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ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

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THE MAIN TRENDS AND APPROACHES IN THE THEORIES OF INTERNATIONAL RELATIONS TO GEOPOLITICAL TRANSFORMATIONS

ОСНОВНІ ТЕНДЕНЦІЇ ТА ПІДХОДИ В ТЕОРІЯХ МІЖНАРОДНИХ ВІДНОСИН ДО ГЕОПОЛІТИЧНИХ ТРАНСФОРМАЦІЙ

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Abstract. *The article is devoted to the main trends and approaches in the theories of international relations to geopolitical transformations. In modern conditions, the process of formation of a stable global geopolitical system is not over. Discussions are continuing about the possibility of creating a unipolar world, a multipolar world, or restoring a bipolar model with different centers of power than before. These trends significantly strengthen the factor of geopolitical interests of national states and other global actors adhering to different geopolitical concepts. The analysis of the geopolitical stability and strategic autonomy of the Republic of Azerbaijan achieved as a result of the crushing defeat of Armenia in the Second Karabakh War gives special relevance to the study.*

Keywords: *geopolitics, trend, approaches, international relations, geopolitical transformations.*

Анотація. *Стаття присвячена основним тенденціям і підходам в теоріях міжнародних відносин до геополітичних трансформацій. У сучасних умовах процес становлення стійкої світової геополітичної системи не закінчений. Тривають дискусії про можливість створення однополярного світу, багатополярного світу або відновлення біполярної моделі з іншими, ніж раніше, центрами сили. Дані тенденції в значній мірі підсилюють фактор геополітичних інтересів національних держав та інших глобальних акторів, що дотримуються різних геополітичних концепцій. Особливої актуальності дослідженню надає аналіз геополітичної стійкості і стратегічної автономності Азербайджанською Республікою, досягнутих в результаті нищівної поразки Вірменії в другій Карабаській війні.*

Ключові слова: *геополітика, тенденція, підходи, міжнародні відносини, геополітичні трансформації.*

Introduction. Today, the significance and potential of the Azerbaijani world many times exceeds the geographical parameters of our state. The offensive nature of Azerbaijan's geopolitical projects is aimed at cooperation in the region in two main areas: transport and logistics and communication. Multilevel transformation affects both foreign policy and economic processes in a space where vital interests of a number of states of the world and other actors of international relations intersect.

In modern conditions, geopolitics is the most important relevant link of the entire system of international relations and world politics, which is taken into account in detail when developing strategic and tactical aspects of the foreign policy of the Azerbaijani state.

The purpose of the research is to identify the main trends and approaches in the theories of international relations to geopolitical transformations.

The latest literature review. In recent years, scholars have paid considerable attention the geopolitical dynamics in the South Caucasus region. Here we can specify the works of such authors as Stephen M. Walt, Frazier S., Corey M. and others who have covered this problem.

Research results. In this study, the geopolitical dynamics in the South Caucasus region and the Caspian-Black Sea basin, the trigger of which was the decisive victorious actions of Azerbaijan in the Second Karabakh War, in our opinion, should be analyzed from the identification of the dialectical relationship between the basic concepts of the theory of geopolitics and the theory of international relations.

Geopolitical theories in their systematized form are especially relevant at the present stage, when the relatively stable global geopolitical structure has been replaced by a period of permanent instability for the long term [Elements for a Structural Constructivist Theory of Politics. Niilo Kauppi]. Geopolitical analysis cannot abstract from the territorial core, in which the main values of the national state are created. The state as a spatial territorial organization, - Swedish political scientist Rudolf Chellen, one of the creators of geopolitics, pointed out, - "the first one comes into view when it is observed from the outside. Geopolitics keeps the unity of the state in its field of view, thereby contributing to the understanding of its essence" [Chellen, 2005, p.117]. By outside supervision, Chellen meant such parameters as the scale of ownership, the quality and quantity of the state's resources, which make it possible to "provide an appropriate means of political action and give direction to political life as a whole. ...Geopolitics becomes an art, namely the art of guiding practical politics" [Chellen, 2005, p.121]. Thus, according to Chellen, the main geopolitical actor is the state and its policy is determined by the geographical location of this state.

Challenge, in the spirit of his time, defined traditional geopolitical parameters, linking the geographical invulnerability of the state with geographical remoteness, its territorial location and the length of borders. And although these factors play a lesser role in the conditions of high speeds of possible military response and economic interdependence of States, nevertheless, as it seems to us, they have not lost their relevance in many ways. First of all, because every foreign policy decision is implemented in the spatial dimension. The geopolitical priorities of the state on the world stage are produced by its spatial and geographical parameters. It is these parameters that determine the style and methods of foreign policy implementation throughout the historical development.

The German scientist Friedrich Ratzel, who introduced the concept of geopolitics into international science, wrote that the territory or space is a necessary political resource of the foreign and domestic policy of the state [Ratzel, 1897]. Developing the idea of the size of space and geographical advantage, Ratzel emphasized that space determines internal and external political processes. "The connection of the people with their territory, thanks to their interaction, is strengthened so much", writes F.Ratzel, "that the people and their territory become something unified and cannot be mutually separated without at the same time destroying the life of the state" [Geopolitika: Khrestomatiya, 2007, p.16].

The classical vision of geopolitics, presented in Andreas Dorpalen's book "The World of General Haushofer" with the subtitle "Geopolitics in Action", suggests that "geopolitics becomes an art, namely the art of guiding practical politics" [Dorpalen, 1984]. At the end of the 70s of the last century, geopolitics as a science, consistently overcoming the ideological limitations of geographical determinism, significantly expands its object of research. In particular, Professor S. Cohen justified the need to analyze the territorial development of the state through its structure of political organization, economic structure, functioning of the social sphere. S. Cohen paid special attention to the influence of external forces on all the above-mentioned components of geopolitics. "Along with such standard indicators of the power of the state as the area of the territory, the

possession of fertile soils, water and mineral resources, the development of transport and other types of communication network, population, level of education and military arsenal, the level of interconnectedness of nations, ideological strength (the level of influence of ideology), national goals, mentality, goals should also be taken into account and a strategy to maintain its international influence and ability to renew" [Cohen, 1973, pp.6-7].

The main aspect of the modern logic of geopolitical competition is the control over space, which is carried out through the use of various tools for its protection or preservation, in the geostrategic, geo-economic, military-power and information space.

It is more expedient to consider control over space as a general category of political theory and the theory of international relations in the paradigms of the theory of structural constructivism. The methodologies of structural constructivism and critical geopolitics chosen by us are determined by significant limitations in the conditions of extreme turbulence of the postulates of neorealism. As R. Cohain noted, at the end of the XX century the theory of international relations was "in a state of confusion and vacillation**" [**Keokheyn, 1998**].** Representatives of realism, focusing on historical patterns and continuity in foreign policy, consider the preservation and strengthening of power and influence within the existing international system.

Neorealism considers national interests as a geopolitically stable reality, although, unlike the classics of this trend, it recognizes the difficult to predict dynamics of modern world processes [Mearsheimer, 2001, p.18-19]. Neoclassical realism, operating with such fundamental categories for this direction of the theory of international relations as "balance of power", "strategic culture", "strategic deterrence", "national security", "foreign policy", traditionally focuses on building up power. The dominant subject of international relations, despite the increased number of actors in the complex structure of the international system, according to neorealists, remain states as the real and only carriers of national interests [Taliaferro, 2009, p.5-10]. However, the profound transformations taking place in the world system have become a challenge for neorealism, especially in the direction of predictive analytics.

In this regard, a prominent representative of neorealism, Stephen Walt, in the article "Why I did not subscribe to the defense of the international order" suggests "refusing to support efforts to preserve the old, unipolar, liberal world order" [Walt, 2018]. Such an unexpected conclusion is justified by the following theses: 1) "the bipolar world and the existence of nuclear weapons have done more to prevent a large-scale war between the two superpowers" than global institutions like NATO, the WTO and the European Union; 2) the old "liberal world order" of the West was not liberal, it simply won in comparison with the authoritarian rulers of the "second world" - (meaning the leaders of communist and socialist countries) [Walt, 2018]. In the article "The State Department needs rehabilitation", Stephen Walt suggests strengthening the importance of diplomats in international practice, since they have a deep knowledge of other societies and governments, the necessary ability to explain how problems look to others. Such knowledge of a different mentality is necessary for the conclusion of successful international agreements, because if no one knows how the other side thinks, it is difficult to put forward proposals that will help achieve our goals and which the other side will accept [Walt, 2018].

The methodology of the theory of classical liberalism in international relations, and in particular, neoliberal institutionalism, builds its concepts on "participatory democracy", assuming the actions of various coalitions and interest groups with their own foreign policy agendas and channels of influence on the process of developing and implementing public policy [Krasner, 2020]. It is the ideas of neoliberal institutionalism that have become the basis for the formation of biased assessments of the level of democracy and stability of states and an important mechanism for constructing political technologies of "color" revolutions. Unlike realists who assert the unchanging logic of international relations, constructivists focus on the study of transformations.

At the beginning of the new century , F. Fukuyama prophetically noted that in the new conditions of global competition, only "strong" states will survive [Fukuyama, 2006, p.124]. In modern conditions, a constructivist approach is becoming relevant, the conceptual provisions of which are productive in interpreting security issues that are vital for any state. An important role in

this direction of the theory of international relations is played by the construction of links between threats and reference objects, as well as the conditions in which security policy acquires a legitimate character [Huysmans, 2002]. An important point in the constructivist methodology is the study of international relations through the prism of discursive analysis. The creator of the theory of constructivism in international relations A. Wendt believed that the perception of one actor by another is determined by the discourse that forms reality and determines the environment of interaction between actors – cooperating or conflicting [Wendt, 1992]. A. Wendt explained the deep relationship between national identity, strategic culture and foreign policy of the state [Wendt, 1994].

In the theory of international relations, the category of multipolarity reflects the objective state of modern world politics and has its own characteristics. The Hindu political scientist Suryanarayana believes that "the geopolitical (mainly military-political and ideological in content) confrontation between East and West is now being replaced by modern polycentrism, and it is based on the disintegration of the world into rival zones with mainly internal economic integration". This integration is now becoming closer than between global and regional level zones [Suryanarayana, 2000].

The formation of modern multipolarity is determined not so much by economic as by geostrategic and geopolitical factors. In this regard, a distinctive feature of the new international policy is "not only the struggle of the great powers for space, but the geopolitical discourse developed by intellectuals-statesmen, in which international politics is localized by the peculiarities of national interests" [Gearóid Ó Tuathail, 2008].

Since the late 90s of the twentieth century, in the process of approving the unipolar system in international relations, a geopolitical parameter, called by Z. Brzezinski the "great chessboard", has firmly entered the structure of qualitative foreign policy and strategic analysis [Bzhezinskiy, 1998, p.2]. In fact, the so-called "chessboard" itself represents a conglomerate of regional "sites" - taxa as a spatial and territorial integrity on which regional processes directed and controlled by world powers are evolving, stagnating or dynamically developing. According to English analyst Stuart Elden, taxa are characterized by the presence of "important political, economic and/or strategic problems that would force regional actors and extra-regional players to enter into special relations of cooperation or confrontation, i.e. to realize their foreign policy orientations and thereby defend their interest" [Krasner, 2020]. K. Johnson understands the geopolitical taxon as a conglomeration of small and medium-sized countries of the regional space, representing a relatively homogeneous territory in one or another political parameters, which is connected by some system-forming factor, for example, the Black Sea [Corey, 2009]. The geopolitical subjectivity of such regional states, if de facto present, allows them to form a foreign policy strategy. However, the clash of strong non-regional players promoting their national interests is often the main factor of confrontational processes in this region.

