Milan, caused a positive response in the country and abroad. The agreement put an end to lengthy property disputes and lawsuits. In the East Slovak region, the property was finally returned to the Greek Catholic Church, which had previously been liquidated by order of Moscow. Even more, the government of the Slovak Republic paid 53.9 million Slovak crowns in compensation to both churches for schools and lands confiscated during the communist era [7, p. 15].

As we can see, in contrast to the post-Soviet countries, Slovakia in the early 1990s developed its own strategy of restitution of church property, defined the range of religious sites and ways to return them to the church. At the same time, the example of this country shows that at the new stages this process is complex and zigzag for both the church and the state. It is difficult to establish uniform rules for cases that require atypical solutions. At the same time, the experience of the Visegrad Four countries shows that in order to complete the restitution of church property, Ukraine needs to conduct a full inventory of religious buildings, create a single register of objects to be returned to the church. It is important to provide sources and procedures for financial compensation for damages caused to individuals in connection with property restitution procedures. In this context, it should also be noted that, by joining the Council of Europe, Ukraine

has undertaken to restitute former church property. According to item XI of the conclusion of the Parliamentary Assembly of the Council of Europe № 190 (1995) our state is recommended to settle "the legal decision of a question on return of church property" (the conclusion of PACE № 190 (1995) on Ukraine's accession to the Council of Europe. Strasbourg, 25 September 1995. In the book: [8, p. 65]). The PACE Recommendations of 24 April 2002 № 1556 (2002) reiterated Ukraine's "need to guarantee religious institutions whose property has been nationalized in the past, the restitution of such property in due time or, if this is not possible, fair compensation" (PACE Recommendation of April 24, 2002 № 1556 (2002) "Religion and change in Central and Eastern Europe" [8, p. 65]), although much has already been done in this direction in our country, including at the legislative level [9, p. 69-70].

According to the statistics, in 2016, 2017, 2018 and 2019, the amount of financial support for churches exceeded 40 million euros. It has a steady upward trend. These data do not take into account the indirect support of churches and denominations by the state and individuals.

Churches can also apply to government agencies for a variety of grants and subsidies, which are used primarily to preserve and restore the cultural heritage of churches, as well as for social, charitable, cultural and educational projects.

During the study period, significant changes have taken place in the field of family law. In 1992, with amendments to the Law № 94 of 1963, a new Law on the Family № 234 was adopted [3, p. 46]. This Law provides for the right to choose the form of marriage. According to him, marriage is the expression of the will of a man and a woman before a state body (so-called civil marriage) or before a church body (so-called church marriage). Marriage can be private or public. According to the church form, a marriage takes place in a church or in another place determined by church regulations. The conditions for marriage established by Law № 94/1963 on the family generally remain in force. When concluding a marriage in the church form, the following legal facts are important: reaching the age of marriage - 18 years (in exceptional cases, 16 years), singleness, lack of family ties. The church body must verify these facts. In addition, the necessary documents must be submitted to the civil registry office. After proper verification of the relevant documents, these bodies send them to the church body responsible for marriages. After the marriage, the relevant body of the church must send a record of the marriage to the civil registry office within three working days from the date of the marriage.

The conditions required by the church for marriage are not mentioned in the Law, but it can be assumed that each church or religious society will, in accordance with its own statute, require compliance with the necessary conditions.

At the same time, the conditions for marriage by citizens of the Slovak Republic abroad were changed to take into account the retrospective effect of the Law (retrospective effect of a legal norm is the effect of a norm on legal relations

that have arisen in the past). The essence of such regulation is that marriages concluded in the church form by Slovak citizens abroad from January 1, 1950 to June 30, 1992 are recognized as valid provided that such a form of marriage was recognized in the country where they were concluded. .

The Catholic Church is concerned about the current state of the family and the high divorce rate in many European countries. According to Articles 10 and 11 of the Agreement with the Vatican, a marriage taken in accordance with the norms of canon law has the same effect in the territory of the Slovak Republic as a civil marriage [2, s. 274]. These issues were previously discussed with experts in the field of family law and did not cause significant objections [10, s, 7].

The experience of the Slovak Republic in solving the problems of religious education is indicative for our country. After all, Slovakia, despite its communist past and many years of forced atheism, remains today a country with a clearly represented religious tradition, which, of course, affects the relationship between the state and the church in the field of education. There is no talk in this country of any violations of the Constitution in connection with the introduction of religion into the education system.

T. Jensen, head of the seminar in the Department of Religious Sciences at the University of Southern Denmark, distinguishes between three types of approach to religious education in Europe: the complete absence of such education at school (France); 2) religious education guaranteed by the state (Germany, Finland, Austria, Belgium, Poland); 3) non-religious education, also guaranteed by the state (Great Britain, Denmark, Sweden, Norway) [11, p. 85]. In Slovakia, as well as in Germany, Poland, Finland, Austria, Belgium and some other European countries, a type of religious education based on state guarantees and funding is practiced.

A special group of legal norms issued by Czechoslovakia after 1990 are the norms concerning the sphere of church schooling. The defining legal norm regulating the activities of the church in the field of public life was a joint Resolution of the Ministry of Education, Youth and Sports of the Slovak Republic and the Ministry of Health of the Slovak Republic № 536/1990 on the establishment and operation of church schools [12, p. 158-168]. This Resolution regulated not only the question of the establishment of church schools, actions in their establishment and closure, but also the question of the educational process, admission of students, passing and graduation, the status of employees of church schools.

The 2000 treaty gave impetus to the establishment of an extensive network of church schools in the country, the education of which is equivalent to education in public schools. In addition to traditional education and training, these institutions provide education in alternative programs, new methods and forms, which are provided for in the partial agreements concluded between Slovakia, the Holy See and registered churches. The curriculum and syllabus of church schools is approved by the Ministry of Education [13, p. 93]. The establishment

of church schools ensured the right to choose a school according to the religious beliefs of the parents. It has also created a competitive environment in the country's educational space.

Positive changes have also taken place in the field of higher theological education. Today, the following theological faculties carry out such educational activities in Slovakia:

1) the Roman Catholic Cyril and Methodius Theological Faculty in Bratislava;
2) Evangelical Theological Faculty in Bratislava;
3) Greek Catholic Theological Faculty in Pryashev;
4) Theological Institute of the University of St. Alois Trnava;
5) Catholic University of Ruzomberok. All these educational institutions are financed from the state budget. When appointing teachers, associate professors, professors at theological faculties, in addition to psychological and pedagogical criteria, the internal prescriptions of the church are taken into account. There are 50 male and female monastic orders in the country, a significant number of religious and social-charitable unions [3, p. 41].

The religious demography of Slovakia is unique, as evidenced by the results of censuses conducted in 1991, 2001 and 2011. Statistical data and results of sociological surveys [7, p. 14-15] give grounds to claim that after the adoption of the legal framework in the field of religious freedom in the country in the 1990s there was a process of returning to traditional religious values. After Poland, Ukraine, Croatia and Romania, Slovakia is the fifth largest post-communist country in terms of religiosity, well ahead of its neighboring Czech Republic.

According to the last census of 2011, the population of Slovakia is 5.4 million people. Catholics make up 62% of the total population, Augsburg Lutherans - 5.9%, Greek Catholics - 3.8%. 13.4% of respondents did not indicate their religious affiliation. Other groups are present in small quantities; first of all it is the Reformed Christian Church, some other Protestant groups, Jehovah's Witnesses, Orthodox Christians, Jews.

The example of Slovakia clearly shows the relationship between religion and ethnicity. Greek Catholics generally represent ethnic Ruthenian-Ukrainians, although some Ukrainians belong to the Orthodox Church. Most Orthodox Christians live in the east of the country. Believers in the Reformed Christian Church live mostly in the south, near the border with Hungary, in areas inhabited largely by ethnic Hungarians. Other religious groups are distributed approximately evenly throughout the country [1, p. 120-121].

Analyzing the Slovak religious and social situation, it is necessary to emphasize this fact. If 4.5 million people out of 5.4 million (the total population of the country) declare their affiliation with a particular church or religious community, this is evidence of the fact that religion has not only maintained its position in Slovak society, but and increased its influence and presence in the political arena. Fears that, with the accession to the European Union, the countries of Central and Eastern Europe

will use the model of Western European secularization, as a result of which religion and the church will cease to play an important role in public life, are unfounded. To begin with XXI century. the church remains authoritative. power in Central and Eastern Europe, maintains a strong position in many areas of socio-cultural life, forcing governments to reckon with their views. In modern Slovak society, the church complements its mission of spiritual rather than ideological service to citizens.

**Conclusions.** However, despite the fact that during the period under study the activity of religious institutions in Slovak society has significantly increased, their potential and social potential are not used to the extent close to social needs. The church's contribution to the formation of moral patterns and stereotypes, the provision of care for those who really need help, the settlement of disputes between individual denominations, which are largely caused by media reports, etc., remain, in our opinion, insufficient.

Given these and other circumstances, it should be noted that in terms of research methodology, it is erroneous to place the church only in the institutional framework. The Church's spiritual influence covers the world "not only visible but also invisible." The church is always a living relationship, communication, a mystical rush to God. Therefore, it would be wrong to ask, as some scholars do, the role of the church in building a post-communist society, because the church is a "goal in itself", its main purpose is to glorify God, save human souls and build a perfect "kingdom of God". It is another matter that the church also consists of people who are citizens of their states and, therefore, directly or indirectly influences the process of state decision-making.

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# ENSURING THE CONSTITUTIONAL SECURITY OF THE STATE: AN INSTITUTIONAL APPROACH

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**Summary.** It is determined that a special place in the system of constitutional security of Ukraine is played by judicial-constitutional support (control), where the subject is the Constitutional Court of Ukraine as a body of the judicial system of Ukraine of constitutional jurisdiction, which ensures the supremacy of the Constitution of Ukraine. Ukraine on the subject of non-diminishing (abolition or restriction) of the constitutionally enshrined scope of human rights and freedoms and / or the scope of legal personality of other institutions, the status of which is defined in the Basic Law of our state.

**Key words:** constitutional security, judicial and constitutional support, Constitutional Court of Ukraine, constitutional act, constitutional jurisdiction.

**Formulation of the problem.** A special place in the system of ensuring the constitutional security of Ukraine is played by judicial-constitutional support (control), where the subject is the Constitutional Court of Ukraine as a body of the judicial system of Ukraine of constitutional jurisdiction, which ensures the supremacy of the Constitution of Ukraine and monitors the constitutionality of acts. the subject of immensity (abolition or restriction) of the constitutionally enshrined scope of human rights and freedoms and / or the scope of legal personality of other institutions, the status of which is defined in the Basic Law of our state.

Analysis of the source base. Studies of this concept in the context of ensuring the constitutional security of Ukraine and the main role in this is the Constitutional Court of Ukraine are not numerous in domestic legal science, in addition, still not formed a common definition of "judicial-constitutional support (control), moreover, to denote this categories of scientists use different terms in their name and content. Thus, in the legal literature we find studies of such categories as "constitutional control" (V. Campo, A. Portnov, A. Selivanov, J. Tatsiy, M. Teslenko,

V. Tykhy, V. Shapoval, etc.), "judicial control in constitutional proceedings" (V. Rozvadovsky); "Constitutional justice" (A. Selivanov, Y. Todyka), "system of constitutional regulation" (K. Babenko), developments on the conceptual and categorical apparatus of the concept of "judicial and constitutional control" are contained in the works of N. Vitruk, M. Savenko, I Shevchuk, M. Popovich and others.

Presentation of research material. M. Savenko, a well-known retired Ukrainian scholar and judge of the Constitutional Court of Ukraine, states that "judicial constitutional review is the activity of competent judicial and / or specialized judicial bodies to review, assess, determine the conformity of laws, other normative legal acts of the Constitution and resolve the issue of their application or in relation to their constitutionality, which is carried out in the form of legal proceedings and is aimed at ensuring the legal protection of the Constitution, the foundations of the constitutional order established by it, human and civil rights and freedoms, constitutional legality. In Ukraine, judicial constitutional control is exercised by the Constitutional Court of Ukraine and courts of general jurisdiction in accordance with the established powers "[4, p. 179].

I. Shevchuk characterizes this category by the presence of such characteristic properties as: 1) a subspecies of social control; 2) the CCU is carried out according to special procedures regulated by the Constitution of Ukraine and a special law; 3) is carried out at the request of authorized entities; 4) includes normative control, interpretation of the constitution and laws and resolution of constitutional disputes; 5) decisions and conclusions adopted as a result of the review are final and not subject to appeal [6, p. 29].

In the legal literature there is often a diversity in the use of terminology that characterizes the process of participation of the Constitutional Court of Ukraine in ensuring the national, including constitutional security of our state. We believe that the most frequently used terms "constitutional control" and "judicial-constitutional provision (control)" should still be distinguished, because, in our opinion, they are not identical in content. On the contrary, they embody two different processes, in particular, "constitutional control" is a set of functions of any constitution, in particular, according to the famous scientist Yu. Todyka, a set of such main directions of constitutional influence on public relations in Ukraine as: 1) legal (establishes the basis for other branches of Ukrainian law); 2) constituent (it is in the Constitution of Ukraine defines and legally formalizes the most important socio-economic and political institutions; 3) stabilizing (there is a stabilizing function of the Constitution is manifested in the fact that as a result of consensus of different political forces and groups, it is a factor in stabilizing social relations , their further development on a democratic basis); 4) political; 5) socially regulating and ensuring social interests; 6) legal; 7) software; 8) foreign policy; 9) organizational; 10) human rights; 11) ensuring equal economic conditions of management and social partnership; 12) security; 13) restrictive; 14) educational; 15) ideological [5, p. 21].

The basis of these functions is that the norms of the constitution are the norms of direct action, which occupy the highest step in the hierarchy of normative legal acts of the state, and it is on their basis that laws and other normative legal acts of the state should be adopted and correspond. In particular, Article 8 of the Constitution of Ukraine states that the Constitution of Ukraine has the highest legal force, laws and other normative legal acts are adopted on the basis of the Constitution of Ukraine and must comply with it, the norms of the Constitution of Ukraine are norms of direct action. Going to court to protect the constitutional rights and freedoms of man and citizen directly on the basis of the Constitution of Ukraine is guaranteed, in this case it is a passive activity of the Constitution of Ukraine as a normative legal act to ensure constitutional security in the state.

In this case, "judicial-constitutional support (control)" is an active activity of a specially formed body of the state, all functional orientation of which is related to the interpretation of the constitution and direct control of compliance with the constitution of the state by relevant institutions of state power.

In Ukraine, in accordance with Art. 147 of the Constitution of Ukraine, the Constitutional Court of Ukraine is the only collegial body of constitutional jurisdiction in Ukraine that decides on the compliance of the Constitution of Ukraine with the laws of Ukraine and other acts provided by the Constitution of Ukraine, performs its official interpretation and exercises other powers under the Constitution of Ukraine.

Constitutional proceedings include making decisions and providing conclusions on: constitutionality of laws and other legal acts of the Verkhovna Rada of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea; compliance with the Constitution of Ukraine of current international treaties of Ukraine or those international treaties submitted to the Verkhovna Rada of Ukraine for consent to their binding force; observance of the constitutional procedure of investigation and consideration of the case on removal of the President of Ukraine from office by way of impeachment within the limits determined by Articles 111 and 151 of the Constitution of Ukraine; official interpretation of the Constitution and laws of Ukraine.

The forms of appeal to the Constitutional Court of Ukraine are a constitutional petition, a constitutional appeal and a constitutional complaint.

The subjects of the right to a constitutional petition are the President of Ukraine, the Cabinet of Ministers of Ukraine; Verkhovna Rada of Ukraine; The President of Ukraine, at least forty-five people's deputies of Ukraine (deputy's signature is not revoked), the Commissioner for Human Rights of the Verkhovna Rada of Ukraine, the Supreme Court of Ukraine, the Cabinet of Ministers of Ukraine, other state authorities, the Verkhovna Rada of the Autonomous Republic of Crimea, local governments.

The subjects of the right to a constitutional appeal on the official interpretation of the Constitution and laws of Ukraine are citizens of Ukraine, foreigners, stateless persons and legal entities (Articles 13, 38, 40, 43 of the Law of Ukraine "On the Constitutional Court of Ukraine" [1]).

The subject of a constitutional complaint is a person who considers that the law of Ukraine applied in the final court decision in his case contradicts the Constitution of Ukraine.

Thus, we can state that the only subject of judicial and constitutional support of the constitutional security of Ukraine is the Constitutional Court of Ukraine, which has the following features of the subject of the system of ensuring the constitutional security of Ukraine:

a) exclusivity and exclusivity, occupies a special place among public authorities, exercising exclusive powers in the field of constitutional security of the state;
b) mono-objectivity, the presence of a single object of its kind, to which the activity is directed - constitutional compliance (constitutionality) of legal acts of the subjects of law defined in the Constitution of Ukraine;
c) procedural specificity, the peculiarity of its place and role;
d) the imperative nature of the decisions taken, the activity has a power-imperative nature, which provides for the unconditional fulfillment of requirements by all subjects of state law.

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# LEXICAL VARIETY OF ARTHUR MILLER'S DRAMATIC TEXTS

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**Summary.** The present article is devoted to the complex study of the specifics of the language means in the textual corpus of dramatic works by the world-known American writer Arthur Miller. Approximately 750 lexical units from fifteen plays by the playwright were analyzed, selected and processed. As article purpose, the functional-stylistic and semantic-structural features of lexical means presented in the author's dramatic texts are analyzed; expressive possibilities, pragmatic potential and quantitative ratio of the lexical level of Arthur Miller's drama are determined. The methodology grounds of the research are the following: method of theoretical generalization, method of analysis and synthesis, linguostylistic analysis, lexico-semantic analysis, structural-semantic analysis, contextual interpretation method, descriptive method, pragmatic analysis, quantitative analysis. It is established that the lexical level of individual authorial speech of the playwright is objectified by the convergence of neutral vocabulary with the bookish one in the author's remarks, as well as the convergence of neutral, bookish, colloquial and obscene lexemes in the speech of the actors. Vocabulary has been found to be a mean of intellectualization and aestheticization of Arthur Miller's drama. Furthermore, it realizes the author's intention of realistic reproduction of spontaneous speech of the actors, determines the expressive and emotional tone of the writer's plays in whole, exerts the pragmatic and aesthetic influence on the reader, presents personal perception of surrounding reality and worldview. The active interaction of different layers of vocabulary in the textual space of the playwright is considered to be a manifestation of individual literary style. Given approach enables to conclude about the symbiosis of the elements of intellec-

tual, psychological and routine, appeal to the figuratively-sensual dimension of human existence, the closeness of the author's speech to the poetic one as the characteristic features of the Arthur Miller's idiostyle.

**Key words:** artistic discourse, speech expressiveness, neutral vocabulary, bookish vocabulary, colloquial vocabulary, obscene vocabulary.

## 1. INTRODUCTION.

The anthropocentrism of the contemporary linguistic paradigm determines the perspective of the literary discourse study. The linguistic form can no longer be considered without taking into account the specifics of the author's worldview, personal perception of the surrounding reality, individual linguistic and aesthetic preferences, communicative and pragmatic intentions. In this regard, the defining tendency of linguistic thought in recent years has become the interpretation of the textual space of a literary work through the prism of verbal expression of the inner world of the writer, which according to today's scientific position corresponds to the concept of the notion of idiostyle.

There is no doubt that the originality of the author's idiostyle is mostly pronounced through the individual features of the word usage and word formation. Numerous functional and semantic variations of lexemes serve as the author's means of aesthetic design of a thought, as a verbal instrument of unique artistic image and individual language creation (Makar, 2010, p. 7; Yurina, 2016, p. 55). Paradigmatic and syntagmatic relations of lexical units provide unlimited opportunities for the artists of the literary word to express their personal intentions through the prism of the new literary reality they create (Perelomova, 2010, p. 73; Yurina, 2016, p. 56). Lexical means determine the functional and stylistic colouring of the literary text, act as the factual subjective content of the latter (Gaidenko, 2018, p. 95).

The research interest of the world scientific community in the figure of Arthur Miller, a writer who is considered to be one of the brightest representatives of American drama of the twentieth century, is undeniable. The creative way and the uniqueness of the playwright's literary method and technique are revealed in numerous literary and critical works. However, the conducted analytical review of scientific sources suggests that the linguistic study of the author's dramatic works at this stage is represented only by fragmentary explorations (A. Ehrlichman 2010, A. Zinkovskaya 2011, M. Roudane 2010). Moreover, there is no thorough linguistic study of Arthur Miller's idiostyle, as well as scientific attempts to determine the specificity and pragmatic potential of the linguistic means used by the writer to create the textual fulfilment of his plays.

The purpose of the article is to elucidate the variety, specifics, structural and functional peculiarities of lexical means in the author's speech of Arthur Miller as

the components of idiostyle. The purpose involves the following tasks: to reveal the lexical richness of the texts of dramatic works by Arthur Miller, to explore semantic and structural features of lexical units in the texts of the author's drama, to establish the pragmatic potential of the selected lexemes, to identify the most representative lexical groups of the author's textual corpus according to the functional and stylistic affiliation. Fifteen plays from different periods of the playwright's work with a total volume of 792 pages serve as the material of the research.

The methodology grounds of the research are: method of theoretical generalization, method of analysis and synthesis, linguostylistic analysis, lexico-semantic analysis, structural-semantic analysis, contextual interpretation method, descriptive method, pragmatic analysis, quantitative analysis.

## 2. RESULTS AND DISCUSSION.

The conducted research enabled us to establish that the lexical level of the author's speech is actualized by the active interaction of different layers of vocabulary.

**Neutral vocabulary.** Arthur Miller's authorial speech is based on linguistic means of the basic vocabulary and the commonly used lexical items of the neutral stylistic tone. We notice that most often the author tends to lexical units of the above mentioned type in remarks. The playwright's remarks are quite expanded and detailed. Every detail, every gesture, every emotion is extremely important for the writer and is described with meticulous precision:

*He starts for driveway, but is brought up short by George, who enters there. George is Chris's age, but a paler man, now on the edge of his self-restraint. He speaks quietly, as though afraid to find himself screaming. An instant's hesitation and Chris steps up to him, hand extended, smiling.* (Miller, 1944-1961, p. 129).

As O. Perelomova opportunely points out, all stylistically active lexemes stand out against the background of neutral vocabulary. Moreover, it is on the neutral lexical units that the conceived "fabric" of the literary work with all its ideological-thematic and artistic complexity is realized; by skillful use of the neutral lexical layer the writer manages to solve the most complex artistic and creative problems, where the lexeme acquires relational significance and syntagmatic value (Perelomova, 2010, p. 74). Such statement of Ukrainian linguist is convincingly proved by the texts of Arthur Miller's plays where artistic activity, significant stylistic role, noticeable expressive and figurative possibilities of lexical means of neutral type are also fixed in the author's remarks. Adverting to commonly used lexical units of the neutral tone, the playwright not only provides the reader with the nominative descriptions of the interior, household items, appearance of the protagonists, but also verbally draws landscapes, psychologizes his heroes, creates vivid original characters:

*… Keller is near sixty. A heavy man of stolid mind and build, a business man these many years, but with the imprint of the machine-shop worker and boss still upon him. When he reads, when he speaks, when he listens, it is with the terrible concentration of the uneducated man for whom there is still wonder in many commonly known things, a man whose judgments must be dredged out of experience and a peasant-like common sense. A man among men. …* (Miller, 1944-1961, p. 87).

Along with that, we note that the active use of the house-related vocabulary is the specific feature of writer's speech style. The author tends to describe the houses and household items of his characters rather precisely and in detail. The theme of the polarity of human existence grounded by the routine of everyday life and exalted by deep inner impulses is the one that permeates every author's play:

*LEO's living room – kitchen in a nondescript little wooden house on a country back road. A woodburning stove near a handmade plywood dining and drawing table; some canvas folding chairs, one of them repaired with needle and thread; a wicker chair; a couple of short benches; a well-worn modern chair and a lumpy couch … A couple of fine, dusty landscapes on one wall as well as tacked-up photos and a few drunken line drawings of dead friends. … At the big table LEO is carefully lettering with a marker pen on a piece of cardboard, a newspaper open at his elbow. There are a few patches on his denim shirt and his pants are almost nothing but patches. …* (Miller, 1987-2004, p. 3).

**Bookish vocabulary.** The characteristic feature of Arthur Miller's authorial speech is the "bookishness". Following O. Perelomova, we believe that the bookishness of a literary text is generated by the writer's focus on the inner essence of the intellectual person. Complex microworld of the reflecting intellectual, the desire to learn about the surrounding world can be expressed only by appealing to bookish language (Perelomova, 2010, p. 80). We notice that the bookish vocabulary plays the key role in creating the overall sublime tone of Arthur Miller's plays. Along with that, author's bookish lexemes are determined by certain functional and pragmatic characteristics, acting as the artistic expression of personal understanding of the era in which the events unfold. Such linguistic items serve as the tool for creating individualized characters of heroes through the prism of their speech characterization, function as the means of marking the communicative specifics of speech interaction.

We establish that the linguistic means of bookish style that function in the author's texts are presented by foreign vocabulary (barbarisms, exoticisms), poetic vocabulary (archaisms and historicisms), neologisms, literary phraseological units.

We observe that ***barbarisms*** are quite common in the textual space of Arthur Miller's drama. In most cases these are barbarisms of French origin: *chauffeur* (Miller, 1964-1982, p. 22), *croissant* (Miller, 1964-1982, p. 142), *bourgeoi-*

*sie* (Miller, 1964-1982, p. 153). Less widespread are barbarisms in Latin: *credo* (Miller, 1987-2004, p. 227), *tempo* (Miller, 1987-2004, p. 315), *status quo* (Miller, 1964-1982, p. 225). We also find examples of author's use of Spanish, Italian and German barbarisms: *vamoose* (Miller, 1987-2004, p. 348), *bordello* (Miller, 1964-1982, p. 14), *frankfurters* (Miller ,1964-1982, p. 103).

It is noticeable that in author's plays barbarisms are generally used for nominative purposes and do not acquire any stylistic functions. Nevertheless, appealing to the historical and cultural heritage of the source language and marking the specifics of communicative parameters of the speech, they intensify expressiveness of the playwright's texts.

Thus, in the following example the legal term of Latin origin *bona fides* performs a characteristic function in the presentation of the hero, whose language harmonizes with the level of education:

*PROFESSOR: Will any of you admit right now that you are carrying forged identification papers? So, in short, you are all bona fide Frenchmen.* (Miller, 1964-1982, p. 161).

The historical and cultural contamination of Arthur Miller's dramatic texts is also explained by the use of ***exoticisms.*** The exoticisms that function in the author's plays are presented by lexical units of various origins: 1) Italian*: piazza* (Miller, 1944-1961, p. 586); 2) Ukrainian: *borscht* (Miller, 1964-1982, p. 443); 3) Russian: *czar* (Miller, 1964-1982, p. 485); 4) African: *safari* (Miller, 1964-1982, p. 214); 5) Turkish: *harem* (Miller, 1964-1982, p. 253); 6) Indian: *ashram* (Miller, 1987-2004, p. 470); 7) Mexican: *poncho* (Miller, 1987-2004, p. 450).

We note that exoticisms in the language of the writer often play stylistically significant role acting as the constructive elements of appropriate expressive and emotional task. In particular, in the following example the contextual and stylistic coloring of exoticism is actualized due to its use as the signifier for the expressive and evaluative characteristics of the social phenomena:

*THEO: Oh no, they're marvelously loyal couples.*

*LYMAN: No, dear, they have harems – you are thinking of storks.* (Miller, 1987-2004, p. 253).

We believe that Arthur Miller's inclusion of ***archaisms*** in the textual canvas of the play has pragmatic grounds: 1) actualizing of the historical coloring of the context; 2) the effect of high language.

It is established that the archaic level of the writer's dramatic texts is represented by the archaisms and archaic forms of the words that exist. Also, we note that the total number of lexemes of archaic semantics and form is rather significant.

Among the archaisms that function in the author's texts we single out two groups: 1) obsolete words: *parlor* (Miller, 1944-1961, p. 352), *harlot* (Miller, 1944-1961, p. 429), *hearty* (Miller, 1944-1961, p. 351), *splendid* (Miller, 1964-1982, p. 243); 2) lexical units with archaic meaning: *dungeon* (Miller, 1944-1961, p. 442),

*tavern* (Miller, 1944-1961, p. 443), *gibbet* (Miller, 1944-1961, p. 446), *conquistadors* (Miller, 1987-2004, p. 75), *vassal* (Miller, 1987-2004, p. 117).

The examples of archaic forms of words are rare: *naught* (Miller, 1944-1961, p. 398), *hath* (Miller, 1944-1961, p. 138), *oft* (Miller, 1944-1961, p. 141).

The results of the study suggest that the defining feature of the author's language of Arthur Miller is the prevalence of ***historicisms.*** We establish that the temporal orientation of the reader in the course of described events is realized through the use of lexical units with the semantics related to historical events or realities which are contextually significant: *fascism* (Miller, 1944-1961, p. 138), *concentration camp* (Miller, 1964-1982, p. 443), *The Vietnam War* (Miller, 1987-2004, p. 478). Also, the author does not overlook the historical figures who became the symbols of the time: *Hitler* (Miller, 1964-1982, p. 434), *Roosevelt* (Miller, 1964-1982, p. 455), *Karl Marx* (Miller, 1964- 1982, p. 459). National coloring and semantic originality are added by contextually introduced axiological information about historical figures who played a certain social role in the life of American society: *Gene Tunney* (Miller, 2001, p. 145), *Jack Benny* (Miller, 2001, p. 1971), *Alfred E. Smith* (Miller, 2001, p. 1973). Along with this, the characteristic feature of Arthur Miller's language is the use of historisms and ideologisms belonging to the Soviet period: *comrades* (Miller, 1964-1982, p. 480), *working class* (Miller, 1964-1982, p. 480), *Marxist* (Miller, 1987-2004, p. 446), *communist* (Miller, 1964-1982, p. 15).

Idiostyle is always associated with word formation and creative desire of the writer to enhance speech expressiveness, novelty and emotional freshness of the literary character. It becomes possible due to the use of various neologisms (Yurina, 2016, p. 79).