Zbigniew Brzezinski, considered the most authoritative representative of Atlanticism, in his work "The Great Chessboard" proposed a sub-regional geopolitical space "Eurasian Balkans", which forms the inner core of a huge elongated territory and has a very serious difference from the external surrounding zone, representing a power vacuum.

The presence of important minerals, including gold, huge reserves of natural gas and oil, make the "Eurasian Balkans" potentially more important as an economic dividend than just a geopolitical space. The "Eurasian Balkans", according to Brzezinski, include nine countries, two more countries are potential candidates. These nine countries include the newly independent states formed as a result of the collapse of the USSR: Azerbaijan, Armenia, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Uzbekistan, Turkmenistan. A special place was given to Afghanistan, which had just finished the civil war and was trying to choose orientations in world politics. Turkey and Iran were defined by Z. As potential candidates for inclusion in the "Eurasian Balkans", Z. Brzezinski included the entire Caspian region in the "Eurasian Balkans" space. The "Eurasian Balkans" are important from the point of view of the historical and security ambitions of at least

three of the most immediate and most powerful neighbors, namely Russia, Turkey and Iran, and China also makes known its growing political interest in the region" [Bzhezinskiy, 1998, p.151].

Conclusions. The fact that the main resource for constructing the geopolitical spaces of the South Caucasus is largely the geopolitical space of Azerbaijan, allows us to conclude that the region was built at the expense of Azerbaijan and the desire of our state to build a new geopolitical image is natural and legitimate. The geopolitical stability of the region also depends on Azerbaijan's choice of strategic non-regional partners.

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THE EUROPEAN EXPERIENCE OF PUBLIC-PRIVATE PARTNERSHIP IN THE SHPHERE OF CYBERSECURITY: OPPORTUNITIES FOR UKRAINE

ЄВРОПЕЙСЬКИЙ ДОСВІД ДЕРЖАВНО-ПРИВАТНОГО ПАРТНЕРСТВА У СФЕРІ КІБЕРБЕЗПЕКИ: МОЖЛИВОСТІ ДЛЯ УКРАЇНИ

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Abstract. *The article examines the process of initiation and development of Public-Private Partnership (PPP) in the EU, including the Great Britain, in the field of cyber security. The main stages of the formation of the PPP are considered, the key factors contributing to the intensification of cooperation in this direction are analyzed, as well as challenges that arise during the development of the partnership.*

The description of the current state of the cyberspace of Ukraine is given, taking into account the problems of the development of PPP. The main advantages and disadvantages of the existing system are described and recommendations, which are likely options for the future development of PPP in the field of cyber security, are offered.

The opinion about the necessity of a thorough study of the problem of PPP development in the field of cyber security in Ukraine is advocated, taking into account the European experience according to a scientific and political-strategic context.

Key words: *public-private partnership, Europe, cyber security, Ukraine, models of cyber security partnership development, critical infrastructure objects.*

Анотація. *У статті досліджується процес започаткування та розвиток державно-приватного партнерства (ДПП) в ЄС, включно з Великобританією, у сфері кібербезпеки. Розглядаються головні етапи становлення ДПП, аналізуються ключові чинники, що сприяють інтенсифікації співробітництва за даним напрямком, а також виклики, які виникають при розбудові партнерства.*

Дається характеристика поточного стану кіберпростору України, з урахуванням проблематики становлення ДПП. Описуються основні недоліки і переваги наявної системи та пропонуються рекомендації, які є вірогідними варіантами майбутнього розвитку ДПП у сфері кібербезпеки.

Обстоюється думка про необхідність ґрунтовного дослідження проблеми розбудови ДПП у сфері кібербезпеки в Україні, з урахування європейського досвіду, у науковому та політико-стратегічному контексті.

Ключові слова. *державно-приватне партнерство, Європа, кібербезпека, Україна, моделі розвитку партнерства з кібербезпеки, об'єкти критичної інфраструктури.*

Problem statement. The mainstreaming of the issues of the study of the process of building the European Public-Private Partnership (PPP) in the field of cyber security can be explained by the significant increase of malicious cyber activities of other countries in Ukrainian area. It can be stated that in recent years, especially before the beginning and during the full-scale war of the Russian Federation against Ukraine, the problems of building a cyber security PPP (Cyber PPP – CPPP) have sharply come up. An important condition for increasing the stability and development of the cyber potential of the state is to ensure partnership with the private sector due to the creation of a legal basis for cooperation, a clear separation of powers of cyberspace subjects and the establishment of effective communication. In turn, the experience of developing the CPPP of European countries is unique that makes a necessity of a scientific analysis of various forms of interaction.

The purpose of the article is to determine problem issues and perspectives of forming the CPPP in Ukraine according to a study of the peculiarities of the European experience about creating the CPPP and consideration of the current state of the cyberspace of Ukraine. Trying to achieve this goal, the author sets himself the following tasks:

- to investigate the development of PPP in the field of cyber security in the European area;
- to describe the main problems of forming CPPP in Ukraine;
- to define a possible situation that can contribute to further progress in establishing a partnership between country and private sector in sphere of cyber security.

The analysis of recent research and publications. The issue of CPPP is under active consideration by a wide range of foreign and domestic scientists, including the agencies responsible for the implementation of the cyber security strategy. Among foreign researchers, their own interpretations of the CPPP are given by M. Carr, J. Grimmelmann, A. Jagasia, M. Kostiainen, V. Kouwenhoven, T. Moore. L. Clinton defends the thesis about the importance of coordinating the role of partners, responsibility and effective management of relationships to cover all areas of cyber security [*Clinton, 2011: 98*]. The key EU subject in sphere of CPPP is European Union Agency for Network and Information Security, ENISA is actively investigating the models and practice of PPP. During the research, we will be guided by the thorough studies of ENISA: Good Practice Guide on Cooperative Models for Effective PPPs and Public Private Partnerships (PPP) - Cooperative models, that reveal the problem issues of setting up CPPP in Europe. In turn, the formation of the general research position was influenced by works of scientists such as D. Dubov, A. Paziuk, V. Boyko, S. Hnatyuk, T. Isakova, M. Ozhevan, A. Pokrovska, O. Frolova, O Kuchmiy. NISS scientists have researched the problem of CPPP in detail, with an emphasis on the organizational and legal component of partnership in Ukraine. The views of many researchers reach a consensus on the need of the implementation of the CPPP in order to increase the level of stability of national security. S. Goldsmith, W. D. Eggers, note the importance of analyzing the problem of the form in which the CPPP should be implemented, and not whether the state needs a PPP in the sphere of cyber security in general.

Presentation of the main research outcomes. The innovation and dynamism of the development of cyberspace requires the deepening of cooperation and cooperation between subjects in order to increase the stability of a cyber security system, which is one of the "pillars" of international stability. According to the increase of the number of interactions and partnerships between elements - the state, the private sector, the scientific community, etc. – further institutionalization of relations, legal regulation and the creation of a certain PPP model are considered necessary. ENISA provides the following definition: «public – private partnership (PPP) is a long – term agreement/ cooperation/ collaboration between two or more public and private

sectors and has developed through history in many areas» [*ENISA, 2017: 7*]. Public-private partnership in the sphere of cyber security is an effective form of establishing cooperation between representatives of the public sector and private structures. It is worth noting that PPP is not only public-private cooperation, it also includes a clear system and established communication between public-public and private-private sectors.

European national cyber security strategies have a common element - cooperation at all levels, but due to the different understanding of culture and different political systems, there is no universal model for creating a CPPP, thus, in reality, any European model cannot work in another country. Due to the existing practical experience of European countries, it is possible to highlight certain challenges that all models face:

- a total absence of hierarchy of governance and legal framework, as well as dialogue and effective communication;
- lack of financial support from the state budget and other state resources, that does not correlate with the capabilities and expectations of the private sector;
- low level of popularization of CPPP among Small and Medium Enterprises (SME);

Acquis communautaire in the sphere of cyber security and arising the CPPP models in Europe started developing rapidly in recent years, what is proved by the level of cyber incidents in relation to European companies. The political context of the European Union includes several directives and strategies that have elements of cooperation in the field of digital technologies and cyber security. The Digital Single Market Strategy (DSM) 2015 reveals the role of the digital economy, which is closely related to the interaction of the private sector and the state. The goal is to create a favorable investment climate for digital networks, to develop investor confidence, and to establish conditions for the mobilization of private investments [*A Digital Single Market Strategy for Europe, 2015: 17*]. In the spring of 2022, political agreement was reached on a package of two regulatory acts: 25 March – Digital Markets Act, 23 April – Digital Services Act, the adoption of the text by the Council of the European Union expected [13]. This legislative package has two goals - to create a safer digital area and equal conditions for the development of innovation and competitiveness. The scope of the law included a large category of online services, from basic websites to internet infrastructure services and online platforms. The creation of an independent body which purpose will be to ensure the consistent application of the legislative package of DMA and DSA according to the principle of functioning of the European Data Protection Board is under consideration.

In 2013, the European Commission presented the Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace [*Cybersecurity Strategy of the European Union: An Open, Safe and Secure Cyberspace, 2013*]. This strategy indicates the importance of achieving cyber persistence as a strategic priority, and that effective cooperation between public authorities and the private sector is an important element of its provision.

Directive (EU) 2016/1148 – NIS Directive of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union [*Directive (EU) 2016/1148 of the European Parliament and of the Council of 6 July 2016 concerning measures for a high common level of security of network and information systems across the Union*] forms the first practical aspects of cooperation, in contrast to previous documents, for the development of the PPP structure in the field of cyber security in the European space. We can talk about increasing the level of awareness among operators of basic services, citizens, that is more easily achieved within the framework of PPP and that forms a general level of understanding. NIS Directive obliged states to identify service operators in certain sectors, which is also easier to implement through cooperation with the private-industrial sector, a especial importance has the issue of critical infrastructure protection. The implementation of the NIS Directive is not only about adjusting the legislation, but also about providing recommendations to the industry, including digital service providers, thus, there is an element of cooperation between public and private actors. In July 2016, the European Commission published a Communication on strengthening the European cyber resilience system and developing a competitive, innovative cyber security industry [*COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN*

PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Strengthening Europe's Cyber Resilience System and Fostering a Competitive and Innovative Cybersecurity Industry], that opened the way to the creation of a contractual public-private partnership platform – the European Cyber Security Organization (ECSO). ECSO unites representatives of national public administrations and the private sector and has to develop the PPP ecosystem in Europe through the forms of consultations and rational distribution of investments in research, innovation, which is co-financed through funds of the Horizon program. In accordance with the transformation of the threat from new ICT technologies, on May 13, 2022, a political consensus was reached on the text of the future document «the NIS2 Directive: A high common level of cybersecurity in the EU», which sets new goals for increasing the level of cyber persistence by introducing rules that ensure that all public and private organizations that implement important functions for the economy and society in the internal market are obliged to take appropriate cyber security measures. This is planned through the fixation of further coordination of 1) security requirements and incident reporting; 2) provisions that regulate national supervision and law enforcement; and 3) capabilities of relevant state structures [14].

Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA (the European Union Agency for Cybersecurity) and on information and communications technology cybersecurity certification and repealing Regulation (EU) No 526/2013 (Cybersecurity Act) [*Regulation (EU) 2019/881 of the European Parliament and of the Council of 17 April 2019 on ENISA*] has strengthened the powers of ENISA, giving the agency a key role in the cybersecurity certification system, as well as expanded operational cooperation and coordination in case of cross-border cyberattacks. Some provisions of the Cybersecurity Act are about:

- the importance of developing one's own digital technologies (startups, small and medium-sized enterprises), reducing dependence on foreign suppliers (item 3);
- formation of a competitive environment in the field of electronic communications, provision of information protection and cyber protection services, development of the internal market (items 4-5, 42);
- issues related not only to security technologies, but also to the category of human security (items 50-51).