We establish that in Arthur Miller's authorial speech ***neologisms*** are produced by word-forming structures which are presented by compound and suffixal types.

Compound types are formed by unusual combinations of adjectives with nouns. Due to the variability of peripheral meanings of adjectives, nouns receive a new emotional and figurative assessment actualized through the prism of individual authorial perception. Adjectives, in turn, expand their semantic field and act as epithets:

*WILLY: What a <u>simonizing job</u>, heh!* (Miller, 2001, p. 1940).

We observe that the suffixal types of lexical innovations of the playwright are produced by combining the proper name with the word-forming noun suffix *-ism.* As the result of such combination, the author verbally models new phenomena differentiated by the personalized content:

*LYMAN: … your incurably Protestant cooking; your savoir-faire and your sexual inexperience; your sensible shoes and devoted motherhood, your intolerant former radicalism and stalwart love of country now – your <u>Theodorism</u>! Who can ever take your place!* (Miller, 1987-2004, p. 228).

Another characteristic feature of Arthur Miller's language is the saturation of the textual material with ***terminological vocabulary.*** The terminology in the playwright's texts is quite diverse. We fixed the author's use of the following terms: 1) technical: *automatic transmission* (Miller, 1987-2004, p. 419), *faucet* (Miller, 1964-1982, p. 485), *wire* (Miller, 1987-2004, p. 228); 2) economic: *grace period* (Miller, 2001, p. 1968), *income tax* (Miller, 1987-2004, p. 437), *stock market* (Miller, 1987-2004, p. 435); 3) legal: *jury duty* (Miller, 2001, p. 1990), *penitentiary* (Miller, 1944-1961, p. 109), *trial* (Miller, 1964-1982, p. 95); 4) medical: *penicillin* (Miller, 1987-2004, p. 425), *arthritis* (Miller, 1987-2004, p. 443), *blood fluke* (Miller, 1987-2004, p. 445); 5) military: *lieutenant* (Miller, 1944-1961, p. 126), *colonel* (Miller, 1944-1961, p. 126), *combat officer* (Miller, 1964-1982, p. 141).

Along with that, we notice that in the textual canvas of the writer's works terminology can acquire stylistic marking and figurative significance, thereby enhancing the expressiveness of the author's speech.

Thus, in the following example we observe the use of terminological vocabulary with the purpose to create the ironic effect:

*LYMAN: You are buying immortality, aren't you? – reaching up out of the grave to pay the bills, remind people of your love? It's poetry. The soul was once immortal, now we've got an insurance policy.* (Miller, 1987-2004, p. 425).

Arthur Miller's author's speech is also differentiated by the use of ***bookish phraseological units*** that define the "exalted" stylistic coloring of the writer's plays, perform the function of intellectualization of the literary content as evidenced by the following examples:

*SOLOMON: What're you in such a hurry? Talk a little bit, we'll see what happens. In a day they didn't build Rome.* (Miller, 1964-1982, p. 208);

*PETERS: … We tolerate babies only because they are helpless, but the alpha and omega of their real nature is a five-letter word, g-r-e-e-d.* (Miller, 1987-2004, p. 425).

**Colloquial language.** The conducted research enables us to argue that the defining feature of Arthur Miller's dramatic speech is the extensive use of the richness of colloquial language. The saturation of the textual material with colloquial lexical units determines realistic, expressive and emotional nature of the author's dramatic texts. As O. Perelomova notes, the colloquial layer of the vocabulary has a huge potential of various forms and types of its expression, serves as unlimited source of the enrichment of the individual linguistic picture of the world (Perelomova, 2010, p. 104).

We establish that the colloquial vocabulary of the textual corpus of the playwright's works is presented by the following structural-semantic groups:

1) transformation of the lexeme structure with the transition from a neutral tone to a colloquial one using the word-forming model of a suffix: *hearty* (Miller, 1964-1982, p. 304), *girlie* (Miller, 1944-1961, p. 627);
2) modification of the anthroponyms: *Hap* (Miller, 2001, p. 1962), B. *(Beatrice)* (Miller, 1944-1961, p. 570), *Biffo* (Miller, 2001, p. 1959);

3) exclamations of the non-derivative and derivative types: *Oh* (Miller, 2001, p. 1955), *Heh* (Miller, 2001, p. 1958), *Ah ha* (Miller, 1987-2004, p. 414), *Gosh* (Miller, 1944-1961, p. 105), *My God* (Miller, 2001, p. 1945), *Almighty God* (Miller, 2001, p. 1947), *Good heavens* (Miller, 1987-2004, p. 17);
4) commonly used colloquial lexemes: *booze* (Miller, 1987-2004, p. 416), *kidder* (Miller, 2001, p. 1950), *bum* (Miller, 2001, p. 1954);
5) appellative lexemes that mark the communicative situation as unfamiliar one: *kiddo* (Miller, 2001, p. 1955), *pal* (Miller, 2001, p. 1956), *fella* (Miller, 2001, p. 1957), *buddy* (Miller, 2001, p. 1960).
6) phrasal verbs of the colloquial type: *shut up* (Miller, 2001, p. 1954), *crab about* (Miller, 1944-1961, p. 99), *tire out* (Miller, 2001, p. 1952).

Along with that, we note that the characteristic feature of Arthur Miller's authorial speech is the frequent use of colloquial phraseological units. The inclusion of such conversational elements determines the increased expressivity and emotionality of Miller's drama, causes humorous and satirical effect:

*EDDIE: That's a nice kid? He gives me the heeby-jeebies.* (Miller, 1944-1961, p. 591);

*HAPPY: Did you knock them dead, Pop?* (Miller, 2001, p. 1952).

**Obscene vocabulary.** The results of the study suggest that one of the notable features of Arthur Miller's literary style is the frequent use of obscene language. The latter intensifies the overall emotional expressiveness of the author's plays, helps to create a bright colloquial coloring of conversations, reduces the emotional distance between the characters of Miller's drama and the reader. Along with that, vulgarisms define a special tragic tone of the writer's dramatic texts, determine its existential sounding.

We establish that the obscene vocabulary in the texts of the playwright is presented in the form of the following structural and semantic models: 1) derivatives of simple and compound exclamations of vulgar coloring: *damn* (Miller, 2001, p. 1955), *Goddamit* (Miller, 2001, p. 1967), *screw* (Miller, 2001, 1972); 2) abusive expressions: *son's of beatches* (Miller, 2001, p. 1977), *rot in hell* (Miller, 1944-1961, p. 593); 3) epithets with vulgar connotations: *damned* (Miller, 1944-1961, p. 592), *goddam* (Miller, 1944-1961, p. 594), *rotten* (Miller, 1944-1961, p. 599); 4) obscenely marked nouns: *shit* (Miller, 1987-2004, p. 461), *fuck* (Miller, 1987-2004, p. 461); 5) invectives of vulgar expression: *idiot* (Miller, 1987-2004, p. 25), *sucker* (Miller, 1944-1961, p. 115), *jerk* (Miller, 2001, p. 1961).

It is noteworthy that the vulgar vocabulary is to some extent present in the speech of almost all characters of Arthur Miller's drama. The author tends to vulgarities as indispensable means of vivid expression of emotions and psychological states:

*HAPPY: I'll tell you something that I have to say, Biff, but in the business world some of them think you're crazy.*

*BIFF: Screw the business world!* (Miller, 2001, p. 1962);

*KELLER: You're a considerate fella, there's nothing wrong in that.*

*CHRIS: To hell with that.* (Miller, 1944-1961, p. 97).

Also, by means of vulgar lexemes the author reproduces the mutual hostility between his characters, describes their attempts to offend and humiliate as much as possible:

*WILLY: You vengeful, spiteful mut!* (Miller, 2001, p. 2001);

*LINDA: Did you have to go to women tonight? You and your lousy rotten whores!* (Miller, 2001, p. 1966).

**Vernacularisms.** Agreeing with O. Perelomova, we believe that the literary aestheticization of the dialectal vocabulary is the feature of the author's creative method. The introduction of dialectal forms into language of a literary text creates a perlocutionary effect, contributes to the expressiveness of the writer's style, serves as a realistic reflection of the ideological and cultural identity of the characters (Perelomova, 2010, p. 101).

The study allowed us to determine the following three types of dialectal lexical units in the texts of dramatic works by Arthur Miller: vernacularisms, slang, jargon.

According to the differential features, we distinguish two groups of vernacularisms that function in the playwright's texts: 1) presented by the vernacular phonetic variants of literary lexemes: *dast* (Miller, 1944-1961, p. 103), *gal* (Miller, 1944-1961, p. 104), *brung* (Miller, 1944-1961, p. 580); 2) represented by assimilated or dissimilated vernacular forms: *gimme* (Miller, 1944-1961, p. 94), *lemme* (Miller, 1944-1961, p. 153), *dja* (Miller, 1944-1961, p. 620).

Jargon and slang identify such characterological parameters as: 1) age: *snappy jacket* (Miller, 1944-1961, p. 527), *strudel (girl)* (Miller, 2001, p. 1983); 2) profession: *drummer (salesman)* (Miller, 2001, p. 1992); *submarine* (someone who works illegally) (Miller, 1944-1961, p. 697), *stool pigeons* (Miller, 1944-1961, p. 581); social status: *big shot* (Miller, 2001, p. 2000), *big blow* (Miller, 2001, p. 2000).

The performed quantitative analysis allows to present the ratio of the analyzed lexical means: bookish lexemes – 46.1%, colloquial lexemes– 25.5%, obscene lexemes – 17.8%, dialectal lexemes – 10.6%.

## 3. CONCLUSIONS.

Thus, in the course of the presented research the analysis of the system of lexical means functioning in the textual space of dramatic works by Arthur Miller is carried out. We establish that the speech expressiveness as well as emotional coloring of the writer's dramatic texts is predetermined by the active use of numerous structural and semantic variations of lexical units of differentiated stylistic marking.

We state that the specifics of the lexical level of individual playwright's speech is objectified by the convergence of neutral vocabulary with bookish vocabulary in the author's remarks, as well as neutral, bookish, colloquial, obscene and dialectal vocabulary in the speech of the actors. Bookish and colloquial lexemes dominate in the artist's language style.

Such variability of the lexical layer serves as a tool for the creative vision embodiment, realizes the author's intention of pragmatic and aesthetic influence on the reader, acts as a verbal sign of inexhaustible energy of the author's word, allows for a full understanding of the peculiarity of the author's worldview.

Taking into account the pragmatic specificity of the Arthur Miller's lexicon, we consider the symbiosis of elements of intellectual, psychological and routine to be the noticeable feature of the author's individual speech. Accordingly, we believe that the peculiarity of Arthur Miller's idiostyle is actualized through the prism of functional-stylistic stratification and expressive potential of lexical means.

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# THE CONSTITUTIONAL RIGHT OF CITIZENS TO THE ADMINISTRATION OF JUSTICE

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**Summary.** The right of the people to participate in state policy on the organization and functioning of the judiciary is a classic understanding of democracy as a specific form and method of organizing socio-political life, when citizens and their associations have a real opportunity to participate in the exercise of state power. formation and implementation of state policy. At the same time, the realities of today indicate that there are serious obstacles to the realization of the right of the people to participate in the development of state policy in terms of the organization and functioning of the judiciary.

**Key words:** democracy, constituent activity of the people, justice, judicial authorities.

**Relevance of the research topic.** Given the objectives of our study, there is a need to narrow the subject of research to prepare the conceptual apparatus for consideration and argumentation, the formulation of the concept and essence of people's participation in the formation and administration of justice. In this regard, we analyze the theoretical approaches to the definition of such an institution in the line of constitutional law.

The basis of the idea of the right of the people to participate in public policy on the organization and functioning of the judiciary is the classical understanding of democracy as a specific form and method of organizing socio-political life, when citizens and their associations have a real opportunity to participate in the exercise of state power. on the formation and implementation of public policy [1].

Analysis of the source base. A. Kovler aptly emphasizes that we sometimes have no idea what enormous potential the past of democracy contains, and it depends on our historical vision of the problems of the present whether at least some of the traditions that have proved their worth will be restored. This ensures

the transition of the best traditions of democracy from generation to generation, from era to era [2, p. 32]. In particular, the ideas of people's sovereignty, belonging to the citizens of the state of political rights and freedoms, including the right of the people to form and administer justice, were embodied in the works of S. Montesquieu, J.J. Rousseau, G. Grotius, B. Spinoza and others.

Presentation of research material. Some Dutch views on the right of the people to administer and administer justice can also be found in another Dutch philosopher, scholar, political and religious thinker, Benedict Spinoza. He who identified the sovereignty of society and the state, combining it in the concept of supreme power, which has all the features [3]. However, this unity is based, firstly, on a single source of power - the source of sovereignty in any form of state is the people themselves, and secondly, it is implemented in the system of state bodies. However, the separation of powers is characterized as the division of labor, a simple division of functions of power, but it is not a division of power between competing states. The thinker foresaw the exercise of state power directly by the organized people (citizens of the state) [4, p.112]. Including judicial.

According to V. Pogorilko, democracy is "belonging of all social power, including state, to the people, the free exercise of this power by the people in accordance with its sovereign will in the interests of society as a whole and each person" [5, p. 286]. In turn, E. Kozlova and O. Kutafin emphasize that democracy is a form of state and a way of governing, when the sovereign will of the people and their specific interests become the organizational principle of exercising power, when the solution of any state tasks or the exercise of power requires legitimation that comes from the people and has its source. As a result, the essence of democracy lies in the initial understanding of the people as the first and at the same time the final point of legitimation of state power [6, p. 86].

At the same time, the realities of today indicate that there are serious obstacles to the realization of the right of the people to participate in the development of state policy in terms of organization and functioning of the judiciary [7, p. 303]

Also remarkable is the remark of Doctor of Law L. Moskvych on the right of the people to form and administer justice. Thus, the scholar emphasizes that the judiciary, in contrast to the legislative and executive, is most separated from society: a) society is not directly involved in the formation of the judiciary - the legitimation of the judiciary is indirect, through subjects elected by society, ie through People's Deputies and the President; b) access to the status of a holder of judicial power is limited (at least by age and education); c) society is not a participant in the formation of the policy of the judiciary, can not influence the content of the court decision, as there are guarantees of independence of judges, inadmissibility of influence on the judge, his submission only to the law and so on. With regard to the latter, the rulings of complex court decisions in a meaningful sense, and hence incomprehensible to the public, and the lack of explanations by the court of the reasons and grounds for their adoption significantly reduce the legitimacy

of the judiciary and public confidence in it. Of course, this does not mean that the court should adapt to public opinion, but in the event of a fundamental difference between the position of the court and the prevailing mood of society, the judiciary should do everything possible to explain, justify and promote the reasons for a decision. Only then it is possible to overcome the gap that so often arises between the court and citizens, to form the attitude to the court as an objective, professional and fair body of state power [8, p.96].

In the context of the research issue, it is important to reveal the concept of the right of the people to form and administer justice. However, in the legal literature there is almost no legal construction of the right of citizens to form (participate) in the formation (organization) of the judiciary. Therefore, in view of the above, we will try to clarify the concept of the right of the people to form and administer justice through the prism of political rights, which are the guideline that promotes the realization of democracy. To do this, we will clarify the meaning and essence of political rights, in particular, the right to elect power and the right to participate in government.

A. Selivanov emphasizes that "people's sovereignty should be considered as a natural right of the people to independently and fully dispose of their destiny, to create a social and constitutional order that meets its will and interests" [9, p. 309].

At the same time, the Constitution of Ukraine proclaims the fundamental principle of a democratic state: "The bearer of sovereignty and the only source of power in Ukraine is the people." This principle provides the ability of the people to independently form a vision of their future and the future of the state, to determine the powers and composition of public authorities, which are responsible for meeting the expectations of the people, and control their activities [10].

Also noteworthy is the position of A. Yanchuk on the exercise of power of the people, in particular the founding activities, which, as the scientist notes, occupies a key place in direct democracy. After all, it is positioned as the exclusive right of the people to independent power activity, which has a founding, primary, obligatory and inalienable character, is mediated by the completeness and unity of the determining elements. It is a matter of making the most important decisions for the existence of the people and the state, determining or changing the constitutional order in Ukraine by adopting an act of supreme legal force, passing and approving laws (other legal acts), forming public authorities and local governments or making decisions beyond institutional boundaries established by the state. In view of this, A. Yanchuk believes that the constituent activity of the people may include the formation of representative bodies of public authority (public authorities and local governments), their periodic change, carried out in the form of regular and early democratic elections [11].

In our opinion, the constituent activity of the people is the exclusive right of the people to exercise their power, which they can exercise, including through the

formation of the judiciary, which as the highest entity in the hierarchical system of government can not only establish but also change early democratic elections. In essence, the formation of the judiciary by the people is one of the specific types of its constituent activity, the basis of which is free, legitimate, and impartial, which embodies the will of the whole people and is the realization of its sovereignty.

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# JUDICIAL CONTROL OVER THE EXECUTION OF THE DECISION OF THE ARBITRATION COURT

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**Abstract.** This article describes the forms of judicial control over the activities of the arbitration court. It is determined that the procedure for granting permission to enforce the decision of the arbitration court is a form of judicial control. Peculiarities of normative regulation of such proceedings are analyzed. The author's definition of the procedure for granting permission to enforce the decision of the arbitration court is proposed.

**Key words:** arbitration agreement, court, arbitration court, judgment, executive letter.

*Formulation of the problem.* The peculiarity of proceedings in cases of granting permission to enforce the decisions of arbitration courts is that it arises at the junction of two courts - arbitration and general. In this aspect, it seems appropriate to distinguish between the legal grounds for consideration of the dispute by the arbitration court and the court decision of the general jurisdiction court.

*Analysis of recent research and publications*. The legal nature of arbitration has repeatedly been the subject of scholarly research. The most common in the literature is the analysis of theories related to the origin of the arbitration court, which are described, in particular in the works of V. Anurov [1, p. 18 - 45], V. Kovalenko [2, p. 41 - 42], S. Kurochkin [3, p. 4 - 9], Yu. Pritika [4, p. 99 - 102], D. Fursov [5, p. 7 - 8], S. Yuldashev [2, p. 41 - 42], V. Yarkov [6, p. 357 - 359]. The first was the contractual theory, which is practically not applicable today and is that the arbitration agreement is a civil contract, on the basis of which arise the civil rights and obligations of its parties. Another theory is called procedural by the authors, because it is reduced to the procedural features of arbitration, determined by the will of the parties. In this case, arbitration is considered as a form of justice sanctioned by the state [7, p. 13]. The third theory is called mixed,

i.e. a combination of contractual and procedural theories, according to which the arbitration court is based on a civil law contract, which causes procedural consequences for the parties. Thus, M. Malsky substantiates the mixed legal nature of the arbitration agreement by the fact that it is neither a classic civil law agreement, nor an agreement in the field of procedure only [8, p. 179]. The last was the fourth theory, related to the origin of the arbitration court, the author of which is the French scientist J. Rubellen-Davishy, which denies the first three theories [9, p. 258]. According to its supporters, the arbitration court is an original legal system, free from both contractual and procedural elements. This theory explains the successful development of the arbitration court not by the level of legal regulation, but by the freedom of expression of the parties to the disputed legal relationship. In our opinion, the mixed theory most fully reveals the legal nature of arbitration, because the implementation of arbitration proceedings are subject to both substantive rules (on the legal personality of the parties, the validity of the arbitration agreement, etc.) and procedural law. As for the autonomous theory, it does not take into account the numerous mechanisms of interaction between state and arbitration courts, which do not allow to interpret the arbitration as a completely independent and unrelated phenomenon of state justice.

At the same time, it should be noted that the arbitrator does not administer justice when considering a dispute. Thus, the Constitutional Court of Ukraine noted that arbitration of disputes between the parties in the field of civil and commercial relations is a type of non-state jurisdictional activity that arbitration courts carry out on the basis of the laws of Ukraine by applying, in particular, arbitration methods. The exercise by arbitral tribunals of the function of protection provided for in the seventh paragraph of Article 2, Article 3 of the Law of Ukraine «On Arbitration Courts» is not the administration of justice, but the arbitration of disputes between the parties in civil and commercial courts. In addition, in this decision the Constitutional Court of Ukraine clearly outlined the differences between the activities of arbitration and state courts, namely arbitration courts do not administer justice, their decisions are not acts of justice, and they themselves are not part of the court of general jurisdiction [10].

Assessing the relationship between arbitration and state courts V. Yarkov noted the importance of normative consolidation of provisions aimed at interaction, support and control over acts of arbitration courts, in particular the definition of mechanisms for appealing the decision of the arbitration court and issuing a writ of execution [6, p. 12]. G. Tymchemko defines ensuring effective interaction of arbitration and state courts while maintaining the independence of the first and certain control powers by the latter as a key area of draft law [11, p. 110]. According to A. Lysenko and A. Khorosheva, the use of state mechanisms of coercion, based on the relationship of state and arbitration courts, will contribute to more effective protection of violated, unrecognized and disputed rights of the parties to arbitration [12, p. 245]. At the same time, V. Kossak notes the positive

impact of alternative, in particular arbitration proceedings on the judiciary, which consists in relieving state courts of a significant number of cases requiring special knowledge, reducing the number of cases involving minor disputes, etc. [13, p. 49 - 50].

*Resolution of the previously unsolved parts of the overall problem*. Thus, the positive impact of maintaining certain elements of the relationship between courts of general jurisdiction and arbitration courts is a recognized fact among modern researchers of civil law and procedure. It is this relationship that underlies the emergence and normative consolidation of the proceedings for the issuance of a writ of execution for the enforcement of an arbitral award. R. Gimazov defines three forms of interaction between state and arbitration courts: providing measures to ensure the claim, which is considered by the arbitration court; cancellation of the decision of the arbitration court; issuance of a writ of execution for the execution of the decision of the arbitral tribunal [14, p. 61]. The first of these forms has recently (since January 3, 2017) appeared in domestic law. At the same time, two other forms of interaction are reflected both in the norms of the Law of Ukraine "On Arbitration Courts" (Articles 51, 56, 57) [15] and in the procedural codes.

*The purpose of the article.* In our opinion, the procedure for granting permission to enforce the decisions of arbitration courts can be considered through the prism of the court's exercise of its supervisory powers. We will try to consider the specified proceedings as an element of the control which is carried out by the authorized courts of general jurisdiction.

*Presenting main material.* To begin with, the terminology should be agreed upon, namely, the definitions of "control over power", "judicial control", "judicial control over the execution of arbitration court decision" should be given. The most complete study of control over power, in our opinion, was conducted by the Spanish researcher D. Valades, who points out that any power needs control, which is carried out not to weaken it, but, conversely, to maintain power. The author believes that «all actions aimed at reducing control over the government, threaten the government itself, because they question its legitimacy, provoke a coup aimed at changing power» [16, p. 30]. It should be emphasized at once that we consider the government in a broad sense, because by submitting the dispute to the arbitral tribunal, the parties gave it the power to resolve the conflict between them, in other words, gave it power. Thus, the concept of control over power is the broadest of the above.

Domestic scholars, in particular V. Shestak, define state control as an independently or externally initiated activity of authorized entities, which is aimed at establishing factual data on the objects of this control in order to determine their compliance legitimate evaluation criteria. [17, p. 8]. According to O. Sasevych, control over power is a guarantee of power based on a social contract, which is used to ensure that all authorities and their officials work

properly, without going beyond the powers granted to them and without ceasing to perform responsibilities assigned to them [18, p. 8].

In the literature there are two types of control over power: internal («control of power over power») and external («public control over power»). D. Valades divides internal control into political and legal. The latter, according to the author, is carried out by courts, and therefore, between the concepts of legal control over power and judicial control can be put a sign of equality [16, p. 13, 180].

Domestic researcher L. Sushko gives his own definition of judicial control, defining it as a type of state control, which is carried out in the functioning of the judiciary on issues within its competence [19, p. 15]. It should be agreed with the above position that judicial control is one of the types of control activities of the state, which is carried out by courts in the order of constitutional, administrative, criminal, civil, commercial proceedings.

One of the types of judicial control is the control over the activities of arbitration courts, which is carried out in civil and commercial proceedings. The need for the application of this type of judicial control, Russian scientist R. Traspov explains that the state can not «lose sight of» a huge area of public relations and give it full control of arbitration courts [20, p. 35]. S. Kurochkin considers the institutes of appealing the decision of the arbitration court and the issuance of a writ of execution for its implementation by means of control of the court of general jurisdiction within the statutory limits on the activities and decisions of the arbitral tribunal [3, p. 171].

Deserves attention the position of J. Bohdan, who distinguishes two forms of judicial control over the activities of arbitration courts: appeal against a court decision (Article 51 of the Law of Ukraine «On Arbitration Courts») and refusal to issue a writ of execution (Article 56 of the Law of Ukraine «On Arbitration judge »). At the same time, the author identifies the second form of control as a priority and such that even without the first form sufficiently protects the rights and interests of the participants in the arbitration proceedings [21, p. 153, 157]. This is not the first time such a proposal has been made in the scientific literature. Thus, M. Popov substantiated the need for the institution of appealing the decision of arbitration courts, as within its limits duplicates judicial control, which is carried out at the stage of issuance of a writ of execution [22, p. 19].

We consider such a proposal worth considering in view of the following arguments. First, only the possibility of enforcement of an arbitral award is a real guarantee of the restoration of the infringed right. Without its normative consolidation in practice it is impossible to achieve the execution of the decision of the arbitral tribunal, provided that the party who «lost» the case does not agree with the decision. Secondly, the analysis of the provisions of Article 458 and Article 486 of the Code of Civil Procedure of Ukraine shows that the grounds for revoking the decision of the arbitration court are identical to the grounds for refusing to issue a writ of execution. Moreover, the list of grounds for refusal to issue a writ of

execution is broader and includes, in particular, such grounds as the existence in the decision of the arbitration courts of ways to protect the rights and protected interests not provided by law. Thirdly, both when considering an application for annulment of an arbitral award and when considering an application for a writ of execution, the court of general jurisdiction does not consider the dispute between the parties to the arbitration on the merits. In view of the above, the optimal mechanism for protecting the right to enforce the decision of the arbitral tribunal for the party in whose favor such a decision is made, is to apply to the court of general jurisdiction with a request for a writ of execution.

At the same time, it is worth giving counterarguments to this position. Thus, one should keep in mind that only one party to the arbitration proceedings (the one who won the dispute) can initiate the application by the court of general jurisdiction of this form of judicial control over the activities of arbitration courts. At the same time, in case of exclusion from the Code of Civil Procedure of Ukraine and the Law of Ukraine «On Arbitration Courts» rules on the possibility of appealing the decision of the arbitral tribunal, other participants in the arbitration, as well as persons who did not participate in the case, if the arbitral tribunal and responsibilities, will be deprived of the opportunity to respond to the illegal decision of the arbitral tribunal. Thus, neither the party who «lost» the dispute in the arbitration court, nor the third parties, nor other persons referred to in the decision of the arbitration court, in the case of the analyzed changes, will be able to appeal the decision of the arbitration court. Of course, an arbitral award revoked by a state coercive force cannot be enforced voluntarily. However, in this case, the person against whom the decision of the arbitral tribunal, for a long time (at least 3 years in accordance with Part 1 of Article 483 of the Code of Civil Procedure of Ukraine) will be threatened with a writ of execution on the decision with which he does not agree. Thus, party of arbitration can, who is not acting in good faith, for example, take advantage of absence of the opponent in Ukraine, for the address to court with the statement on issue of the executive letter. Therefore, given the need to protect the interests of these entities, we consider it inappropriate to exclude from the Code of Civil Procedure of Ukraine and the Law of Ukraine «On Arbitration Courts» rules on the possibility of appealing the decision of the arbitral tribunal.

According to the opposite position, it is proposed to abolish the second form of judicial control over the decision of the arbitration courts - the power of the court to issue a writ of execution to enforce the decision of the arbitration court. Thus, O. Lavrynovych in the bill №1399 «On Amendments to Certain Legislative Acts (concerning the implementation of decisions of arbitration courts)» proposed to abolish the institution of enforcement of decisions of arbitration courts [23].

We consider such a proposal inappropriate, because in this case the effectiveness of the arbitration proceedings will depend solely on the good faith of the counterparties, who have undertaken to voluntarily comply with the decision of the arbitration court. As O. Verba-Sidor rightly points out, even in the

presence of a lawful and reasonable decision without its proper execution, which is provided by state coercion, the activity of the arbitration court will not be effective [24, p. 108]. In addition, the abolition of such an institution contradicts generally accepted international practice, in particular the UNCITRAL Model Law on International Commercial Arbitration of 21.06.1985 [25], the UNCITRAL Arbitration Rules of 15.12.1976 [26], the European convention on international commercial arbitration of 21.04.1961 [27]. Only the possibility of enforcement of the decision of the arbitral tribunal is a guarantee of restoration of the rights of individuals. Negative responses to the abolition of the institution of enforcement of the decision of the arbitral tribunal are contained in the Opinion of the Main Scientific and Expert Department on this bill from 21.03.2008 [28].

There is also a third approach, expressed by I. But, which proposes to combine within one appeal the decision of the arbitral tribunal and the issuance of a writ of execution for its enforcement [29, p. 5]. Thus, in accordance with Part 5 of Art. 485 Code of Civil Procedure of Ukraine before the decision on the merits of the application for issuance of a writ of execution for enforcement of the decision of the arbitration court any party to the arbitration in the way prescribed by law has the right to apply to the court to revoke the same decision and ask to consider it together with application for permission to implement this decision in one proceeding. On joint consideration of the application for issuance of a writ of execution for enforcement of the decision of the arbitral tribunal and the application for its cancellation and their merging into one proceeding, the court decides on the day of receipt by the court of the application for cancellation of the arbitral award. of the day. Thus, the law provides for the possibility of joint consideration of applications for cancellation of the decision of the arbitration court and the issuance of a writ of execution for its enforcement. At the same time, such joint hearing is carried out only at the request of one of the parties to the arbitration proceedings. It seems that such normative consolidation fully complies with the principle of dispositiveness of civil proceedings. In addition, the revocation of the decision of the arbitral tribunal is an unconditional ground for refusing to issue a writ of execution (paragraph 1 of Part 1 of Article 486 of the Code of Civil Procedure of Ukraine), while refusing to issue a writ of execution will make it impossible to use state coercion to enforce . And also will allow to resolve the dispute between the parties in the general order (part 4 of Article 487 of the Code of Civil Procedure of Ukraine).