In its nascent stage, the European models of PPP were defining certain motivational aspects for the establishment of cooperation. It should be noted that more than one reason is usually established to set up the CPPP, but we will consider the following:

- Regulatory requirements. In most cases, PPP in the field of cyber security includes the creation of regulatory requirements, or rather the development of a special law on PPP, which should already contain provisions on cybersecurity issues.
- Economic interests. The authority responsible for a PPP in the sphere of cyber security usually has to minimize obstacles for the development of the industry, ensure the access of ICT products to foreign markets. This may also concern legislative aspects and budgets, in order to adjust the burdens on the private sector and the state. The attraction is enhanced by the fact that the products are of adequate quality, as this can be guaranteed by government.
- Public relations. This aspect is a strong motivation for both participants in the process due to the opportunity of the private sector to participate in the creation of regulatory and legal documents, strategies, as well as to join the base of the public sector and to get confidential information. On the other hand, government bodies get the opportunity to access the ICT products, including Big Data, AI, HPC – supercomputers, etc., as well as they can see solutions, skills and, accordingly, greater understanding of critical infrastructure information protection (CII).

Taking into account the reasons for establishing cooperation, it is also worth noting that cooperation at the initial stage can exist as: Top Down (firstly there must be a strategy or legislative document); Bottom Up (the initiator community); Top Down then grown Bottom Up (there is some kind of strategy, but in the future the leading implementer is the private sector); Bottom Up then grown Top Down (an initiative from private entities that turn to state bodies, the latter take on a greater role in establishing the CPPP); Fire and Forget (a central body, creates a structure for the partnership, but once the partnership is established, provides autonomy); Split or merge (in the

beginning there is some restructuring due to the division into two or more subgroups, but when the relationship and the authority are established, they can unite).

Cultural and political differences are among the most important factors influencing the type and process of PPP model establishment, therefore, there is no common decision. In some countries, formality is an essential part of a PPP, while in others pragmatism will be important. In countries with a strong centralization of state administration, there will be a distance between PPP sectors, which is explained by the hierarchy of power and reluctance to assume authority. There is also a second approach, where states with a certain distribution of power will be more pragmatic and opened for establishing cooperation. Accordingly, these are more individual cases about a national issue.

ENISA researches: Good Practice Guide on Cooperative Models for Effective PPP and Public Private Partnerships (PPP) - Cooperative models identifies 4 types of PPP: institutional, goal-oriented, service outsourcing, hybrid.

Institutional PPP – this type of partnership has the main goal of protecting critical infrastructure, which is implemented due to a certain law with mentioning institutions that have to provide cyber protection of the CIF (critical infrastructure facilities). By this way the basis for cooperation is created, as state actors must take into account the needs, opportunities and challenges of private partners. This is explained by the fact that the private sector has more connections with the real situation in sphere of cyber security regarding CIF. The constant communication is explained by the fact that the parameters of reporting established by law can be limited. Such a PPP model depends on the motivation of civil servants to take cooperation responsibilities and to monitor the situation. The institutional PPP is regulated hierarchically and includes certain national competent authorities responsible for the protection of CIF, as well as cyber security agencies, law enforcement bodies and the academic community that develops support projects. The government allocates money from the budget for the work of the responsible body, which is entrusted with the task of protecting critical infrastructure, but usually does not allocate enough money to provide the services necessary to protect critical infrastructure. The rest of the community contributes to the PPP through voluntary contributions. Examples of successful cases of Institutional PPP are - Information System Administration (Riigi Infosusteemi Amet, RIA) in Estonia, CERT Estonia is part of RIA. Legislation regulates the activity due to the Estonian Emergency Act of 2014 [*Emergency Act*]. And the second example is Poland, the Government Security Center (Rządowe Centrum Bezpieczeństwa, RCB), an institution functions on the basis of the Crisis Management Act (Article 10), and responsible for the management and protection of critical infrastructure [15].

Goal-oriented PPP. This development model is created to achieve a specific goal, more often economic, and focused on providing strategic leadership, giving consultations about innovation to the government. The main participant is the cybersecurity community, including companies, CIF operators, and it generates the initiative, expressing its needs and requests for help to the state. The goal-oriented PPP usually implements management through the head, co-head, and support functions through the secretariat. Activities are done due to budgetary funds and mandatory payments that depend on the type of initiative participant. Examples of such a PPP model is 6 initiatives. Cyber Growth Partnership (CGP) in the UK, where the initiative was launched by the private sector and the condition for participation is that the company can have a large market presence and investment in cybersecurity, so the membership list is updated every year. The co – chair is provided by the minister and the Director – General of a large private entity, the board is provided by representatives of the private sector and the secretariat is provided by the government. Security Made in Luxembourg (SMILE), launched by the Ministry of economy and run by the state, the board and President provide the government, the private sector provides specific services to implement the provisions of legal acts. The joint rule is ensured by minister and director general of a big private entity, rule is ensured by representatives of private sector, secretariat – by government. Security Made in Luxemburg (SMILE) was set up by Ministry of Economy and is ruled by country, the rule and the President ensure the government, the private sector provides certain services for implementation of legal acts. Also, in Austria, the government controls the cybersecurity platform

(CSP) represented by the secretariat, there are representatives of the Federal Chancellor. The cybersecurity council in the Netherlands is an official independent consultative council (ruled by both the public and the private sectors) and its main task is to monitor the implementation of the cybersecurity strategy. The Slovak cybersecurity commission (CSC) is an consultative body of the director of the Office of national security. Spanish industrial safety technology platform – is a private sector association dedicated to protecting CIF. AEI Ciber seguridad y Tecnologia Avanzadas leads the industry and helps cybersecurity companies to promote their services to the market and receive funding from EU programs. Both platforms are entirely managed by private entities.

Service outsourcing PPP – this is when the government recognizes the needs of the industry, but does not have enough resources, so the goal of outsourcing cybersecurity services is to raise awareness among the community. The rule is provided by the private sector through the organization and there is a principle of consensus in decision-making, or the secretariat is the government and decisions are made by the private sector. This type is funded by mandatory contributions and government subsidies, but it is difficult for companies to argue why they should pay contributions to the PPP. Kuratorium Sicheres Österreich (KSÖ) in Austria was established by the Ministry of the interior, since 2010 it is independent and implements a national dialogue on cybersecurity. In cooperation with the industrial sector in 2018 it initiated the "Digital Security Platform". Up KRITIS in Germany is a platform of CIF and the state that includes about 500 organizations.

Hybrid PPP is a partial merger of two PPP models: cybersecurity outsourcing and institutional PPP. Hybrid PPPs are related to the provision of services, and therefore CSIRT is responsible of implementation. It is interesting that the security service is transferred to a private company and this can be said about the government CERT (Gov.CERT) In Austria, where the head is the director of one of the Departments of the Federal Chancellor, and all the functionality is provided by a private company. CSIRT.CZ is managed by CZ.NIC, which is a non-profit organization. Such national CSIRT groups are groups that have received a mandate from the government. Governmental CSIRT groups are usually created to protect the Cyberspace of government agencies. Funding depends on the structure. For example CZ.NIC has an entry fee starting from 1,000 euros and allocates part of this money to CSIRT. The Austrian Gov.CERT is funded by the Chancellor and participation in the PPP is free of charge.

That is why, a cursory analysis shows that making a trustable relationship between public-private, private-private, and public-public partners is a problem when a PPP model creates, and there is no unified standard model.

The importance of implementing the CPPP model in Ukraine is argued by the specifics of this area. Firstly, cyber security is one of the spheres of national security, which deals with the private sector because of the issue of protection of critical infrastructure facilities (CIFs) and critical information infrastructure facilities (CIIFs). The building of relations, legal basis and platforms for the implementation of the CPPP is relevant today because of the intensification of the Russian Federation's actions in cyberspace, as well as because of the growing participation of activists, public structures and representatives of the IT business. The second argument indicates that the leading role and expertise in cyberwar issues are provided by representatives of the non-state sector. The most observed participation of representatives of the red team and pentesters, that both can be classified as – "Grey hat". They do not have a negative impact on the system, unlike "Black hat", and what is currently positive for activists is that at least in March 2022 the Criminal Code of Ukraine was amended. According to the amendments, the bug bounty of state information systems is legal. It is currently necessary to involve specialists in cyberspace defense who should also understand the process of dialogue with the authorities, because cyberspace, in fact, eliminates the difference between a private and a state entity. Anyway, the hacking of CIF, CIF or data of a state institution can have devastating consequences for national security.

It is worth mentioning the Global Cybersecurity Index implemented by the ITU, which has 5 assessment indices (criteria), which are legal measures, technical measures, organizational

measures, capacity development, and cooperation. We should pay attention to the 5th one - cooperation, that PPP includes too. The Global Cybersecurity Index for 2020 covers more than 160 countries with a clear geographical distribution, and here Ukraine has a total of 65.93, and for cooperation 12.87 out of 20 points, one of the lowest ratings of European countries. Only the Balkan states have lower indicators. Talking about close and friendly Poland, we can notice it has 93.86 and 20 for cooperation. The Russian Federation is 98.06 and 20 points [*ITU, 2020*]. According to the ITU rating, the problem of the asymmetry of forces in the cyber area and the question whether the Ukrainian cyber security system is still stable arise. The low level of CPPP in Ukraine is one more factor of the relevance in providing its own model of PPP in the field of cyber security.

A fundamental problem of the Ukrainian legal field is weaknesses in the wording (low clarity, gaps, overlapping, misleading, etc.) used to describe the tasks/functions of each state body. Our task is not to analyze the position of all the main subjects of cyber security of Ukraine, but taking into account the 3 structures of the State Service for Special Communications and Information Protection SSSCIP, the Ministry of Digital Transformation (MDT) and the National Coordination Center for Cyber Security at the NSDC. It can be concluded that SSSCIP and MDT have the biggest amount of terms overlapping. Especially it concerns terms of functioning. It is not clear who is responsible and for what. If we turn to the Law of Ukraine On Public-Private Partnership, we will notice it does not have provisions about the implementation of the CPPP, but the Law of Ukraine On the Basic Principles of Cyber Security in Article 10 talks about how public-private interaction should be implemented. This creates a legal vacuum again, because of uncertain understanding the definitions "partnership" and "interaction". 11 provisions of Article 10 of this Law outline the ways and means of this interaction [*Zakon Ukrainy Pro osnovni zasady zabezpechennia kiberbezpeky Ukrainy*]. Taking into account that MDT is not specified as the main entity of the national cyber security system, some provisions on public-private interaction clearly indicate the functionality of the MDT. Therefore, this may be the first case on the way to the separation of responsible persons for the CPPP in Ukraine – further development of the main law on cyber security, defining the definitions of "interaction" and "partnership", as well as the development of a special act on the CPPP with the definition of the responsible parties.

Currently, we can see that these 3 entities SSSCIP, MDT and NSDC sign contracts about cooperation with states, agencies (for example, SSSCIP entered into a contract with the Department of National Security of the United States of America (CISA) in July 2022). MDT focuses on large industrial IT companies and NSDC conducts meetings with governmental structures of countries friendly to Ukraine. For example, CCDCOE, NATO. However, the problem of who should coordinate the model of the CPPP in Ukraine exists. In addition to the recommendation of the NISD publication [*Dubov, 2018: 75-81*] another option for the development of the CPPP is proposed. As the NSDC according to its Regulations, is responsible for the coordination and control of the activities of security and defense sector entities that provide cyber security [*Polozhennia pro Natsionalnyi koordynatsiinyi tsentr kiberbezpeky],* we can understand that it is this body that should undertake the initiation of the platform for the CPPP. The argument for giving a coordinating role to this body can be that according to most PPP models in Europe and according to the list of Network of National Coordination Centers [16], it is the government bodies entrusted with the functions of defense and the implementation of state policy in the field of security that are the leading structures and the responsible subjects in the future. That is why it is suggested to start the initiative from up and choose the "Hybrid PPP" model. With regard to the case of the activation of the cyber community with the beginning of a full-scale war, the motivation of the private sector is already available due to the context of the war and Ukraine has a wide range of representatives from the IT army, communities of Ukrainian hacktivists (for example, Ukrainian Cyber Alliance) to manufacturers of solutions and products, and most professionals are really interested in engaging in communication with the authorities to develop new regulations, strategies, and currently to protect themselves in the legal field through actions in cyberspace. According to the activation of the cyber community with the beginning of a full-scale war, the motivation of the private sector exists already

due to the context of the war and Ukraine has a wide range of representatives starting from the IT army, communities of Ukrainian hacktivists (for example, Ukrainian Cyber Alliance) to bodies that have right to make decision and produce products. Majority of the professionals are really interested in participation in communication with the authorities to develop new regulations, strategies, and currently to protect themselves in the legal field through actions in cyberspace. Probably the secretariat of the future platform can consist of representatives of specialized departments of the main cyber security entities. It should be ruled by NSDC and a representative from the private sector. According to the wide range of the cyber community, a certain consultative group should be created from representatives of various sectors of the IKT market of Ukraine. Understanding the budgetary and resource capabilities of the state, among the main revenues from the budget, according to the European analogy, there should be mechanisms for membership contributions to the platform, taking into account the type and size of the private entity. Periodic consultation with all community stakeholders should be ensured according to the motivation of the private sector. Currently, an example of a platform for the exchange of views is the National Cyber Security Cluster, which is organized by NSDC in cooperation with the US Civilian Research and Development Fund with support of the US Department of State CRDF Global. Due to this, representatives-partners from the state (including representatives of the defense sector and security), private companies (for example, Yegor Aushev - the founder of Cyber Unit Technologies) join the academic community and international partners (representatives of NATO, CISA). The national cluster has already put on the agenda the issue of best practices in the field of CPPP. It should continue the discussion in order to accelerate the process of forming the CPPP. The motivation for the private sector will also be the possibility of access to the development of future cyber security strategies and of giving recommendations about the improvement and development of regulatory and legal acts. This common work on a strategic document will make possible to create a "Strategy of public-private partnership in the field of cyber security" or a conceptual document. Existence of a legal framework will allow each involved party to know exactly its role, responsibilities and what contribution is expected.

Conclusions. Despite the fact that the CPPP is a mutually beneficial form of partnership for both sides – the public and private sectors, in the European area there is a fragmentation of approaches to the development and functioning of the CPPP structure. This occurs because of many factors. All countries in the European area have their own unique aspects of the CPPP, but they are united by the general idea that the CPPP is a basic element for increasing the persistence and development of cyber defense of all subjects. Issues of trust and control are the most essential problems, as well as the ongoing dilemma of whether these structures will be effective in case of massive cyberattacks. There is no European country that has the unique experience of cyberattacks combined with classic military methods and that has a high level of civil society involvement. Thus, taking into account the unique political experience and cultural heritage of each state, we cannot expect the adoption of a certain practice of establishing PPPs in the field of cyber security. Currently, only basic legal acts needed for creation a legal base for the CPPP (with a number of controversial, abstract provisions) have been adopted in Ukraine. Although both the private sector and the public sector demonstrate significant potential for the creation of a national system of CPPP.

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УДК 321

THE "ARAB SPRING" AND THE US PARTICIPATION IN THE "HUMANITARIAN INTERVENTION" IN LIBYA

"АРАБСЬКА ВЕСНА" І УЧАСТЬ США В "ГУМАНІТАРНІЙ ІНТЕРВЕНЦІЇ" В ЛІВІЇ

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Abstract. *The article examines in detail the attitude of the United States to the "Arab Spring", issues related to their participation in the "humanitarian intervention" in Libya. In order to better analyze the Obama administration's approach to the spread of democracy in foreign policy practice, it is necessary to look at how it reacts to events taking place in the context of democratization around the world. After the terror of 2001, new elements of the manifestation and methods of applying the "humanitarian intervention" of the United States are emerging, one of the clearest examples of which is America's participation in humanitarian intervention in Libya.*

Key words: *USA, Libya, Humanitarian intervention, Arab spring, democracy, rights and freedoms, Obama administration.*

Анотація. *У статті детально розглядається ставлення Сполучених Штатів до "арабської весни", питання, повэязані з їх участю в "гуманітарній інтервенції" в Лівії. Щоб краще проаналізувати підхід адміністрації Обами до поширення демократії в зовнішньополітичній практиці, необхідно подивитися, як вона реагує на події, що відбуваються в контексті демократизації по всьому світу. Після терору 2001 року з'являються нові елементи прояву і методи застосування "гуманітарної інтервенції" Сполучених Штатів, одним з найяскравіших прикладів чого є участь Америки в гуманітарній інтервенції в Лівії.*

Ключові слова: *США, Лівія, гуманітарна інтервенція, арабська весна, демократія, права і свободи, адміністрація Обами.*

Introduction. The main event on which the Obama administration's policy on the spread of democracy was tested was the popular uprisings, which were described as the "Arab Spring" and covered many countries of the Middle East and North Africa. In the face of the popular uprisings that began in Tunisia on December 17, 2010, and then spread to many countries, leading to the overthrow of leaders in Tunisia, Egypt, Libya and Yemen, it was very difficult for the Obama administration to clarify its policy. This is due to the fact that the Obama administration, realizing the historical mission of the United States, faced a dilemma to correct the negative image of its predecessor regarding the spread of democracy in the Arab world and its mission to support democratic uprisings. In addition, in some countries, the organization of demonstrations against leaders who are US allies has made it difficult for the Obama administration to explain its position.

The purpose of the research is to determine the place of the idea of spreading democracy in the foreign policy of the Obama administration and study it on the example of humanitarian intervention in Libya.

The latest literature review. In recent years, scholars have paid considerable attention the "Arab Spring" related to their participation in the "humanitarian intervention" in Libya. Here we can specify the works of such authors as Marshall A., Asgarova N.N., Stewart P. and others who have covered this problem.

Research results. The promises made by Obama during his coming to power instilled confidence in the peoples living in the region that peace and stability will be established in the Middle East, which can be expected. The spread of various versions that Obama was a Muslim gave people confidence that this hope could be justified. The movement, called the "Arab Spring", was initiated by people inspired by universal ideas and thoughts demanding an end to the authoritarian regime and bribery, freedom, and social justice. The difference between the policies pursued by Obama and Bush was only that Obama focused his attention not on military power, but on the discontented masses and their activities promoted through social networks [Əsgərova, 2018, pp.116-117].

The "Arab Spring" in the Middle East has once again reminded the whole world of the concept of "humanitarian interventions". First of all, we are talking about the events in Libya in 2011. The outbreak of the civil war in February 2011 was caused by various factors. The driving force was educated youth who actively used modern social networks (for example, Facebook). Young people were dissatisfied with the socio-economic and political situation in the country: high unemployment and food prices, the inability to move up the social ladder, the rule of lawlessness, complete lack of political rights in conditions of corruption, rigid authoritarianism. In addition, there was a traditional enmity between the clans: conflicts between the eastern province – Cyrenaica and the Western – Tripolitania [Intervyu s Vitaliem Naumkinyim, 2011].

Despite serious arguments in favor of internal trends that led to the start of protest movements, unlike other countries in the Middle East that were swept up in a wave of protest movements, external intervention in Libya played an important role.

The events in the Balkans in the 1990s were logically repeated in Libya in 2011. After the outbreak of armed clashes, the UN Security Council imposes sanctions against the regime of Muammar Gaddafi by resolution 1970 of February 26, 2011. In the document, the UN Security Council member countries demanded to stop human rights violations, ensure the arrival of international observers in the country, impose an arms embargo, and call on all countries to freeze the accounts of Muammar Gaddafi, his relatives and friends [U.N. Security Council Resolution № 1970, 2011)].

Nevertheless, the postulates of the resolution are clearly violated: Libya has received weapons for both government troops and rebel groups. Russian Foreign Minister Sergey Lavrov said in an interview on September 27, 2011: "We believe that the reputation of the UN Security Council has been damaged, because, in my opinion, no one has obviously ever violated decisions in such a rude way. It has already been openly acknowledged that even the 1970 resolution, adopted by consensus and providing for the introduction of a full military embargo on arms trade and military services with Libya, was violated" [Intervyu s Vitaliem Naumkinyim, 2011]. Such activities contributed to the further aggravation of the conflict and foreshadowed the possible armed intervention of international forces.

Western countries saw the main source of all the troubles in Libya in the ruler Muammar Gaddafi. His personality was in the center of attention of the entire world community, as was the figure of Milosevic. He became the main criminal accused of violating human rights. As a result of the intolerance of government forces towards the opposition and an increasing number of armed clashes, on March 17, 2011, the UN Security Council adopted resolution 1973 banning flights of Libyan aircraft [U.N. Security Council Resolution № 1973, 2011)]. At the same time, in this document, the members of the UN Security Council called on other countries and regional organizations to take all necessary measures to protect the civilian population throughout Libya, but ruled out the occupation of the territory of Libya by another state. As in the case of Kosovo, NATO countries, mainly the United States and France, have begun to actively carry out humanitarian and

military intervention in Libya, declaring to the whole world that they are protecting the rights of the Libyan civilian population fighting for liberation from a ruthless dictator.

The United States reacted for the first time to the protests in Libya, which began on December 17, 2010, on February 24. The fact that Obama stressed the need for the world to take a unified position in the face of the crisis, and told then US Secretary of State Hillary Clinton that he would go to Geneva, Switzerland, for consultations with other countries, was a hint of the US desire to share responsibility here. By saying that the Gaddafi government must respond, Obama thus demonstrated that he has the right to protest in Libya.

The harsh steps taken by Muammar Gaddafi to suppress the protests have again put the US-Libyan relations in a tense state. The Obama administration has started imposing sanctions again, severing relations with Gaddafi. Obama decided to freeze Gaddafi's assets in the United States in the amount of about $ 30 billion, so as not to use them against the opposition during the revolution. $150 million of these assets were used to support the opposition. The most obvious step, showing the extent to which the uprising that began in Libya affected relations, was made by White House Press Secretary Jay Carney. Carney said Gaddafi's legitimacy had fallen to zero. After these statements, the United States gradually resumed its support for the opposition and moved away from a joint decision in which Gaddafi would also participate.

Senior officials of the Obama administration actively participated in the information and psychological conflict during the Libyan war. U.S. Secretary of State H.Clinton accused the forces of Libyan leader Muammar Gaddafi of using violence against women as a "tool of war" in June 2011. Hillary Clinton said the United States is "deeply concerned" by news of widespread violence in Libya and "concerned" by news of the use of sexual violence by governments in the Middle East and North Africa to punish protesters. "There have been cases of violence, physical intimidation, sexual harassment and even so-called "virginity tests" in the countries of the region" [Clinton Accuses Gaddafi of Using Rape as a Tool, 2011].

At the same time, one of the key respondents of Amnesty International, who was in Libya for three months after the start of the uprising against Gaddafi, said: "We have not found any evidence, not even a doctor who knew about at least one person who was a victim of violence or someone who was subjected to violence" [Marshall, A. G., 2011)].

Looking at the real situation in this process, we can say that Barack Obama shaped his Libyan policy based on three factors. These are: 1. Comprehensive economic sanctions 2. Travel restrictions on Libyan citizens 3. The role of the United States in possible military intervention and methods of intervention.