*Conclusions and suggestions*. In view of the above, we consider the current normative consolidation of two forms of judicial control over the activities of the arbitration court (appeal of the court decision and refusal to issue a writ of execution) the most justified and dictated by the need to protect the rights and interests of arbitrators and persons, rights and whose duties were unreasonably determined by the arbitration court in its decision.

Summarizing the above, we can conclude that the consideration of applications for the issuance of a writ of execution is a form of judicial control over the

activities of the arbitration court. The specified control is introduced for the purpose of ensuring the right of the party of arbitration to execution of the decision of arbitration court. The Court verifies the said decision of the arbitral tribunal with the statutory requirements in order to prevent recourse to enforcement of the decision, which is contrary to the interests of the state and society or violates the rights of third parties.

It should be noted that such a model of recourse to the enforcement of an arbitral award is not unique to Ukraine, but is generally accepted and can be traced, with certain features, in different legal systems. Thus, the Code of Civil Procedure of the Republic of Latvia of 14.10.1998 [30], which, like Ukraine, belongs to the post-Soviet states, provides for a voluntary procedure for execution of the decision of the arbitral tribunal (Article 533). However, if this is not done, the party to the arbitration proceedings may apply to the relevant district (city) court with a request for the issuance of a writ of execution to enforce the decision of the arbitration court [30]. Such an application is considered within 5 days without summoning the parties (Article 385). At the same time, as in Ukraine, the list of grounds for refusal to issue a writ of execution is exhaustive. This model of enforcement has also proved its effectiveness in European countries, whose experience is particularly interesting to study in view of the European integration vector of development chosen by Ukraine. Thus, in Germany, the decisions of the arbitral tribunal are mostly enforced by the parties voluntarily. At the same time, §1060, 1061 of the Code of Civil Procedure of Germany provides for the possibility of the party of arbitration to the state court with a statement to ensure enforcement of the decision of the arbitral tribunal [31, p. 360]. Similar provisions are found in Art. 1477 Code of Civil Procedure of France [32, p.415], p. 36 of the Arbitration Act of Great Britain [33]. Thus, the model of legalization of the decision of the arbitration court and ensuring its force of state coercion, by applying to the relevant state court, is tested in the legal systems of leading European countries and not the first year proves its effectiveness and efficiency. In view of the above, we positively assess the actions of the legislator to enshrine Chapter 4 of Section IX of the Code of Civil Procedure of Ukraine "Proceedings in cases of granting permission to enforce the decisions of arbitration courts."

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# TRANSFORMATION OF TEENAGERS' WAY OF LIFE IN THE CONDITIONS OF CHALLENGES OF A MODERN SOCIETY: THE SOCIOLOGICAL ANALYSIS

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**Summary.** The article considers the theoretical foundations of the study of the phenomenon of information / network society, highlights its main markers and attributes through a range of scientific concepts. The author emphasizes that social networks as a new construct of the social environment of modern society form a completely different format of everyday life. Changing channels of information, the nature of interpersonal relationships, models of interaction with the environment, educational and leisure practices leads to the transformation of worldviews about lifestyle. To a greater extent, this concerns adolescents whose social characteristics constitute a completely different cultural and psychological phenomenology.

Based on the results of the author's research and the empirical basis of domestic practitioners, the assumption about the determining influence of social macrofactors, which are attributively present in modern society, on all spheres of adolescents' life, therefore – on their way of life and as a result – on the formation of a certain image «contemporary teenager» with features typical only for this time.

**Key words:** information, network society, social network, way of life, contemporary teenager, social markers of adolescence

## 1. STATEMENT OF A SCIENTIFIC PROBLEM AND ITS SIGNIFICANCE, RELEVANCE OF RESEARCH.

The study of the way of life of adolescents as a social group acquires a new understanding in the context of modern changes that are characteristic of the postmodern era. This issue is of scientific interest for understanding the pros-

pects for the development of society itself due to the fact that scientists believe that adolescents more than other age groups are exposed to social change, which encourages them to choose different patterns of behavior. Any disharmony of socio-economic development of society clearly affects the personal development of adolescents (Psychology of adolescents, 2003) . As L.Z.Vygotsky noted, «never the influence of the environment on the development of thinking is not as important as in the transition age ... » (Vygotsky L.Z., 1929). So, to understand what tomorrow will be like, we need to explore today those who will shape our future and live in it.

Undoubtedly, unprecedented changes in social reality (creation of global information space, virtualization, technologicalization), which distinguish modern society from all its predecessors, have an extremely large impact on all spheres of life, especially adolescents, transforming their way of life. In changing institutional and transformational conditions there is a formation of a special worldview in terms of the way of life and lifestyle, significantly changing channels of information, the nature of interpersonal relationships, the structure of leisure, new models of interaction with the environment.

## 2. ANALYSIS OF RECENT RESEARCH AND PUBLICATIONS.

The study of theoretical and practical issues of adolescent lifestyle is revealed in the works of both domestic and foreign scientists (V. Arbenina, R. Burns, I. Bekh, I. Bulakh, L. Vygotsky, E. Erickson, T. Kovaleva, I. Kon , V. Magun, I. Marienko, R. Pasichnyak, L. Potapchuk, Z. Selivanova, L. Sokuryanska, T. Tytarenko, etc.). Through their work, a list of universal characteristics of adolescents can be introduced that will determine their behavioral practices. A separate cohort consists of studies of various aspects of adolescent life. The achievements of the following Ukrainian scientists are important in this direction: O. Kabachna, O. Balakireva, O. Vakulenko, I. Demchenko, O. Kizilov, V. Nikolaevsky, L. Sokuryanska, I. Sheremet, O. Yaremenko.

**Purpose of the article**: to characterize the influence of social macrofactors, which are attributively present in modern society, on the lifestyle of modern adolescents.

## 3. PRESENTATION OF THE MAIN MATERIAL AND SUBSTANTIATION OF THE OBTAINED RESEARCH RESULTS.

To understand the nature of the influence of social macrofactors on the lifestyle of adolescents, we first identify modern society, identify its main markers and attributes through the prism of a wide range of scientific concepts, including

A. Toffler's wave concept and D. Bell's concept of post-industrial society (Toffler O., 1996; Bell D., 2000). Note that modern society is identified as post-industrial, where information is the leading resource. According to D. Bell, knowledge and information are «agents of transformation» and «strategic resources» of post-industrial society.

At the turn of the 1980s and 1990s, a new stage in the development of the ideas of post-industrialism began, which was associated with the rapid evolution of social information processes. So it is no coincidence that modern society is called «programmed» (A. Turen), «information» (D. Bell), «knowledge society» (P. Drucker), «network» (M. Castells, Jan van Dyck, D. Bell), «nanosociety» (A. Davydov, V. Lukyanets, etc.), «technotronic» (Z. Brzezinski), «risk society» (W. Beck, E. Giddens, K. Lau, N. Luhmann etc.) etc. The variety of terms that characterize modern society indicates not only the diversity of scientific thought in the context of identification of society, but also related to the complexity of its phenomenon. Accordingly, the influences of such a society on a person`s way of life are variable, such as those that have pluralistic manifestations, which also determines the diversity of constructing lifestyle strategies.

In considering this impact, it is important, in our view, to understand the resource base through which such an impact becomes possible. And a certain answer about key resources is already contained in the markers of modern society. The most resounding of them is informativeness.

The term «information society» originated with an awareness of the dominance of the active use of information products and services dating back to the early 1960s. Its main features are the increasing role of information, knowledge and information technology in society; increasing the number of people engaged in information technology, communications and production of information products and services, defining the information environment (along with the social) new environment of human existence, etc. It should be noted that in the XXI century both quantitative and qualitative parameters of information exchange have changed significantly, the intensification of globalization and computerization has provoked radical changes in society, as evidenced by the new nature and non-existent forms of communication. Therefore, we have a completely different format of social, economic, political relations, education, and everyday life in general, which are realized through information networks. Therefore, along with the concept of «information society», the concept of «network society» is increasingly used, which reflects the new nature of the organizational structure of modern society. According to M. Castells, «network society – a type of information society, the distinguishing feature of which is the network logic of its basic structure» (Castells, 1999). This type of society as a form of social organization has such features as dynamism, flexibility, adaptability, decentralization and lack of constant structures, and activities are coordinated according to the common goals of community members.

It should be noted that the complex architecture of the information (network) society determines the multidimensionality and versatility of its effects on human life. In this situation, the category «way of life» is considered as «the result of interaction (and sometimes struggle) of the dominant ways and styles of life that produce individuals of certain social types» (Vozmitel A. A., 2012). In other words, the way of life reflects the daily life of social groups and individuals in its integrativeness in terms of the socially typical. A special place among them is occupied by teenagers.

Despite the lack of a common definition of the category «adolescent» in scientific circles, the essential markers of this phenomenon are age and certain social characteristics, with the dominance of the latter in the sociological analysis of this cohort. Regarding the chronological limit of age periodization, we note that in modern scientific discourse there is a multidisciplinary approach with variability of chronological framework, which is not enough for sociological analysis of adolescents. However, the involvement of a sociological approach makes it possible to identify social markers that play a key role in identifying adolescents. Especially important among them is the boundary of the social position between childhood and adulthood, which determines the specifics of the lifestyle of adolescents. Indeed, adolescents no longer belong to the category of children, but they are not yet adults, although they often consider themselves as such. In this regard, a cohort of researchers, in particular K. Levin, S. Eisenstadt, expresses the opinion about the marginality of their social status. A more important marker of understanding adolescents and their way of life is that the lower age limit of adolescence is determined by the biological characteristics of the individual, and the upper – «norms of social maturity, accepted in society». This underscores the duality of adolescence in terms of the impact of two basic groups of factors.

According to L. Vygotsky, R. Burns, L. Bozhovych and others, adolescence is characterized by contradictions, the desire for adulthood and recognition, deepening self-analysis, development of self-awareness, the desire for social and personal self-determination (Kuceravenko L. V., 2007).

As L. Vygotsky noted, «it is in adolescence that a child becomes a person» (Vygotskij L. S., 1991). The main feature of adolescence, according to E. Erickson, is the crisis of identity as a psychosocial identity. It is identity that allows an individual to accept himself in all the richness of his relationship with the world around him and determines his system of values, ideals, life plans, needs, social roles with appropriate forms of behavior (Erikson E., 2006). The scientist called adolescence a period of identification and confusion of roles.

According to scientists, in adolescence the question to what extent a person will be able to meet the requirements that society will set before him in the future is solved (Sucasnij pidlitok, 2014).

Obviously, adolescents are a group that has its own specific features that reflect the characteristics of behavior, way of thinking, and therefore their prob-

lems. The main groups of markers of this group are physiological, psychological, social features that affect the lifestyle of adolescents.

The variety of features of adolescence was systematized by T.V. Bondar, who singled out the features of adolescence, which are reflected in the behavioral strategies and lifestyle of adolescents. These include: the feeling of adulthood as a special form of self-awareness, a qualitatively new level of demands that precede the position that the adolescent has not yet reached; emancipation from parents and parental influence; high value significance of belonging to the company of peers and the transformation of communication with them into a leading activity (Bondar T. V., 2010).

We share the view of French researchers P. Juer, M. Ragan-Raymond and J. Raymois (Huerre P., Ragan-Reymond M., Reymond J.M., 1990), according to which adolescence is more of a cultural and historical construct. As the researcher M. Guseltseva notes, «a teenager in a traditional society and in a post-industrial society, a teenager in a culture of humanistic or totalitarian type will give a different cultural and psychological phenomenology» (Guselceva M. S.,2008). Therefore, the modern adolescent, whose maturation takes place in an information / network society, differs significantly from the peers of the twentieth century, despite the common physiological processes. This fact leads us to the conclusion that society through normative, institutional channels contributes to the formation of a certain image of adolescents, their typical features (basic type, according to A. Cardiner, R. Linton, K. Dubois). Their formation takes place against the background of radical social and civilizational changes, in particular, changes in the ways of social flow on the development of personality, the transformation of traditional mechanisms of social identification and forms of its formation (Sucasnij pidlitok, 2014). They are characterized by specific features that have their manifestation, including in his way of life.

According to the research, «representatives of the digital generation» spend a significant amount of time on the Internet, which expands the boundaries of social patterns of behavior, so that adolescents learn different behavioral strategies, by the way, are not always normative. According to scientists, the Internet is a new cultural tool that mediates the formation of higher mental processes in adolescents.

Modern teenagers cannot imagine their lives without the Internet, smartphone and social networks. According to the survey[1], about 90% regularly communicate on the Internet, almost a third of respondents play a computer every day. Most children and adolescents spend between half an hour and two hours a day playing and/or learning or communicating on a computer, tablet, smart-

[1] Sociological research conducted by the Ukrainian Institute for Social Research within the international project HBSC «Health and behavioral orientations of student youth» (2018, surveyed 13,337 pupils and students of Ukraine)

phone, or other electronic device. On weekends, employment in these types of leisure increases to 3-4-5 and even more than 6 hours a day.

For comparison, according to previous researc[1],[2] 40-62% of respondents spent at least 3 hours a day in their free time playing computer games on weekdays (2010). and 55-73% (2014) (depending on the age of respondents); on weekends, respectively – 42-57% and 50-73%; 47-51% of students (2010) spent up to 3 hours a day both on weekdays and on weekends (2010), in 2014 the share of respondents who spent 4 hours a day was similar, thus varies between 62-73% on weekdays and 52-72% on weekends. In addition, 62-76% (2010) and 71-81% (2014) of respondents spent their free time in front of the TV every day on weekdays for up to 4 hours a day; on weekends, 52-81% and 52-73%, respectively (depending on age and place of study) (Stan ta cinniki, 2011; Pokazniki ta socialnij, 2014).

A study[3] of the experience of using social networks and instant messaging found that over the past year, adolescents aged 13-17:

- regularly understood that I cannot think of anything other than the moment when it will be possible to use social networks again – 21-24% (the highest rate of 24,8% among girls 15 years old);
- regularly felt dissatisfied, because he wanted to spend more time on social networks – 13-21% (the highest rate is 20,8% among girls 13 years old);
- often felt bad when he/she could not use social networks – 14-16% (the highest rate is 16,2% among 17-year-old girls);
- tried to spend less time on social networks, but failed – 28-47% (the highest rate of 46,6% among 17-year-old-girls);
- regularly neglected other things (hobbies, sports), because he wanted to be on social networks – 14-24% (the highest rate of 24% among girls of 15 years old) (Socialna obumovlenist, 2019).

In addition, one in six (16,8%) respondents admitted to having regular quarrels over the use of social networks. The largest share of such is among girls aged 16 and 17 (22,6% and 20,5%, respectively). These data show a significant dependence of almost 13% of adolescents on social networks, in addition, girls suffer more from addiction.