With the outbreak of unrest in Libya, economic sanctions quickly came into force, as well as travel restrictions were imposed. The possibility of intervention, the third and most important point, has been an issue that the Obama administration has been working on and has been striving for a long time.

The US distancing itself from the situation in Libya, first of all, showed the goal of developing a policy in accordance with the development of events. Two days after President Obama's statement, adopted on February 26, 2011, the UN Security Council began to involve him in the process in Libya. This decision condemned Gaddafi's violation of human rights against his people. The Obama administration's intervention in Libya began with the imposition of economic sanctions ten days after the unrest began. This situation can also be seen as a manifestation of Obama's desire to intervene in Libya. It can be said that the US desire to intervene in Libya stems from the Obama administration's security concept. The idea that instability in Libya could lead to an influx of refugees to Europe and that this situation could negatively affect US European allies played an important role in the intervention. Indeed, the flow of refugees from and through Libya, led by Italy and Greece, has from time to time led to humanitarian crises in the Mediterranean.

Barack Obama wanted to reflect the lessons learned from the mistakes of the George Bush era regarding foreign policy under the following headings:

1. Interventions will be costly.
2. The US should not act alone.

3. Regional interventions are possible indirectly, in other words, by proxy.

4. The US must act together with global and regional organizations when it comes to humanitarian intervention.

The processes taking place in the Middle East and North Africa in the early years of Obama's presidency required the United States to develop new methods and concepts in foreign policy. In foreign policy, Obama's priorities were not to repeat the mistakes of the George Bush era and to increase the economic power of the United States. After the overthrow of these regimes, the United States, which had been developing relations with authoritarian regimes in these regions for many years, it was important to reflect the priorities of decision-making processes in foreign policy, as well as the policies they would follow. It was expected that the United States would approach the new era taking into account national interests. If we look at this issue specifically in Libya, Barack Obama said that he made the biggest mistake during his presidency in Libya.

Relations between the United States and Libya, built during the George Bush era on the basis of "neither friendship nor enmity," have entered a new era. But improving relations could further strengthen the regime in Libya and lead to maintaining the status quo. Muammar Gaddafi's regime was by no means an ideal partner for US interests. How should the US deal with the increasingly authoritarian Gaddafi regime? In response to this question, two reviews came to the fore. These are: 1) it is better to intervene in Libya than to stay away from it, especially given the existence of other countries and the advantages they can take advantage of. 2) While Muammar Gaddafi is in power, the US should stay away from Libya. Staying clean is a better choice than getting tangled up in the Libyan issue and getting dirty.

The second opinion has lost its influence over time. The US had more advantages in an oil-rich country like Libya. In addition, the attempts of the Gaddafi regime to improve relations with the United States were enough for Washington to forget about the second opinion. The first glance was noticeable even under Barack Obama. Being in Libya was a better choice than staying outside Libya.

During the time of Barack Obama, the 2010 National Security Document, planned in contrast to the Bush Jr. era, had an extensive conceptualization of security and a very specific understanding. With Obama, the concept of US security has changed dramatically. According to George Bush, countries like Iraq and Afghanistan had to be transformed and democratized militarily. Because democracy was considered a moral responsibility and a strategic benefit. In this regard, while the George W. Bush administration pursued a more interventionist and narrow security perception policy, Obama's priorities were different. According to Obama, the United States should remain a superpower, but for this it is necessary to create a powerful economic potential. In this context, the Obama administration, unlike the Bush administration, preferred to share the responsibilities of the United States around the world with its allies rather than take on them alone. For Obama, who considered the American economy a priority, it was "stupid" to incur economic losses as a result of international interference, and interference should be avoided. Shortly after taking office, the situation in the Middle East and North Africa provided an important opportunity to test Obama's foreign policy [Stewart, P., 2011].

As reflected in the statements of President Obama and Secretary of State Hillary Clinton in the following days of unrest in Libya, Muammar Gaddafi's use of force against his people was a violation of human rights, and this situation could not be ignored. Although this side of events is reflected in the statements, the price of oil exceeded $ 100 per barrel for the first time since 2008 after the events in Libya, which has rich oil reserves. It was predicted that such a situation would damage the economies of the US and the EU. On the other hand, while long-standing bad relations with Libya tended to improve under Bush, Gaddafi was a leader who was viewed with suspicion in terms of being a reliable partner for the United States. That's why a democratic Libya without Gaddafi was the most suitable option for the United States. It was also very important that the axis of strategically important Libya shifted to the west in response to China's growing influence on the African continent.

The fact that the US does not want to act independently in connection with the events in Libya, but rather prefers to act by making joint decisions with international organizations such as the UN and NATO, was also reflected in Obama's statements. However, in order to make a decision in this direction from the UN Security Council, it was necessary to coordinate two states; Russia and China. On the other hand, NATO's commitment to unanimous decision-making required all member countries to be ready to intervene. Among the states that avoided an open position at the beginning of the events were Germany and Turkey.

The UN Security Council met on March 17, 2011 to decide what happened in Libya. Five permanent members and ten non-permanent Member States voted. The USA, Great Britain, France, Bosnia and Herzegovina, Colombia, Gabon, Portugal, Lebanon, Nigeria, South Africa abstained, China, Russia, India, Germany and Brazil abstained. The resolution was adopted with 10 votes in favor and 5 abstentions [OON: Mezhdousobnaya borba v Livii privodit k massovyim peremescheniyam naseleniya, 2021].

After the decision, a meeting was held at noon on March 19, 2011 with the participation of French President Nicolas Sarkozy, UN Secretary – General Ban Ki-moon, US Secretary of State Hillary Clinton, British Prime Minister David Cameron and German Chancellor Angela Merkel. After the meeting, airstrikes were carried out in Libya. On March 27, NATO Secretary General Rasmussen announced that NATO would take over all military operations in Libya to ensure full implementation of the UN resolutions of 1970 and 1973. NATO assumed full military responsibility on March 31. In a NATO statement on April 1, it was announced that the Libyan mission consists of three elements. The mission in question was defined as the control of the international arms embargo on Libya, the introduction of a no-fly zone and the protection of civilians from the threat of attack or attack [Stewart, P., 2011].

The essence of the intervention in Libya was based on the doctrine of the so-called "responsibility to protect" adopted by the United States before the "Arab Spring". This doctrine is based on three main approaches. These approaches:

1. Obligation to protect against genocide, war crimes and crimes against humanity;
2. The obligation of developing countries to protect mutual support of the situations specified in the first approach;
3. The obligation to protect, aimed at intervening in the situations specified in the first approach, through the UN.

The form and logic of intervention in Libya were ready for the United States, since this doctrine was to become the basis of humanitarian interventions. However, the goal of humanitarian intervention with the concept of responsibility for preservation has turned into an insincere policy with logistics and significant intelligence support provided to the opposition in Libya before the intervention.

The intervention was aimed at overthrowing the regime, not humanitarian content. US Secretary of Defense Robert Gates announced that the main purpose of the intervention in the first stage would be to attack regime soldiers, cut supply lines and target ammunition depots. This situation showed that the original goal was to overthrow the regime, not to end the humanitarian crisis. According to the statement of the US Ambassador to the UN, Susan Rice, the belief that Muammar Gaddafi's uprising in Libya could lead to a situation similar to what happened in Rwanda became the basis for supporting intervention.

On August 4, 2011, the Obama administration adopted the directive on "Mass Crimes" (PSD-10) [Presidential Study Directive on Mass Atrocities, 2011]. This document reflected the prevention of mass crimes as the main area of national security and moral responsibility of the United States. Most importantly, the directive gave the United States the right to fight massive human rights violations using both economic sanctions and warships [Stewart, P., 2011]. Thus, the country's leadership assumed that the concept of "humanitarian interventions" could be used in the future.

The example of the Bosnian, Kosovo and Macedonian crises in the Balkans shows how and what methods the United States used to achieve its goal. Here we can draw many parallels with the

policy of the United States and NATO regarding the situation around Libya (2011). In the conflict in Libya, Washington avoided direct armed intervention, actually authorized by the UN Security Council (as in the conflict in Kosovo in 1999), as well as direct support for the opposition (as in Serbia in 2000) and active information warfare (Albanian freedom fighters of Kosovo, Libya used such efforts as creating a positive image of the opposition and involving allies (as in the NATO operation in Kosovo) and actively lobbying their interests and evading agreements that they do not consider useful (as in Macedonia in 2001). The methods and mechanisms of action of the United States and its allies in Libya were not new, all of them have already been actively and successfully tested within the framework of the concept of "humanitarian interventions" under the guise of fighting for human rights in the Balkans.

The military campaign, which lasted almost 8 months, led to the overthrow of the Gaddafi government and the liquidation of the Jamahiriya, a special public (according to some experts of the state) body that existed in Libya from 1977 to 2011. Power in the country has passed into the hands of the National Transitional Council. The intervention also led to the outbreak of the Second Libyan Civil War and the strengthening of the Islamic State in Libya. After that, a stable Government has not been formed in the country, and a high level of political instability remains. It was not possible to establish the total number of dead and wounded. According to some reports, more than 700 civilians were killed and more than 4,000 wounded. According to other estimates, 1,100 people were killed and 4,500 injured as a result of the bombing by NATO aircraft [Zhertvyi natovskih bombardirovok v Livii, 2012, p.54]. During the armed conflict, more than 400,000 refugees were forced to leave Libya [OON: Mezhdousobnaya borba v Livii privodit k massovyim peremescheniyam naseleniya, 2021].

In practice, Obama has ensured that the United States does not act alone on the issue of intervention in Libya. As with the interventions in Iraq and Afghanistan, he avoided direct military intervention, which would have resulted in high costs. In Syria, it was necessary to make huge efforts to overthrow the regime of Bashar al-Assad supported by Iran and Russia. In this context, Obama has achieved another goal by participating in Syria not directly, but by proxy.

Conclusions. Thus, NATO's humanitarian intervention in Libya under the leadership of the United States ultimately did not lead to the full restoration of the violated rights of Libyans, the emergence of a new democracy, where power simply changed, and the Middle East country, which has been leading in recent years in terms of social welfare, plunged into the vortex of civil war. In other words, the humanitarian intervention in Libya has not been successful. Along with the failure of democratization in Libya, the gaps in power created a favorable environment for Al-Qaeda and ISIS and made Libya a potential source of terrorist organizations. Although the Libyan Government's military operations to clean up these organizations have significantly reduced the influence of terrorist organizations, the struggle for power has dragged Libya into a civil war.

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СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

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THE CONCEPT OF JURISDICTION IN INTERNATIONAL LAW

КОНЦЕПЦІЯ ЮРИСДИКЦІЇ У МІЖНАРОДНОМУ ПРАВІ

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Abstract. *The article analyzes the notion and types of jurisdiction in the doctrine of international law as well as in treaty law and international court practice. The author considers main restrictions of jurisdiction of a state within national boundaries and in international territories as well as the issue of conflict of jurisdictions from the perspective of Public and Private International Law. The article concludes that modern legal doctrine and treaty law witness that jurisdiction has become an established institute of international law which has its own principles and sources; it embraces all branches of international law and, thus, may be characterized a system-wide institute of international law.*

Key words: *jurisdiction, international law, state, court, restriction, conflict*.

Анотація. *У статті проаналізовано поняття та види юрисдикції в доктрині міжнародного права, а також у договірному праві та міжнародній судовій практиці. Автор розглядає основні обмеження юрисдикції держави в межах національних кордонів і в міжнародних територіях, а також питання конфлікту юрисдикцій з точки зору міжнародного публічного та приватного права. У статті робиться висновок, що сучасна правова доктрина та договірне право свідчать про те, що юрисдикція стала усталеним інститутом міжнародного права, який має власні принципи та джерела; він охоплює всі галузі міжнародного права і тому може бути охарактеризований як загальносистемний інститут міжнародного права.*

Ключові слова: юрисдикція, міжнародне право, держава, суд, обмеження, конфлікт.