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[1] Sociological research conducted by the Ukrainian Institute for Social Research within the international project HBSC «The state and factors of health of Ukrainian adolescents» (2010, interviewed 10,343 students in Ukraine)

[2] Sociological research conducted by the Ukrainian Institute for Social Research within the international project HBSC «Health and Behavioral Orientations of Student Youth» (2014, 11,390 pupils and students of Ukraine were interviewed)

[3] Sociological research conducted by the Ukrainian Institute for Social Research within the international project HBSC «Health and behavioral orientations of student youth» (2018, surveyed 13,337 pupils and students of Ukraine)

The introduction of quarantine measures in connection with the spread of COVID-19 has only increased the immersion of adolescents in the online environment. The time of their use of the Internet services has significantly increased due to the implementation of distance/blended education and the transfer of extracurricular (additional educational, sports, creative, technical) activities to the online format. Thus, according to the results of the survey, 76% of respondents – from 5 to 6 hours, 12% of respondents – up to 8 hours, 8% of respondents – from 2 to 4 hours, 4% of respondents less than two hours spent on training using gadgets (including hours of additional education). In addition, the teenagers communicated in various social networks/messengers, for which they spent extra time. So it is no coincidence that they began to suffer more often from anxiety and depression.

Interestingly, even adolescents themselves are aware of their addiction: 60% of respondents aged 13-17 indicated that they spend too much time with the phone in their hands, and nine out of ten adolescents call it a serious problem.

As a result, adolescents actively use social networks for self-realization and self-improvement, improving knowledge and expanding the range of interests, information retrieval, communication. However, the consequences of the global introduction of information technology are the social isolation of individuals, the loss of their collective interaction, multiple identities (in different online communities), increased psychological load, stress, cyber mobbing (Schwab K., 2016; Behman G., 2010; World Economic, 2018; Socioanthropological measurements, 2017). According to scientists, «widespread use of the Internet by adolescents leads to the risk of loss of adequacy, connection with real life, difficulties in building long-term, emotionally rich relationships, chaos of the world picture» (Azasikov G. H., 20015). According to the World Health Organization (WHO), excessive immersion in virtual reality can lead to an increase in violence, as well as a decrease in physical activity in children and other health problems (Vsemirnaa Organizacia, 2014). Therefore, excessive use of Internet resources, in particular social networks, leads to the transfer from the virtual world to the real life of adolescents of certain behavioral patterns. Mostly in social networks teenagers take stereotypes of behavior, norms of activity, form their social identity, their own self-esteem.

## 4. Conclusions.

Thus, the results of sociological research show that the challenges of the modern information/network society determine the lifestyle of adolescents, which changes under the influence of macro-factors of a social nature.

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# ORTHOGRAPHISCHE MERKMALE DER NEULATEINISCHEN SPRACHE

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**Abstrakt.** Unter Umständen, wenn sich die Schriftsprache noch nicht herausgebildet hat, ihre Funktion erfüllte die fremde „tote" Sprache – Neulateinisch. Das kann man in Transkarpatien am Ende des 18. Jahrhunderts – in der ersten Hälfte des 19. Jahrhunderts bemerken. In dieser Sprache wurden die Werke von Kulturschaffenden dieser Periode und zwar von J. Bazylovytsch, W. Duchnovytsch, O. Duchnovytsch, M. Lutschkaj geschrieben. Unsere langjährige Arbeit an 6-bändige lateinische Ausgabe von M. Lutschkaj „Historia Carpato-Ruthenorum" erlaubt sich graphische und orthographische Systeme der neulateinischen Schöpfungen dieser Region darzustellen.

**Schlüsselwörter:** Mychajlo Lutschkaj, neulateinische Sprache, orthographische Merkmale.

**Abstract.** In conditions when literary language hadn't been formalized its role was performed by another language instead, as it happened at Zakarpatia in the XVIIIth - first half of XIXth century, and it was «the dead» newlatin. The precious work «Historia Carpato-Ruthenorum» was written in these languages by Mykhailo Luchkai.Investigations of linguistic peculiarities of this work are an interesting and less investigated. Observations made on this work particularly under specifics of new Latin monophtongs reproduction give grounds to state that the author leads himself by scientific principles in search of a precise reproduction of a foreign word phonetics.The level of Latin language skills, the knowledge of using the phonetic means, its display by M.Luchkai isn't lower than by any other central European language.

**Keywords:** Mykhailo Luchkai; newlatin; new Latin monophtongs.

**Einleitung.** Es ist bekannt, dass Neulateinisch als die offizielle Sprache in Transkarpatien während des 18. und 19. Jahrhunderts galt. Das erklärt auch die Tatsache, dass sich die ukrainische Schriftsprache damals noch nicht entwickelt

hat. Auch die europäische Tradition spielte dabei nicht die letzte Rolle. Das lateinsprachige Erbe der kulturellen Persönlichkeiten dieser Region ist sehr wertvoll für das Studium der Geschichte, Kultur und Religion von Traskarpatien.

**Die Aktualität unserer Forschung** besteht darin, dass die neulateinische Sprache, die sich auf allen Ebenen vom klassischen Latein unterscheidet, ist wenig erforscht.

**Das Ziel des Artikels** ist es, die allgemeinen Prinzipien der neulateinischen Rechtschreibung festzustellen. Die Aufgabe unserer Studie ist, auf die Abweichungen von den Rechtschreibnormen des klassischen Lateins hinzuweisen, die man in den neulateinischen Texten finden kann.

**Datenbank, Methode und Methodologie der Forschung**

Als Forschungsmaterial haben wir das 6-bändige Werk „Historia Carpato-Ruthenorum" genommen. Dieses Buch wurde vom bekannten griechisch-katholischen Pfarrer Mychajlo Lutschkaj im Jahr 1843 geschrieben.

**Die Hauptmerkmale der Orthographie im Neulatein**

Die Orthographie der neulateinischen Sprache wurde nicht als einzige Disziplin in den Bildungseinrichtungen erlernt. Es führte dazu, dass das gleiche Orthogram oft bei demselben Schreiber unterschiedlich war.

Hier schenken wir unsere Aufmerksamkeit auf die Abweichungen von den klassischen und mittelalterlichen Rechtschreibnormen. Laut den Texten des 19. Jahrhunderts gab es keine ausführlichen Rechtschreibregeln. Zu den häufigsten Abweichungen gehören: Großschreibung, Schreibung der zusammengesetzten Wörter, graphische Abkürzungen, Rechtschreibung fremder Wörter.

**Großschreibung**

In der Regel wurden alle Eigennamen großgeschrieben**,** und zwar: alle Anthroponyme, Toponyme, Theonyme, Zoononyme, Chrononyme, Chremotonyme, Namen verschiedener Organisationen, Institutionen, Gesellschaften und Unternehmen. Das bedeutet, dass alle Taufnamen in Großbuchstaben geschrieben wurden, z. B. : Basilius [4, S.53], Georgius [4, S.61], Joannes [4, S. 67], Maria-Theresia [4, c.78], Petrus [5, S.68], Stephanus [5, S.79], Theodorus [6, S.64], Thomas [4, S.83].

Die nächste Gruppe bilden Toponyme, einschließlich Namen von Ländern und Regionen, Namen von Siedlungen und deren Teilen, bspw.: Beregh [4, S.113], Bocskó [4, S.87], Debrecin [3, S.131], Hideg-Patak [3, S.137], Huzth [3, S.141], Kassa [4, S. 85], Keresztur [4, S.110], Kőrtvélyes [4, S. 69], Krasznobrod [5, S.66], Laborcz [5, S.78], Lauka [6, S.71], Lelesz [3, S.94].

Bei Demonymen, d.h. bei den substantivischen und adjektivischen Namen von Bewohnern nach ihrer Geburtstagsort oder Aufenthalt, betrachtet man auch solches Phänomen, z.B.: Bilkensis [2, S.115], Borsaviensis [2, S.97], Hanycócensis [3, S.144], Lozajensis [3, S.117], Polyanszky [6, S.65].

Um Respekt zur Person zu zeigen, haben die Schreiber des 19. Jahrhunderts der Großbuchstabe in solchen Fällen verwendet: beim Beruf, Titel, bei den Personal- und Possessivpronomen. Im Brief vom Papst Clemens XIV. an Kaiserin Maria Theresia kann man diese Tendenz verfolgen: Filia Nostra, ad Te, Majestas Tua, qui desiderio Tuo, Nobiscum, Nos Tibi Nosque [5, S.111]. Die wissenschaftlichen Termine bilden auch keine Ausnahme davon,

z.B.: Coniugatio [7, S.3], Consonantes [7, S.2], Declinatio [7, S.46], Dialectus [7, S.8], Grammatica [7, S.5], Litera [7, S. 2], Literatura [7, S. 7], Natio, Orthographia [7, S.10], Paedagogia [7, S.11], Saeculum [7, S.6].

**Graphische Abkürzungen der Wörter**

Die Hauptfaktoren, die zur graphischen Abkürzung des Wortes führten, waren das Sparen der Schreibmaterialien und die Frequenzanwendung des Wortes im Text. In einigen Wörtern konnten die letzten Silben reduziert werden, manchmal auch alle Buchstaben, außer der Anfangsbuchstabe. Seltener wurden bei den Namen der Monate die ersten Morpheme abgekürzt.

Die Textanalyse von M. Lutschkaj erlaubt uns die graphischen Abkürzungen nach dem lexikalisch- semantischen Prinzip zu systematisieren.

Die vollständige oder teilweise Abkürzung des letzten Teils des Lexems ist bei Personennamen zu finden: A. (Alexius) [4, S.110], C. (Cosma) [4, S.131], G. (Gabriel) [4, S.137].

Die nächste Gruppe bilden:

a) Kalenderbegriffe und zwar: A. (Annus) [4, S.118] „das Jahr"; A. Chr. N. (Anni Christi Natus) [4, S.131]; Septemb. (September) [5, S.114].
b) Währungsnamen, wie: R.flnos ( Rhenos florenos) [3, S. 190]; 1200 Rflni (1200 Rheni floreni), Kr. (Kreizer) [3, S. 118].
c) Titel und Rang, z.B.: Archi-Diac. (Archi – Diaconus) [4, S. 141], Archi-pr. (Archi-prrsbyterus) [5, c.98], D. (Dominus) [5, c.103], P.P. (Patres) [4, c.119].
d) Maßeinheiten: m. (Metreta) [3, S.121] ac. [aco] [3, S.164].

Neben Substantiven und Adjektiven können auch Pronomen und verschiedene Wortverbindungen reduziert werden, beziehungsweise: m.pr. (manu propria) „mit eigener Hand" [4, S.193]; N.B. (nota bene) [4, S.198] „wohlgemerkt" [4, S.198].

Zu den häufigsten Abkürzungen gehören folgende: Curr. (currens) [5, S.59] „gegenwärtig", Can. (Cantor) [4, S.113] „Sänger ", Cap., C. (Caput) [5, S.76] „der Kopf", Caus. (Causa) [5, S. 119] „die Ursache, die Sache", ord. (ordines) [5, S. 131] „der Rang".

**Orthographie der zusammengesetzten Wörter**

Im Vergleich zu den Rechtschreibnormen der modernen Literatursprachen war die Schreibweise von zusammengesetzten Wörtern und Abkürzungen im Neulatein nicht geregelt. Bei Komposita haben damalige Autoren die Traditionen

des klassischen Lateins gepflegt. Das bedeutet, dass diese Wörter zusammen oder mit dem Bindestrich geschrieben wurden. Die Bestätigung dafür finden wir in „Historia Carpato-Ruthenorum“ von Mychajlo Lutschkaj.

Die zusammengesetzten Nomen, die mit oder ohne Interfix gebildet wurden, schrieb man durch den Bindestrich, z.B.: Caesareo-Regia [3, S.240] „kaiserisch-königlich“, Maria-Theresia [3, S.248].

Solcherweise werden auch Wörter mit Halbaffixe: Archi-Diaconi [3, S.194],

Archi-Episcopo [3, S.244], Archi-Varidiensis [4, S.210], Proto-Hegumeno [3, S.247] und Wiederholungwörter: quod-quod [3, c.211] „warum“ geschrieben.

**Die Rechtschreibung der Fremdwörter**

In seiner Arbeit «Historia Carpato-Ruthenorum hat sich der Autor die ungarischen Siedlungsnamen in ihrer offiziellen ungarischen Sprachversion notiert, nicht in ukrainischer, rumänischer oder slowakischer Sprache. Deshalb finden wir überall in den Werken von

M. Lutchkaj die Ortsnamen wie Darócz [2, S.221], Domonya [4, S.41], Gerény [6, S.19], Kereknye [6, S.41], Nady Luczka [6, S.79], Radváncz [6, S.41], Solyva [2, S.177], aber fast nie die Bezeichnungen wie Dravci, Domaninci, Horjáni, Koritnyáni, Veliki Lucski, Rádvánka, Szválváva, die für den Ukrainer gewöhnlich sind.

Ganz anders war es bei den Personennamen. Da M. Lutschkaj theologische Ausbildung hatte, hat er alle christlichen Namen in lateinischen Texten in dieser Sprache aufgeschrieben: (vgl. Georgius [2, S.114], Ioannes [2, S.119], Nicolaus [2, S.41], während in slawischen Texten dieselbe Person in der kirchenslawischen Sprache notiert wurde, wie Георгій, Іоанн, Николай.

**Schlussforderungen**

Unter unterschiedlichen Umständen wurde Latein im Alltag nach dem VII. Jahrhundert durch neue romanische Sprachen und andere sogenannte vulgäre Sprachen Europas ersetzt. Aber in vielen europäischen Regionen, einschließlich in Transkarpatien verwendete man Latein bis zum 20. Jahrhundert in solchen Bereichen wie Bildung, Wissenschaft, Medizin, Recht, Religion. Das Neulateinisch unterscheidet sich auf allen Ebenen von der lateinischen Sprache der klassischen Periode, besonders bei der Rechtschreibnormen. Die wichtigsten Abweichungen umfassen Großschreibung, die Abkürzung des Wortes, die Schreibweise von Fremdwörtern und Komposita.

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# FORMATION OF A HEALTHY LIFESTYLE AS A SET OF HEALTH COMPONENTS IN JORDAN

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**Summary**: The article analyzes the set of health components that influence the formation of a healthy lifestyle of schoolchildren in Jordan. The role of a healthy environment is noted. International normative documents and research on the culture of health in Jordan are analyzed. Modern science proves that human health is a phenomenon of global significance, which is considered as philosophical, social, economic, biological categories as individual and social value. Health has been shown to be part of the individual culture of students in Jordan. Issues of solving the problem of preserving the health of children and adolescents in Jordan, teaching a healthy lifestyle, taking into account the factors of a healthy lifestyle of schoolchildren, which requires joint attention: teachers, doctors, members of the public.

**Keywords:** health, healthy lifestyle, environment, students, Jordan.

**Formulation of the problem.** In the modern period, there are negative trends in the health of the population due to the progressive aging of the population, unfavorable structure of the population by sex and age, low life expectancy at birth. The current situation is largely due to the low culture of the population, the lack of a conscious need for a healthy lifestyle, due to the weakening of positions in the organization of prevention of both promising and economic ways to improve health. The World Health Organization (WHO) has proclaimed the principle that "having the highest attainable standard of health is one of the fundamental rights of every human being." People's health is a great social value. Often a person begins to think about health only when it is finally lost, forgetting that health itself

is a prerequisite for successful personal development. Primarily his own strategy and tactics determine the importance of recovery for a person.

According to statistics from recent years, unfortunately, there is a tendency for the health and physical fitness of children and young students to deteriorate in Jordan. The results of annual medical surveys show that in recent decades, with the rapid growth of the population, as well as the growth of children and youth with PLO, the number of refugees, public services in Jordan face a number of problems, including discrimination and unequal access to education. Overcrowding causes a large number of patients per refugee, reduced health budgets and a lack of qualified personnel in this area, and the lack of water resources in Jordan causes additional morbidity. The Covid-19 pandemic is increasing the burden on already overloaded health care systems.

**Analysis of recent research and publications.** The works of scientists V. Drof, A. Ivanov, V. Ilchenko, O. Savchenko and others analyze the importance of ensuring a healthy lifestyle of schoolchildren. T. Volobueva, V. Penova and others proved the importance of valeological education and introduction of health-preserving technologies. We agree with the conclusions of T. Andriuchenko, O. Vakulenko, V. Volkov, N. Dzyuba, V. Kolyada, N. Komarov, I. Pesh, N. Tilikin that "the health and well-being of the population are key factors of economic and social development. any country. Prospects for the development and very existence of the state largely depend on how the process of reproducing the basis of productive forces - human resources. Youth is the key, reserve and engine of development of countries, their present and future "[6, p. 3]. In the modern literature there are a large number of definitions of "health". The terminology used, especially borrowed from related disciplines (Sociology of Health, Psychology, Economics, etc.), does not always reflect the true medical understanding of this definition. The classic definition in the WHO Charter is: "Health is a state of complete physical, spiritual and social well-being and not merely the absence of disease or infirmity" (1948). The characteristics of health can be reduced to the following models: medical model - health as the absence of disease and its symptoms; biomedical model - the absence of subjective feelings of ill health and organic disorders; biosocial model - a set of medical and social features is considered; priority is given to social characteristics; value-social model - health as a value.

**The aim of the study:** based on a retrospective analysis of the content, forms and methods of shaping the health of students in Jordan, to determine the components of health.

**Presenting main material.** Jordan has made significant progress in expanding access to education, these opportunities remain uneven, and the burden on educational institutions is preventing many children from being prepared for life in a global economy. But Jordan is the most democratic country in the Middle East. Jordanians are a people with their bright traditions, way of life, culture and

customs. “Culturally, Jordan suffered greatly during the period when it was a British colony. Until recently, most Jordanians were illiterate. In the last years of the twentieth century. great progress has been made in the field of education. A special upsurge took place during the reign of King Hussein’s son Talal, the father of the current King Abdullah II son Al-Hussein. Public schools are free and private schools are paid. In public schools and in most private ones, girls and boys from the fourth grade study separately. Public schools have the same form everywhere, private schools have their own form. At school, children are transported by bus, girls sit in the back, boys in front. They enter the university on the basis of a general exam - tauzhigi “[5]. We have data that from January 2007 to January 2020, the United States Agency for International Development (USAID) worked to expand equal access to education through the construction, renovation, and expansion of educational institutions. A total of 377 educational institutions were assisted. Support was also provided by male and female teachers to help create an educational space, provide access for students with SEN and create a safe classroom that helps to learn throughout the Kingdom. To help students continue their education in the context of the Covid-19 pandemic, during the closure of schools across the Kingdom, the Agency (USAID) helped the Jordanian Ministry of Education to broadcast classes on TV and digital platforms and provide workbooks for students without an Internet connection [6 ]. Modern valeology believes that human health depends on: 20% - from heredity, 20% - from socio-economic and environmental conditions, 10% - from medicine and 49-53% - from lifestyle. Thus, heredity and a healthy lifestyle is almost three quarters of health, is one of the means of shaping the health of students [1, p. 7]. “Modus vivendi” (Latin modus vivendi) summarizes four categories: economic - “standard of living”, sociological - “quality of life”, socio-psychological - “lifestyle”, socio-economic - “lifestyle”. 1. The standard of living is a sphere of quantitatively measurable indicators of consumption of material and spiritual values. Such indicators include employment, the structure of income and expenditure of the population, working conditions, housing conditions, provision of educational, trade, recreation, medical care, indicators of public health, demographic processes, and others. 2. Quality of life - the optimal state and degree of perception of individuals and the population as a whole of how their needs are met (physical, emotional, social, etc.) and provided opportunities for well-being and self-realization (WHO, 1999). When using this term, one should keep in mind the qualitative side of living conditions - the quality of living conditions, the quality of food, the level of comfort, job satisfaction, communication, quality of health care, etc. 3 Lifestyle is manifested in the form of individual characteristics of the way of thinking, behavior, as one of the manifestations of life. 4. Lifestyle - the order in which people’s lives take place: the rules of social life, work, life, leisure. Therefore, it is important to create a healthy environment and appropriate learning environment. This means providing an appropriate learning and development environment. Z. Meretukova

and A. Chinazirova consider "health-preserving environment" as a set of such concepts as "health" and "pedagogical environment", which allows to define a health-preserving educational environment (including educational) [3, p. 59-64]. The Jordanian Ministry of Education pays special attention to the health of schoolchildren in educational institutions, and to this end a special department has been established, the main task of which is to update health issues for schoolchildren, medical support for schoolchildren and youth. To this end, medical teams were set up for medical examinations and treatment in educational institutions, these teams functioned until 1989, after which health centers were established in various regions of the Kingdom [5]. Current tasks of the Department of School Health: 1. Work to raise the level of health awareness among students and teachers. Preparation of guidelines for health and nutrition and their dissemination in schools. Distribution of leaflets and posters on the livelihood of schoolchildren. There have been a number of collaborations between educational and healthcare facilities, such as the Association of Dentists. 2. The Department of School Health notes the need to encourage students to participate in competitions at both local and international health fairs. An important event is participation in seminars, meetings and celebrations organized by health care institutions. 3. Health facilities, in collaboration with the World Health Organization and other communities, are implementing a number of educational programs, including educational lectures, film screenings, and the distribution of brochures and posters on health and Sunni issues. in order to raise students' awareness of health issues. Cooperation between specialists from the Ministries of Education and Health is an important component. 4. The tasks of analysis of tracking the health of schoolchildren during the school year are updated. Medical preventive examinations of secondary school students are mandatory, which are conducted annually to detect diseases in them, their further observation, planned treatment or rehabilitation, and prevention of mass collective infections. Such examinations are performed in accordance with the recommendations of the World Health Organization. The children are examined by school doctors and, if necessary, the children are sent for additional examinations or consultations to specialists in the relevant field and dentists, or ophthalmologists, etc. An important component is the early detection of diseases as a preventive measure and raising students' health awareness, as comprehensive periodic medical examinations are conducted in both public health and dental health for students of all grades: first, fourth , seventh and tenth, in cooperation between the Ministries of Education and Health. Therefore, educational institutions are trying to create all the conditions necessary for medical examinations and the necessary treatment of students, medical support provided by school doctors. Based on the analysis of the achievements of modern philosophy, human anatomy and physiology, valeology, bioethics, hygiene, pedagogy, psychology, ecology, sociology and other sciences about man and his health, health factors, healthy lifestyle, the following interpretation has been developed:

healthy lifestyle is a set of value health-preserving orientations and guidelines, habits, regime, rhythm and pace of life aimed at optimal preservation, strengthening, formation, reproduction of health in the process of learning and education, communication, games, work, rest and transfer. its in the future. That is, if in the process of all activities and recreation a person maintains and strengthens his health, then he leads a healthy lifestyle. Health factors are nature (space and environment), harmony of coexistence with nature; social environment; spirituality. Preservation and strengthening of mental health is facilitated by a psychological attitude to maintaining one's health, developing self-control, self-awareness as a happy person, positive emotions, a favorable microclimate in the macro- and micro-environment, providing protection and self-defense in stressful situations. on living natural food, maintenance of normal body weight, rational health-preserving way of life, optimum motor mode, hardening, harmonious satisfaction of all physiological needs of an organism, hygienic skills. Important components of student health are state control over vaccination and annual examinations of schoolchildren, both general and dental, through field visits to schools, as well as tracking data and tracking information in statistical reports on school health issues provided by the Ministry of Health. health. In Jordan, for example, a project is being implemented to provide free glasses to students through health insurance. Dental fluoridation project for low-income junior students (grades 1-6). Various events, talks, conferences, round tables on infectious diseases [5]. Important are environmental inspections, analysis of the relationship between environmental safety and student health, which are conducted in cooperation with the Ministry of Education and the Ministry of Education and Health of Jordan [5]. An important event is the development of Circulars at the beginning of each school year in all schools on the need for drinking water tanks for students, analysis of the suitability of drinking water. Both chemical and bacteriological studies conducted by the Ministry of Health and in order to provide students and young people with drinking water are important, noting that the important health factors are the health of nature and water, they have an impact on health conditions. I am human, because man is a part of nature. Man has developed as a biological system, his body experiences all the changes that occur in space and nature. Biorhythms are important for the life of students: after an active life comes sleep, body temperature changes, respiration rate decreases, heart rate decreases, and so on. Therefore, an important condition for the health of students in Jordan is a life organized in accordance with biorhythms and nature. Man is born as a biological organism and develops according to the laws of nature. However, it is at the same time a member of society, ie the social environment, in particular educational institutions, is a condition of its life and effective activity as a social personality. In particular, measures to vaccinate students within the national vaccination program for first and tenth graders are important. Participation of students and teachers in the preparation and celebration of Jordan's Health Day, which is held on April 24 each

year. Participation of teachers and students in the activities of the National School of Health. Important are the activities of the Department of Health: for example, participation in the preparation for the celebration of World Health Day annually; participation in the preparation and implementation of an anti-tobacco program for students in cooperation with the Department for the Prevention of Harm of Smoking. An important factor in shaping the habits of schoolchildren is their participation in the national program "National Nutrition". Collaborate with the Department of Health Education in the preparation and implementation for all students, teachers, and health education programs. Cooperation in the program on the national fight against AIDS, in the preparation and implementation of several educational and educational activities aimed at teachers and students [5]. Participation in the Healthy Villages project and public schools. The participation of students and teachers in various activities, projects allows to determine the conditions of human development, which are influenced as material factors: the peculiarities of nutrition and food consumption, provision and quality of housing and water, creating conditions for work and rest. Analysis of the state of the environment and the state of health of the child, life expectancy of members of society, etc. [5]. And the basis of this is the spirit. Spirit - is thinking, consciousness, inner state, moral strength of man. Spirituality - the inner mental life, the moral world of man. Therefore, considering spirituality in the aspect of health, we can note the importance of understanding a person's meaning of life, its values, place in the life of his health and the health of others as the basis of happiness. At the same time, spirituality is a regulator of emotions. Emotions are divided into lower and higher, positive and negative, wall and asthenic, emotional reactions and emotional states. Feelings associated with the satisfaction or non-satisfaction of certain physiological needs are lower, and higher emotions arise when the satisfaction or non-satisfaction of certain spiritual needs, and have a pronounced social character. The level of formation of spiritual needs indicates a person's attitude to public life. Since we consider the components of a healthy lifestyle, it is important from this point of view to be positive and negative emotions, ie those that have a positive and negative impact on the body. Positive emotions arise when a positive assessment of an object or phenomenon is joy, love, admiration, and others, and negative emotions arise from anger, disgust, fear, and so on. Positive emotions help maintain and strengthen health, and negative emotions help to destroy it. That is, if you do not calm down negative emotions, they will destroy the body, disrupt the internal organs, which can lead to various diseases. The only right way to maintain good health is to civilize the neutralization of negative states, relieving stress. For example, writing helps to shed negative energy. No wonder they say paper will withstand everything. All you have to do is write about your anger or rage, and it's as if you've dropped a rock. Now burn or tear a sheet of paper and forget about your mental troubles.It is known that the mental component of health affects the physical component. And the mental component of

health, in turn, depends on the emotional state of man, that is, on his attitude to objects and phenomena of the environment, to people, their actions, to work and to himself. Therefore, you need to set a goal - to become healthy (healthy) through a healthy lifestyle, get acquainted with its content and gradually go to the realization of a dream. In the process of inner work a person acquires the ability to control their emotions, self-control. Each of us needs to know how to switch attention from negative to positive stimulus. For example, in trouble to find an element of funny, joke, or remember a funny melody. It is useful to wake up every morning, to remember something joyful, to smile. Cheerful, joyful, cheerful mood, exaltation, anticipation of tomorrow's joy seek to create a favorable psychological microclimate in the micro and macro environment, which helps mutual understanding in the team, family, society. Awareness of being a happy person is a very powerful factor in maintaining good health. Even in ancient Greece, happiness was understood as the ability and opportunity, rejecting the hustle and bustle, to share bread, water and conversation with friends. All these activities are aimed at enabling children to learn that the most important thing in the world is life, the most valuable thing in life is health. These ideas are implemented in the School Health Program, so the National School Accreditation Program is a program that accompanies both the Ministry of Education and Health and aims to create a healthy environment in all schools in the Kingdom. Jordan, by involving in the program of knowledge of health education, a number of medical standards, etc. [5]. For example, the physical development of children and adolescents is characterized by somatometric values (length, body weight, chest circumference), physiometric (VL, indicators of dynamometry of the hand and posture) and somatoscopic (features of the musculoskeletal system, the degree and nature of fat, sex development, physique, posture). The physical development of children and adolescents is determined by the method of indices, the method of anthropometric standards and so on. Anthropometric examination of children is carried out with standard tools according to the generally accepted unified method. Anthropometry includes measurements of length (cm) and body weight (kg), chest size (OGK, cm). An anthropometer (height meter) is used to measure body length. Body weight is essential for assessing the impact of physical activity on the body of primary school students. Therefore, weighing is carried out systematically during medical and pedagogical research. The level of physical development is assessed using the method of standards, the essence of which is to compare individual anthropometric quantities with regional tables developed by local health authorities. An arithmetic mean value and a sigma deviation from this value are developed for each anthropometric indicator. The norm of dependent features (body weight and OGK) is the range of specific indicators of body length, which are basic. Assessing the level of each measured indicator assumes five levels of development: low, below average, medium, above average, high. The general estimation of a level of physical development is given on group of length of a body and con-

formity to it of other signs (body weight and OGK). Harmony of physical development, especially for children of primary school age, is important as an indicator of health and is assessed by the correspondence of body weight and OGK to body length or the coincidence of estimates of all three indicators of physical development. Scientists note that nine tenths of a person's happiness is his health [6].