Introduction. For every lawyer, regardless of whether he or she is working in domestic or international law, ‘jurisdiction’ is a constant companion [Allen et al, 2019]. The Vienna Convention on the Law of Treaties (1969) is usually called a ‘treaty on treaties’, while the customary rules of international law on jurisdiction are called ‘law on laws’ [Ryngaert, 2015a]. The concept of jurisdiction is one of the fundamental institutes in international law which paves the way for the correct application of other legal rules and principles. That’s why it is important for every lawyer to understand the theoretical basics, features of the jurisdiction of a state and of an international body, and know how to resolve different conflicts of jurisdiction in Public and Private International Law. This topic is of paramount importance for national scholars and experts, given the unprecedented quantity of proceedings instituted by Ukraine against Russia in the aftermath of its aggression before universal and regional courts. Most proceedings are at the preliminary objections’ stage,

thus, the theory of jurisdiction may become a helpful practical instrument in bringing the aggressor to international responsibility.

The purpose of the research is to investigate the notion and types of jurisdiction in the doctrine of international law as well as in treaty law and international court practice; to analyze main restrictions of jurisdiction of a state within national boundaries and in international territories; to consider the issue of conflict of jurisdictions from the perspective of Public and Private International Law.

Recent literature review. The issue of jurisdiction has been duly elaborated in academic literature. It was highlighted in the works of prominent foreign authors, such as M. Evans, M. Shaw, C. Ryngaert, S. Allen, A. Mills, M. Fitzmaurice, D. Costelloe, P. Gragl, E. Guntrip, K. Tuori, S. Beaulac, N. Yahaya, S. Wittich, H. Quane, P. S. Berman, M. Valverde, Sh. McVeigh, D. Kritsiotis, K.N. Trapp, W. Vandenhole, J. Summers, etc. Meanwhile, Ukrainian authors didn't pay enough attention to this question.

Main research results. The term 'jurisdiction' has a lot of different meanings in law and doctrine. One of the meanings of this word, derived from the Latin, is 'to speak the law' (in Latin – *ius dicere*). In Ancient Rome, the word '*jurisdictio*' meant 'justice' or 'judicial proceedings'. It was also interpreted as the magistrate's power 'to determine the law and, in accordance with it, to settle disputes concerning persons and property within his forum (sphere of authority)' [Allen et al, 2019]. For Renaissance jurists in Europe, the concept of jurisdiction related to establishing the authority of a supreme power charged with the obligation of securing justice and equity [McVeigh, 2019].

In modern doctrine of international law, there are several definitions of the term 'jurisdiction'. For example, the Oxford Handbook of Jurisdiction in International Law (2019) defines the jurisdiction as the 'ability (as well as the limits thereof) for a state or other regulatory authority to exert legal power – in making, enforcing and adjudicating normativity – over persons, things, and places' [Beaulac, 2019]. Jurisdiction is described in the 'International Law' book edited by M. Evans (2006) as 'the limits of the legal competence of a State or other regulatory authority (such as the European Community) to make, apply, and enforce rules of conduct upon persons' as well as 'the scope of the right of an international tribunal, such as the International Court of Justice or the International Criminal Court, to adjudicate upon cases and to make orders in respect of the parties to them' [Evans, 2006]. M. Shaw in his 'International Law' book (2008) defines jurisdiction as 'the power of the state under international law to regulate or otherwise impact upon people, property and circumstances and reflects the basic principles of state sovereignty, equality of states and non-interference in domestic affairs' [Shaw, 2008]. Looking through such definitions, we may conclude that legal scholars link the concept of jurisdiction to state sovereignty, from one side, and to international courts, from the other.

The doctrine of international law analyzes the correlation between concepts of 'sovereignty' and 'jurisdiction'. Sovereignty is usually defined as the highest power of a state to be independent in internal and foreign relations as well as full supremacy of a state on its own territory, in relation to its own national natural, legal persons, and independence in international relations. The supremacy of a state within its territory embraces the jurisdiction of that state, thus, jurisdiction stems from the sovereignty or, in other words, sovereignty is primary and jurisdiction is derivative from the sovereignty. If one state exercises its powers beyond its national territory, it may enter into conflict with another state's jurisdiction. Concerning the jurisdiction of international courts, lawyers usually perceive it in relation to subject matter of a case (substantive jurisdiction – *ratione materiae*), persons involved in the case (personal jurisdiction – *ratione personae*), place and time of the events linked to that case (spatial jurisdiction – *ratione loci* and temporary jurisdiction – *ratione temporis*, respectively). Some authors claim that in Public International Law the notion of

'jurisdiction' is usually used in a broader sense than it is used domestically or in Private International Law: in Public International Law, it encompasses any exercise of regulatory power, while in national legal orders and in Private International Law, it relates specifically to the powers of courts and tribunals [Mills, 2014].

The term 'jurisdiction' is not explicitly defined in modern treaty law. In some treaties, the jurisdiction is considered as the exercise of sovereign power of a state over certain territories, persons or objects. For example, the UN Convention on the Law of the Sea (1982) in Article 56 proclaims that in the exclusive economic zone, the coastal state has jurisdiction with regard to the establishment and use of artificial islands, installations and structures; marine scientific research; the protection and preservation of the marine environment [UN Convention, 1982]. Article VIII of the Antarctic Treaty (1959) provides that in order to facilitate the exercise of their functions under the present Treaty, designated observers, scientific personnel and members of the staffs shall be subject only to the jurisdiction of the Contracting Party of which they are nationals in respect to all acts or omissions occurring while they are in Antarctica for the purpose of exercising their functions [Antarctic Treaty, 1959]. Some treaties refer basically to the jurisdiction of a national or international court. For example, the UN Convention on Jurisdictional Immunities of States and Their Property (2004) refers to 'immunity from jurisdiction of the courts of another State', 'immunity from jurisdiction in a proceeding before a court of another State' and 'exercise of jurisdiction by the court' [UN Convention, 2004]. Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019) also refers to the jurisdiction of national courts [Convention, 2019]. In some other international agreements, the jurisdiction is applied in relation to criminal matters. For example, Article 5 of the International Convention Against the Taking of Hostages (1979) provides that each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences which are committed in its territory or on board a ship or aircraft registered in that State; by any of its nationals or, if that State considers it appropriate, by those stateless persons who have their habitual residence in its territory; in order to compel that State to do or abstain from doing any act; or with respect to a hostage who is a national of that State, if that State considers it appropriate [International Convention, 1979]. Some treaties draw attention to the separation of national jurisdiction of a state and an international body. Article 2(7) of the UN Charter (1945) proclaims that nothing contained in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state [Charter, 1945].

Jurisdiction has also been defined in the jurisprudence of international courts. For example, in *Territorial Jurisdiction of the International Commission of the River Oder*, the Permanent Court of International Justice observed that '[t]he Court considers that this word [i.e. "jurisdiction"] relates to powers possessed by the Commission under treaties in force; the questions referred to the Court relate to the territorial limits of these powers' [Costelloe, 2019]. In the advisory opinion on *Nationality Decrees Issued in Tunis and Morocco* the same court concentrated over the notion of domestic jurisdiction and observed, in relation to Article 15(8) of the Covenant of the League of Nations, that '[t]he words "solely within the domestic jurisdiction" seem rather to contemplate certain matters which, though they may very closely concern interest of more than one State, are not, in principle, regulated by international law. As regards such matters, each State is sole judge' [Costelloe, 2019]. The question of jurisdiction has arisen between France and Turkey before the Permanent Court of International Justice following the collision between a steamship 'Boz-Kourt' flying the Turkish flag and a steamship 'Lotus' flying the French flag, which occurred in 1926. In its judgment in the *S.S. 'Lotus'* case, the court proclaimed: 'Now the first and foremost restriction imposed by international law upon a State is that – failing the existence of a permissive rule to the contrary – it may not exercise its power in any form in the territory of another State. In this sense jurisdiction is certainly territorial; it cannot be exercised by a State outside its territory except by virtue of a permissive rule derived from international custom or from a convention … It does not,

however, follow that international law prohibits a State from exercising jurisdiction in its own territory, in respect of any case which relates to acts which have taken place abroad, and in which it cannot rely on some permissive rule of international law' [Permanent Court, 1927].

Today, the issues of jurisdiction of international courts are governed by international treaties, in particular their statutes, rules of procedure and customary norms of international law. Such rules define in detail the basis for such jurisdiction which may be realized by different means: by special agreement between states which are parties to the dispute and wish to refer it to the court for consideration, by states' unilateral declarations on the acceptance of compulsory jurisdiction of a court, or by compromissory clauses contained in international treaties. The legal issues concerning jurisdiction of international courts also relate to such important problems, as analysis of the existence of an international dispute as such, reservations of the parties to the dispute excluding the jurisdiction of a court, compliance by the parties with the procedural requirements of international treaties before the referral of a dispute to the court for consideration, admissibility of complaints, bifurcation of the proceedings, etc. These problems were considered by some regional and universal international courts in disputes related to the Russian Federation aggression against Ukraine, for example, in cases on the application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of all Forms of Racial Discrimination (Ukraine v. Russian Federation, International Court of Justice, 2017 and 2019); on the allegations of genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation, International Court of Justice, 2022); on the detention of three Ukrainian naval vessels (Ukraine v. Russian Federation, International Tribunal for the Law of the Sea, 2019, and arbitral tribunal constituted under Annex VII to the United Nations Convention on the Law of the Sea, 2022); on the coastal state rights in the Black Sea, Sea of Azov, and Kerch Strait (Ukraine v. Russian Federation, arbitral tribunal constituted under Annex VII to the United Nations Convention on the Law of the Sea, 2020).

Legal scholars classify jurisdiction in accordance with different criteria. For example, by subjects it may be international or national; by content – law-making (legislative, prescriptive), judicial (adjudicative) or executive (enforcing, prerogative); by nature of regulated relations – administrative, civil or criminal; by scope – full or limited; by space – territorial or extraterritorial. Concerning the first classification, we should observe that jurisdiction is inherent to those subjects of international law who have the powers not only to create legal rules, but also to ensure their enforcement, namely, to states, international intergovernmental organizations, international courts. The general rule is that national jurisdiction, i.e. the jurisdiction of a state, is primary, and international jurisdiction, i.e. jurisdiction of intergovernmental bodies including international courts, is secondary and is derived from the national jurisdiction. This is explained by the very nature of international law where the primary subjects are states which create other subjects such as international organizations and empower them with specific functions. Once created, such secondary subjects of international law exercise their jurisdiction which sometimes restricts state sovereignty and collides with national jurisdiction. Meanwhile, such a state of affairs may be explained by the fact that states agreed to transfer some portion of their sovereign powers to international bodies in order to boost international cooperation and solve important problems at the international arena. For example, states have the right – not an obligation – to recognize as compulsory the jurisdiction of the International Court of Justice, but if they accepted such jurisdiction in the settlement of interstate disputes, they have to obey it and execute the judgments delivered by the Court.

Law-making (legislative, prescriptive) jurisdiction is sometimes called 'the jurisdiction to prescribe', or 'jurisdiction to legislate', which means the limits on the law-making powers of the government, in other words, the power of a state to establish mandatory rules for individuals and legal entities, and the permissible scope of application of the laws of each state [Mills, 2014].

Judicial (adjudicative) jurisdiction is referred to as 'the jurisdiction to adjudicate', which means the power of a state to subordinate individuals and legal entities to judgments of its courts and other decision-making bodies, and the limits on the powers of the judicial branch of government [Mills, 2014]. Executive (enforcing, prerogative) jurisdiction is called 'the jurisdiction to enforce', which means the power of a state to enforce its legal rules, including through detention, arrest, investigation, trial and punishment for violating such rules, and the limits on the executive branch of government responsible for implementing law [Mills, 2014]. The Council of Europe Amended Model Plan for the Classification of Documents Concerning State Practice in the Field of Public International Law (1997) upholds the same classification of jurisdiction of states: jurisdiction to prescribe, jurisdiction to adjudicate and jurisdiction to enforce [The Council of Europe, 1997]. Some scholars question the above classification of jurisdiction: they argue that sometimes the conduct of the judiciary may be characterized as either prescriptive (when the judge from a 'common law' system is participating in law-making) or enforcing (when the judge is ordering the seizure of a person or assets) [Mills, 2014]. Some authors argue that jurisdiction to adjudicate and jurisdiction to enforce have common features, since both are targeted at the application and enforcement of the law.

It is a general rule that states enjoy full sovereignty and exercise full jurisdiction over all persons and objects within their national territories. It follows from the nature of the sovereignty of states that while a state is supreme internally, that is within its own territorial frontiers, it must not intervene in the domestic affairs of another nation [Shaw, 2008]. Meanwhile, states also exercise jurisdiction over their own nationals in foreign and international territories. Thus, full civil, criminal and administrative jurisdiction of a state over all persons and objects within its national boundaries may be restricted under international law. First, the head of state or government, the minister of foreign affairs and other high state officials visiting another state enjoy immunity from the jurisdiction of the host state. States' representatives in international intergovernmental organizations as well as officials of such organizations also enjoy immunity from jurisdiction of the host state where the organizations have their headquarters. Diplomatic agents and consular offices enjoy immunity from the criminal, civil and administrative jurisdiction of the receiving state except in some cases. The premises of diplomatic missions, consular offices, international intergovernmental organizations, special missions, as well as the land on which they are located, are also exempted from such jurisdiction. Second, aircraft and maritime vessels when located within the territory of a foreign state are under the jurisdiction of that state. Meanwhile, these aircrafts and vessels continue to remain under the jurisdiction of the state of registration of the aircraft or the flag state of the vessel. The receiving state shall not, as a general rule, interfere in events on board a foreign aircraft or vessel unless the offense affects the interests and security of that state. Third, countries that have military forces or military bases abroad have the right to exercise their jurisdiction over relevant personnel and objects situated in foreign states. Fourth, the jurisdictional issues concerning some water objects like international rivers, international channels and straits, are decided on the basis of international agreements between the riparian or coastal states, but the general rule is that such states operate within their own territorial jurisdiction which may be subject to the restrictions established by international law. The right of innocent passage of ships through the territorial sea of other states is another restriction of the coastal state's jurisdiction within its own boarders. Fifth, there may be some restrictions of a state's criminal jurisdiction in relation to criminal offenses conducted by foreigners on its own territory due to the established principles of international criminal law. Sixth, the immunity of a foreign state's property from the jurisdiction of other states' courts is well established principle of international law.

Besides, there may be some restrictions of jurisdiction of a state in international territories. According to international law, the jurisdiction of a state extends to objects located outside the state territory: aircraft in international airspace, maritime ships on the high seas; space objects in the outer space; artificial islands and installations on the high seas and in the International Seabed Area;

scientific stations in Antarctica. Meanwhile, there are some exceptions to this rule. The principle of exclusive jurisdiction of the flag state is important to ensure safe navigation on the high seas for all states. It means that a vessel on the high seas is subject to the exclusive jurisdiction of the flag state, and no state has the right to interfere in its activities, except as provided by international treaties, in particular the UN Convention on the Law of the Sea. The Convention provides the following exceptions to this rule: right to visit under Article 110, hot pursuit under Article 111, pollution under Article 221, collisions under Article 97 [UN Convention, 1982], straddling and highly migratory fish stocks under Article 21 of the Fish Stocks Agreement (1995) [Agreement, 1995]. The restrictions to the principle of exclusive jurisdiction of the flag state on the high seas is linked to the so called 'functional jurisdiction', which refers to coastal states' limited jurisdiction over the activities in their maritime zones (the territorial sea, the contiguous zone, the exclusive economic zone, and the continental shelf), and, to a limited extent, to any state's jurisdiction over certain activities on the high seas, such as piracy and the trade in slaves [Ryngaert, 2015b].

In other international areas, like Antarctica, International Seabed Area, outer space or celestial bodies, states retain their exclusive right to exercise their jurisdiction over persons and objects there. For example, Article VIII of the Outer Space Treaty (1967) proclaims that a State Party to the Treaty on whose registry an object launched into outer space is carried shall retain jurisdiction and control over such object, and over any personnel thereof, while in outer space or on a celestial body [Treaty, 1967]. Article 12 of the Moon Agreement (1979) envisages that States Parties shall retain jurisdiction and control over their personnel, vehicles, equipment, facilities, stations and installations on the moon [Agreement, 1979]. The only exception exists in relation to the International Seabed Area: while states retain their jurisdiction over their nationals, entities and objects in the Area, the regulation and monitoring of compliance with rules on mineral exploration and exploitation activities in the Area falls under International Seabed Authority jurisdiction.

One of the urgent problems discussed in modern academic literature is the conflict of jurisdictions. In Public International Law, competition (conflict) of jurisdictions of states may be defined as the simultaneous establishment of the jurisdiction of different states over the same person (persons) or object (objects), as well as the exercise or attempt to exercise their jurisdiction over them. For example, when a vessel of one state is in the territorial waters of another state, it is subject to competing civil, administrative and criminal jurisdiction of the territorial state and of its flag state, because both can exercise it. Such competition may also be called competition between full and limited jurisdiction. The increase in cross-border (transnational) crimes has led to a growing number of cases in which multiple states have jurisdiction to prosecute and to take such cases to trial [European Union Agency]. In certain situations, the parallel progression of cases in separate jurisdictions can compromise the outcome of investigations, eventually resulting in what is known as a violation of the *ne bis in idem* principle, also known as *double jeopardy* [European Union Agency]. Such a principle ensures that no individual is prosecuted for the same act in different states. In such situations, a decision must be made regarding which state is better placed to prosecute and ultimately bring the case to trial, but conflicts of jurisdiction may arise from parallel investigations without any coordination between the different Member States' national authorities involved [European Union Agency]. In the absence of a treaty, different models to avoid or settle the conflict of criminal jurisdictions are used in the practice of states. For example, if a crime occurred on the territory of State A by its national, and if State A is willing and able to prosecute the suspected perpetrator, then no other state should exercise extraterritorial criminal jurisdiction. But if a crime occurred on the territory of State A by a national of State B against a national of State C, all three states are entitled to exercise jurisdiction but within the limits of international law. Thus, State D could exercise universal jurisdiction only when State A (exercising territorial jurisdiction), State B (exercising active personality jurisdiction) and State C (exercising passive personality jurisdiction) were unwilling or unable to prosecute the crime. The principle of subsidiarity, or complementarity, is the cornerstone in the resolution of conflict of jurisdictions between national

criminal courts and the International Criminal Court: Article 1 of the Rome Statute (2002) provides that the Court shall be complementary to national criminal jurisdictions [Rome Statute, 2002].

Some international conventions stipulate that states must cooperate in determining the priority of jurisdictions. For example, Article 42(5) of the UN Convention Against Corruption (2003) stipulates that if a State Party exercising its jurisdiction has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions [UN Convention, 2003]. Article 22(5) of the Council of Europe Convention on Cybercrime (2001) provides that when more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult with a view to determining the most appropriate jurisdiction for prosecution [Council of Europe Convention, 2001]. In its judgments in *Nottebohm* and *Barcelona Traction* cases, the International Court of Justice emphasized that in the particular fields of diplomatic protection, nationality, status of legal entities there must be the 'genuine connection' between natural or legal persons and a state entitled to exercise its jurisdiction. The concept of 'effective' or 'genuine link' has since been generalized as a precondition for the exercise of a state's jurisdiction in almost all branches of Public International Law such as law of the sea, air and outer space law, etc.

In Private International Law, the problem of the conflict of jurisdictions concerns the power of a certain national court to adjudicate the matter (jurisdiction to adjudicate). The conflict of substantive law of different countries on civil, family or commercial matters is inevitably accompanied by a conflict of jurisdictions. A court of State A first determines whether it or the court of State B has jurisdiction, and then determines which state's law will be applied in resolving a particular case. Thus, prescriptive jurisdiction relates to the law of a particular state which must be applied, and judicial (adjudicative) jurisdiction relates to the court of a particular state which must hear and resolve the case. The EU Regulation 44/2001 on Jurisdiction, Recognition and Enforcement of Judgments in Civil and Commercial Matters recognizes that certain differences between national rules governing jurisdiction and recognition of judgments hamper the sound operation of the internal market, that's why provisions to unify the rules of conflict of jurisdiction in civil and commercial matters, and to ensure rapid and simple recognition and enforcement of judgments given in a Member State, are essential [The EU Regulation, 2001]. The Regulation stipulates the basic principle for the resolution of the conflict of jurisdictions: jurisdiction is to be exercised by the court of the EU country in which the defendant is domiciled, regardless of his/her nationality [The EU Regulation, 2001]. One of the goals of the Convention on Choice of Court Agreements (2005) is to enhance inter-state judicial co-operation by establishing uniform rules on jurisdiction in civil or commercial matters. It provides in Article 5 that the court or courts of a Contracting State designated in an exclusive choice of court agreement shall have jurisdiction to decide a dispute to which the agreement applies, unless the agreement is null and void under the law of that State [Convention, 2005]. There is plenty of sources of Private International Law governing the conflict of jurisdictions, e.g., Brussels Convention on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (1968), Lugano Conventions on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters (1988 and 2007), Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters (2019). In addition to the rules of national legislation and international treaties which help states to avoid the conflict of jurisdictions, there are some legal doctrines used in court practice for this purpose, such as *forum non conveniens, lis pendes*, international comity, etc. which should become the subject matter of a separate scientific article.

Some authors draw to the conclusion that one of the main distinctions between the principles of jurisdiction in Public and Private International Law is that in the former the connecting

factors leading to the exercise of jurisdiction of a state are territoriality and nationality, while in the latter – domicile (residence, habitual residence) which, unlike the concept of nationality, is not based on a legal connection between a person and a state but rather on the territorial connections of the person with a state [Mills, 2019]. The exact definitions of domicile, residence, or habitual residence may vary between legal systems, but they generally involve an examination of the factual connections between the person and territory (such as the duration of physical presence) [Mills, 2019].

Conclusions. The term 'jurisdiction' doesn't have a unified meaning in international law and legal doctrine. Scientists and treaties give their own interpretations of this concept, meanwhile we may draw to some general conclusions that jurisdiction is the ability and the limits thereof for a state or other regulatory authority to make, apply, and enforce rules of conduct over persons, things, and territories as well as the scope of the right of an international tribunal to adjudicate upon contentious cases. It is a general rule that states enjoy full sovereignty and exercise full jurisdiction over all persons and objects within their national territories as well as are entitled to apply and enforce legal rules beyond their national borders, with due regard to the restrictions imposed by international law. Meanwhile, one of the urgent problems in Public and Private International Law – conflict of jurisdictions – deserves a special attention.