**Conclusions.** Strengthening and maintaining the health of the population is the task of all national health care systems. A healthy population of the country is the main condition for the realization of its potential, the most important factor in ensuring national security. A person's lifestyle is a key factor in determining his health. Based on this thesis, the implementation of the concept of "lifestyle" in many countries has yielded positive results. At the present stage of dominance of non-epidemic pathology in the morbidity of the population, the strategic direction of health protection and promotion is social-preventive, environmental, ecologically competent policy. Its main components are the formation of a healthy lifestyle, protection of nature and the environment. A healthy lifestyle is a person's behavior aimed at forming, maintaining and strengthening their own health by consolidating the right habits in everyday life. These habits should be acquired in homes and schools, and do not harm a person in the physical and spiritual spheres of its functioning. It is a way of life to prevent disease and promote health, which involves following the WHO recommendations on nutrition, exercise and more. This is getting rid of bad habits and addictions, prevention of sexually transmitted diseases, harmony with the environment. To become a happy person, it is important to work on the child to accept the attitude: "I am prosperous." It is important to have a balanced diet that meets the body's need for fats, proteins, carbohydrates, vitamins, macro-and micronutrients and more. Every child should remember the rules of a balanced and adequate diet: because food is a source of heat, energy, growth and health. Follow a diet. Understand the dangers of overeating and get clean water and a variety of foods. Food should be fresh and warm. It is mandatory to eat vegetables, fruits, berries, greens, rye and wheat bran and other vitamin-rich foods, it is important to follow a consistent diet, eating traditions. Active rest after eating is important. Seasonality of food. Maintaining a normal body weight, optimal motor regime, hardening, harmonious satisfaction of all physiological needs of the body - living conditions and health contribute to the normal functioning of all human organ systems, and hence - his health. Thus, in the conditions of school in Jordan there is a practical direction of preparation of pupils in Jordan for a healthy way of life, will promote improvement, preservation, strengthening, reproduction of health. In Jordan, teachers and doctors understand that everyone is the creator of their own health. Good health brings joy to her life and the opportunity to do what is interesting, so a person should take care of health from childhood.

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# WAGES: CONCEPT AND CONTENT. CONSTITUTIONAL AND LEGAL ASPECT

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**Abstract**

**Purpose.** The purpose of this paper is to study wages as the right to earn a living, as well as the constitutional and legal guarantees of the state for a fair remuneration to a person to ensure the right to a dignified existence and a decent standard of living. The subject of this study is wages. The latter is analyzed in terms of mutual understanding with the concept of salary, the differentiation of which is based on a historical analysis of the use of these terms. The category of state guarantees to ensure the right to a minimum wage can be traced in the interrelation with international guarantees of the right to a fair remuneration and a dignified existence. **Methods.** The methodological basis of the study is, in particular, the dialectical method, which revealed the essence and content of the concept of wages as a legal phenomenon that is constantly evolving and interrelated with such legal categories as fair remuneration and decent living. The comparative legal method made it possible to identify the peculiarities of the legislation in the field of establishing the minimum wage to ensure a decent standard of living based on the analysis of the Basic Law of the leading European states. The formal legal method contributed to the formulation of proposals for the improvement of national legal norms aimed at the realization of fundamental human rights, namely, the right to a fair remuneration for a dignified existence.

**Results.** The results of the research show that the Labour Code of Ukraine and the Law of Ukraine "On Remuneration of Labour" enshrine the minimum wage as a state social guarantee for the remuneration of workers without emphasis on its justice and ensuring for himself and his family an existence worthy of human dignity, while the very definition of the minimum wage is not identical to the right to a favourable remuneration. Accordingly, it should be concluded that the

minimum wage guaranteed by the state is not decent, but only the minimum allowable. **Conclusions.** In conclusion, we assume that the Ukrainian legislator should improve the rule on the right to wages, not lower than defined by law through fair wages without discrimination of any kind, ensuring for himself and his family an existence worthy of human dignity by amending to Part 4 of Article 43 of the Constitution of Ukraine.

**Key words:** wages; salary; favourable renumeration; decent living standard; minimum wages.

## 1. INTRODUCTION.

With the adoption of the Constitution of Ukraine (Art. 3, 1996), which proclaimed Ukraine as a social and legal state, the Verkhovna Rada defined and enshrined in the Basic Law, as the main **duty of the state, the establishment and provision of human rights and freedoms**, including those which belong to the social economic sphere, one of which is the employee's right to wages. The first mention of the concept of "welfare state" began to appear in the first half of the 19th century. At the present stage, the scientific community considers the welfare state in several forms: as a form of constitutional system, as a type of organization of state life, as a state that performs a social function and as a characteristic of the rule of law. Recently, the issues of social economic rights of a person and citizen have again become the focus of politicians and scholars, and this is not accidental (Shapoval, 2004; Babenko, 2004). Most domestic scholars believe that the welfare state, whose highest value is a human being, should create conditions for its material support at the level of modern standards to meet its social economic needs (Tytarenko, 2006[1]).

Non-governmental human rights organizations and human rights experts claim that in Ukraine, especially after 2004, there has been a significant improvement in the implementation and observance of classical rights and freedoms. At the same time, attention is drawn to the lack of significant changes in the provision of social economic rights, as well as to the fact that economic growth did not significantly affect the growth of incomes of many citizens, but only revealed an even greater income gap between the rich and the poor (Selivanov, 2006[2]). According to the study by the Institute of Demography of the National Academy of Sciences of Ukraine, **by the end of 2020 the poverty rate in Ukraine will increase to 45% (Romanyuk, 2020).**

Hence, a component of the social economic duty of the state is to provide public authorities with the social orientation of the domestic economy, to create conditions and guarantee opportunities provided by international acts and the constitution for a person and citizen to earn a living by work (Decision of the Con-

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[1] Tytarenko, 2010, p. 8.

[2] Selivanov, 2006, p. 16.

stitutional Court of Ukraine in the case on the constitutional appeal of the citizen Prysyazhnyuk Lyudmyla Mykhailivna, 2013) and *receive a renumeration for the work performed.*

## 2. CONCEPTUAL APPARATUS AND THE CORRELATION BETWEEN THE INSTITUTE OF WAGES AND SALARY

The Universal Declaration of Human Rights, proclaimed by Resolution 217 A (III) at the solemn session of the UN General Assembly on December 10, 1948, became the first document to establish basic civil, political, social, economic and cultural rights at the international level and thus set their standards. The scope of human rights was later enshrined in other international instruments on human rights, acting as a model which all peoples and nations should strive to. International human rights standards have become the basis for interstate cooperation on their implementation, for the activities of special international bodies for monitoring the observance and protection of human rights (Mironov, 2009[1]). Ukraine has implemented all the main provisions of international human rights law, which was an important step towards our country's entry into the world and European political and legal space, where Ukraine, like most countries, has committed itself to human rights and fundamental freedoms. According to Article 9 of the Constitution of Ukraine (1996), "valid international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine".

Consequently, with the ratification of the Universal Declaration of Human Rights (1948), Ukraine undertook the obligation of social orientation of the economy, in order to provide appropriate conditions for citizens to earn a living by work and *receive wages.* Article 23 of the Declaration enshrines the right of everyone to work, without any discrimination, ***to equal pay for equal work***, where every worker has the right to ***just*** and favorable ***remuneration*** ensuring for himself and his family ***an existence worthy of human dignity***. Article 7 of the International Covenant on Economic, Social and Cultural Rights (1966) recognizes the right of States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

a) remuneration which provides all workers, as a minimum, with:

i) fair wages and equal remuneration for work of equal value without distinction of any kind…;

(ii) a decent living of themselves and their families in accordance with the provisions of the present Covenant. The norms of this Covenant also specify the

[1] Mironov, 2009, p. 14.

concept of "decent life" for every person. Article 11 enshrines the legal definition of the term "decent life", which means "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions" (Abbasova, 2017[2]). Therefore, an integral part of decent life of a person and citizen is the right of everyone to just and favorable working conditions, including, inter alia: remuneration for work of equal value without distinction of any kind that includes adequate food, clothing and housing, and the continuous improvement of living conditions (International Covenant on Economic, Social and Cultural Rights, 1966[3]).

The ILO Convention №100 "On Equal Remuneration for Men and Women Workers for Work of Equal Value" (1951) contains a definition of the term "remuneration" which includes regular basic or minimum wage or regular, basic or minimum wage and any other remuneration, provided directly or indirectly, in cash or in kind by the entrepreneur to an employee as a result of the latter performing some work. As we observe, the term "wages" is used in this definition, it being also applied in the ILO Convention № 95 "On Wage Protection" (1949).

According to O. Stasiv (2014), it would be more correct to use either the term "wage", as defined in the ILO Convention, or at the legislative level, to define and distinguish these terms, as it is in the science of labour law. After all, the use of such terms as synonyms leads to confusion in legislation and practice. In his research, he concludes that salary is a broader concept and includes "wages". Wages is a salary determined by the employment contract, which is provided to an employee for the work performed by him. While the payment of labour, in addition to wages, also includes the payment of surcharges, allowances, bonuses, guarantee payments, etc. to an employee.

Ukrainian legislation uses two terms: "salary" and "wages". As the Constitutional Court of Ukraine (2013) states in its decision: analyzing the provisions of labour legislation in the context of the constitutional appeal, the Constitutional Court of Ukraine assumes that the concepts of "wages" and "salary" used in the laws governing labour relations are equivalent in terms of the parties who are in an employment relationship, the rights and obligations to pay, the conditions of their implementation and the consequences that would occur in the event of failure to fulfill these obligations.

The legislative definition of wages is given in Part 1 of Article 94 of the Labour Code of Ukraine (1971) where the term "wages" is defined as remuneration, calculated, as a rule, in monetary terms, which the owner or his authorized body pays an employee for his work. A similar definition of wages is contained

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[2] Abbasova, 2017. p. 24.

[3] International Covenant on Economic, Social and Cultural Rights, 1966. art. 7, 11.

in Article 1 of the Law of Ukraine "On Wages", except for the phrase "under an employment contract". In the draft Labour Code, the concept of wages has a slightly different definition, namely: "wages is a payment, calculated in monetary terms and established under an employment contract, which the employer pays an employee for his work". (Hordenyuk, 2012[1]).

However, the first definition of the right to work and *wages* was given by the French philosopher Gracchus Babeuf (*Gracchus Babeuf*) in the second half of the 18th century. In his writings, he stated that "society must provide all its members with work and determine wages so that these wages are sufficient to purchase food and to meet all the needs of each family". (Mironov, 2009[2]). Subsequently, this philosophical definition was first enshrined in law in the Constitution of France in 1848. The right to work and *wages* under the French Constitution was protected along with the right to property. From the above right to work and wages, enshrined in the Constitution of France, we can identify the following legally significant circumstances. First, provision of all members of society with work. Second, each employee is guaranteed a salary. Third, getting payment to buy food and to meet all other needs of each family (Mironov, 2009[3]).

## 3. DIGNIFIED EXISTENCE: CONSTITUTIONAL EXPERIENCE OF EUROPEAN COUNTRIES

Since international law is the source of national law, the recognition of human rights by states by enshrining them in constitutions is seen only as a first step towards their adoption and implementation. (Slyusar, 2017[4]). Most of the constitutions of European countries in their norms, which are designed to guarantee the social and economic rights of a person and citizen, to some extent tried to take into account Article 23 of the Universal Declaration of Human Rights in their national constitutions. In our opinion, the most complete guarantee of the constitutional right to remuneration is enshrined in: the **Constitution of the Portuguese Republic** *(*1974*),* namely Article 59 deals with the right of all employees regardless of age, gender, race, citizenship, place of origin, religion, political or ideological convictions *for remuneration* corresponding to the quantity, nature and quality of work, while adhering to *the principle of equal pay for equal work* in order to *ensure every worker* **a dignified existence***.*

Some constitutions reflected only certain aspects of Article 23 of the Declaration. For example, Article 36 of **the Constitution of the Italian Republic**

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1 Hordenyuk, 2012. p. 200.

2 Mironov, 2009. p. 14.

3 Mironov, 2009. p. 14.

4 Slyusar, 2017. p. 234.

(1947) states that an employee *is entitled to remuneration* corresponding to the quantity and quality of his work and sufficient in any case to ensure that he and his family live freely and *with dignity*. Article 35 of **the Constitution of the Kingdom of Spain** (1978) guarantees Spaniards the right to remuneration sufficient to meet their own needs and those of their family, and provided that there can be no discrimination on grounds of gender. **The Constitution of the Czech Republic** (1992) guarantees everyone *the right to fair remuneration* for their work and to favourable working conditions. Article 36 of **the Constitution of the Slovak Republic** (1992) stipulates that workers have the right to fair and favourable working conditions. The law, in particular, guarantees: a) the right *to remuneration* for the performed work which is sufficient to ensure *a decent standard of living*. The **Constitution of Hungary** (Art. 70/B, 1949) enshrines the rule that *everyone has the right to equal pay* for equal work, without distinctions of any kind*. Every citizen has the right to such income, which corresponds to the quantity and quality of work performed by him.* **The Greek Constitution** (Art. 22, 1975) stipulates that all workers, regardless of gender or other differences, have the right to equal pay for equal work.

Provisions on remuneration contained in international acts are not reflected in Part 4 of Article 43 of the Constitution of Ukraine. This rule guarantees everyone the right to a salary not lower than that prescribed by law. The implementation of the constitutional guarantee on wages is primarily entrusted to the Labour Code of Ukraine and the Law of Ukraine "On Remuneration of Labour". Article 95 of the Labour Code of Ukraine (1971) states that the minimum wage is *a state social guarantee*, mandatory throughout Ukraine and *is included in the system of basic state guarantees for wages*. In turn, the amount of the minimum wage is set and revised in accordance with Articles 9 and 10 of the Law of Ukraine "On Remuneration of Labour" and may not be lower than the subsistence level for able-bodied persons. The legislator enshrined guarantees for the employee's salary in Article $3^1$ of the Law of Ukraine "On Remuneration of Labour" (1995), which states that an employee's salary for a fully performed monthly (hourly) work rate may not be lower than the minimum wage.

It should be noted that the Labour Code of Ukraine and the Law of Ukraine "On Remuneration of Labour" establish the minimum wage as a state social guarantee for remuneration of workers without emphasis on its fairness and ensuring for himself and his family an existence worthy of human dignity, and the very definition of the minimum wage is not identical to the right to a favourable remuneration. Accordingly, it should be concluded that the minimum wage guaranteed by the state is not decent, but only the minimum allowable.

For example, in some foreign countries this issue is also ambiguous. Article 65 of **the Constitution of the Republic of Poland** (1997) guarantees only the minimum amount of remuneration for work, but the method of establishing this amount is determined by law. A similar rule is enshrined in Article 37 of **the Constitution**

**of the Russian Federation** (1993), which states that everyone has the right to remuneration not lower than the minimum wage established by federal law. The Basic Law of the Federal Republic of Germany, as well as the US and British constitutions, do not stipulate what the remuneration should be, but in these countries the trade union traditionally plays a significant role in remuneration, as well as collective and labour agreements are of great importance (Abbasova, 2017[1]).

## 4. CONCLUSIONS.

Some scholars are of the opinion that it is necessary to enshrine at the constitutional level the right to remuneration for work that would ensure a human existence. In their view, this wording (rather than a link to the minimum wage and subsistence level) would allow citizens to challenge the size of the subsistence level itself (Gevorkyan, 2011). We consider such an assumption disputable. According to E. Abbasov (2017), the use of the term "existence" in this context belongs to the philosophical category, synonymous with the existence of matter and consciousness – would hardly contribute to its solution. It is unfortunate to state, but today the standard of living of most citizens gives reason to say that they do not live, but exist. The main question is whether the remuneration received by an employee for work ensures for himself and his family an existence worthy of human dignity. In our opinion, the legislator in Part 4 of Article 43 of the Constitution of Ukraine should improve the rule on the right to wages, not lower than defined by law through fair wages without discrimination of any kind, that ensures for himself and his family an existence worthy of human dignity.

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