The jurisdiction of international courts is governed by international treaties, in particular their statutes, rules of procedure and customary norms of international law. A lot of important questions of jurisdiction were considered by some regional and universal international courts in disputes related to the Russian Federation aggression against Ukraine, in cases decided by the International Court of Justice, International Tribunal for the Law of the Sea, arbitral tribunal constituted under Annex VII to the United Nations Convention on the Law of the Sea, European Court on Human Rights, etc. That's why the issues of jurisdiction are very important for national scholars and experts.

To sum up, we may conclude that modern legal doctrine and treaty law witness that jurisdiction has become an established institute of international law which has its own principles and sources. Alongside with such institutes as international legal personality, international recognition, international responsibility, etc. it embraces all branches of international law and, thus, may be characterized a system-wide institute of international law.

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ОСОБЛИВОСТІ РОЗВИТКУ СВІТОВОГО ГОСПОДАРСТВА ТА МЕВ

УДК 329.055

VIETNAM AS UKRAINE'S ECONOMIC PARTNER

To the 30th anniversary of diplomatic relationsbetween Ukraine and the Socialist Republic of Vietnam

В'ЄТНАМ ЯК ЕКОНОМІЧНИЙ ПАРТНЕР УКРАЇНИ

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Annotation. *The article considers the results of long-term cooperation and explores the prospects for the development of economic relations between Ukraine and Vietnam. Special attention is paid to the analysis of the major reasons for changing the priorities of economic cooperation between countries as well as to the search for effective ways of its development. The origins of the growing discrepancies in the pace of the economic development of our countries, which were predetermined already by different approaches to the development and implementation of national strategies, have been established. It was shown that development strategies of our countries pursue the same goal - strengthening the competitiveness of the national economy, but they use different ways of achieve it: while Ukraine chose the liberal Western approach, Vietnam follows the Asian communitarian model, which is based on the policy of regulating economic development, hidden autarky, tight control over financial resources used to create key industries. The successful development of Vietnamese economy was achieved through consequent use of a specific model of economic modernization. The leading role of the public sector as an organizing force of progressive development and a factor in restraining the destructive influence of exogenous factors is indicated. The place of modern Vietnam in the global economic system is determined. The protective and stimulating role of the ASEAN integration and the prospects of creating a "large regional economy" are analyzed, attention is focused on the mostly regional Asian priority of the country's participation in the international division of labor. The principles and directions of further development of mutually beneficial cooperation between Ukraine and Vietnam are defined.*

Key words: *mutually beneficial economic cooperation, synergy of economic cooperation, synchronicity and asynchrony of economic development, economic nationalism, specificity of the Asian model of economic modernization and integration, "large regional economy", role of the state sector of the economy, structure of the economy, structure of exports, production with a high share of added value cost, high-tech production.*

Анотація. *У статті характеризуються результати багаторічної співпраці та досліджуються перспективи розвитку економічних відносин України і В'єтнаму. Особлива увага приділяється аналізу глибинних причин зміни пріоритетів економічної співпраці між країнами та пошуку ефективних шляхів її розбудови. Встановлено витоки наростання асинхронності економічного розвитку країн, які закладені вже на етапі розробки покрокової реалізації національних стратегій. Показано, що стратегії розвитку країн переслідують*

однакову мету – посилення конкурентоздатності національної економіки, проте вони використовують різні шляхи модернізуючих трансформацій: якщо Україна обрала ліберальний західний варіант, то В'єтнам дотримується азійської комунітарної моделі, яка спирається на політику регулювання економічного розвитку, приховану автаркію, жорсткий контроль за фінансовими ресурсами, які використовуються для створення структуроутворюючих галузей. Дається оцінка результатам успішного розвитку в'єтнамської економіки, як наслідкові застосування специфічної моделі економічної модернізації. Вказується на провідну роль державного сектора як організуючої сили поступального розвитку та фактора стримування деструктивного впливу екзогенних чинників. Визначається місце сучасного В'єтнаму в глобальній економічній системі. Аналізується захисна і стимулююча роль інтеграційного об'єднання АСЕАН та перспективи створення «великої регіональної економіки», акцентується увага на здебільш регіональному азійському пріоритеті участі країни в міжнародному поділі праці. Визначаються засади і напрями подальшого розвитку взаємовигідної співпраці між Україною та В'єтнамом.

Ключові слова*: взаємовигідна економічна співпраця, синергія економічної співпраці, синхронність і асинхронність економічного розвитку, економічний націоналізм, специфіка азійської моделі економічної модернізації і інтеграції, «велика регіональна економіка», роль державного сектору економіки, структура економіки, структура експорту, виробництво з високою часткою доданої вартості, високотехнологічне виробництво.*

Problem statement

Today, the international economic relations established between the countries are largely dependent on the policies of governments, which often ignore the demands of the market, the benefits of trade, and the objective laws of the international division of labor. Diplomacy serves politics and works in its direction, and therefore can also stand in the way of global market rules.

Diplomatic economic relations between Ukraine and the Socialist Republic of Vietnam, which turned 30 this year, were never biased and were not distorted by political challenges. They were built on the basis of mutual benefit, and therefore contributed to the objective formation of economic ties dictated by the market. Vietnam has always treated the economic activity of Ukrainian economic entities with respect, and in the same way, Ukraine created conditions for the development of Vietnamese enterprises. Trade with Vietnam, ties in the field of science, education, and technology exchange have developed quite successfully to the benefit of Ukraine. For a long time, the intensity of economic ties between the countries increased, confirming and strengthening the economic leadership of Ukraine, but over time, the balance of power began to shift in the opposite direction, in particular, the qualitative component of these relations began to change, and the level of its technological cooperation decreased.

The purpose of the article is to determine the deep reasons for the change in priorities in bilateral economic cooperation that have emerged in the economic relations between Ukraine and Vietnam, to study them in the context of strategies, tasks, trends and conditions of national and global development. The author also set the task of searching for ways to increase the efficiency of economic cooperation between the two countries and determining the areas of such cooperation.

Literature review. The choice of scientific literature as the basis of the research was determined by a number of tasks set by the author. The article is based on a number of scientific works of foreign and domestic authors, which are devoted to the analysis of the development of the economy of Vietnam in the last thirty years. In particular, the analytical assessments given in the article were compared with the points of view of the authors J. Walsh, B. Schrage, T. Q. Nguyen [*Walsh, J., Schrage, B., Nguyen, T. Q. The Political Economy of Vietnam's Industrial Transformation,* 2021]. To complete the characteristics of the civilizational aspect of the development of the Vietnamese economy and the set of informal practices, the works of M. Gainsborough [*Gainsborough, M. Changing Political Economy of Vietnam*, 2002], I. Kushnir [*Kushnir, I. Economy of Vietnam*, 2019], Y. Makukha [*Makukha, Y. Integration strategies of ASEAN countries in the context of socio-political modernization*, 2019] were considered.

A study by T. Jandl [*Jandl, T. Vietnam in the Global Economy: The Dynamics of Integration, Decentralization, and Contested Politics, 2013*], where the growing synergy of economic interests of various social groups in a developing economy is described in support of the hypothesis of the Nobel laureate M. Olson. The Issues of Transitional Economy in Vietnam by N. Tan Phat [*Tan Phat, N.: 2013*] and the work of N. Vinh Phuong [*Vinh Phuong, N. Development of cooperation between Ukraine and Vietnam for the purpose of joint investment in industries of material production, 2010*], dedicated to cooperation between Ukraine and Vietnam allow to draw a number of conclusions about the stability of the trends emerging in this area.

In general, researchers still face a number of tasks, the solution of which will provide an opportunity to better understand the principles and directions of further development of mutually beneficial cooperation between Ukraine and Vietnam.

Diplomatic relations between independent Ukraine and the Socialist Republic of Vietnam, established on January 23, 1992, became the starting point for strengthening friendship and mutual respect between peoples, developing mutually beneficial and equal economic cooperation. Assessing the 30-year journey of the two countries, it should be noted that our countries are united by the close positions on key issues of international politics and security. During this time, they have always been looking for points of synergy of national economic interests and trying to resolve pressing problems. And our relations have been designed for a historical perspective because they were based on a strong legal framework, which covers almost all areas of trade, economic, scientific, technical and cultural cooperation.

Large Ukrainian public and private companies, such as Ukrinterenergo, AvtoKrAZ, Motor Sich, Drohobych Auto-Crane Plant, and Paton Electric Welding Institute, have always been present in the Vietnamese market. Like Paton Institute, who provided his electric welding technology to Vietnamese partners and helped train specialists.

Many electricity facilities were built in Vietnam with participation of Ukrainian partners. In particular, Ukrinterenergo participated in the construction of Yali Hydropower Plant on Sesan river, built high-voltage power lines in the tropical jungle, which connected the power systems of South and North Vietnam. Ukrainian company Turboatom which is a well-known manufacturer of turbine equipment for hydro, thermal and nuclear power plants installed its hydro turbines at Vietnamese hydropower plants and participated in repairmen and restoration work on the first and second hydroelectric units of Thak-Ba on Chay river (Yen Bai area). The Zorya-Mashproekt Research and Production Association for Gas Turbine Construction fulfilled contracts for the supply of gas turbines for Lightning rocket boats which were supplied for Vietnam. Parts for the maintenance and repair of Vietnamese passenger railway wagons were manufactured and supplied by Ukrainian carriage builders.

Cooperation with Ukrspetsexport, Ukroboronservice, and Pivdenne Design Bureau was also of great interest to Vietnam. In order to develop cooperation in this area, the Ukrainian-Vietnamese Commission on Military-Technical Cooperation was established which also oversaw the emergence of a new industry for Vietnam - shipbuilding. The result of the Commission's work was the supply of certain amounts of "Griff" patrol boats built by "Sea" Feodosia Research and Production Association. Also, a number of related contracts were signed for the production of a new series of ships, for the reconstruction of the Hanoi Shipyard, for the training of specialists and the deployment of a new naval training ground in Vietnam. Since the early 1990s, Ukrainian air-to-air missiles have been supplied to Vietnam and a contract has been executed to modernize Vietnam's air defense system, and a program to launch Vietnam's first own Vinasat geostationary space satellite has been implemented.

Among the main reasons that contributed to the further development of mutually beneficial relations with the establishment of Ukraine's independence was the factor of lasting positive experience of cooperation with dozens of large industrial facilities built in Vietnam with the participation of Ukrainian specialists. which showed the need for maintaining the contacts between our countries especially considering technological comparability of Vietnamese and Ukrainian

goods and services. Finally, this is a price factor - relatively low prices for both labor and goods in demand in the markets of both countries [1].

Ukrainian investment in Vietnam's economy and the share of Ukrainian participation in the development of industrial facilities have always been quite significant, as well as Vietnamese investment in the Ukrainian economy, reliably protected by bilateral agreements approved at the legislative level.

Ukrainian-Vietnamese joint ventures are successfully operating in Vietnam, in particular Visorutex, which produces natural rubber mainly for the needs of Dnipropetrovsk-based EUROTIRE Ltd.; the TIENKI plant prepares dried tropical fruits using Ukrainian technology; Uvico Ltd is engaged in the trade of timber, as well as aircraft components, mechanical engineering and chemical products. All these enterprises are quite successful and make a sizable contribution to the development of Vietnam and Ukraine economies.

Among them, the Lotus Sea Port plays an important role. It is one of the first joint ventures created with the participation of Ukrainian investments. Now Lotus is a leader in Vietnam in terms of transshipment of motor vehicles, maintenance of port facilities and the provision of port services, as well as storage of perishable products.

The port is managed by the Ukrainian-Vietnamese Company LOTUS JV, established in 1991 as a joint venture with the participation of VIETRANS (Vietnamese Transport Company), VOSA (Vietnamese Shipping Agency) and the Black Sea Shipping Company (later Blasko-ChMP) with corresponding shares of 62% and 38%.

Today, there are also about 50 joint ventures with Vietnam in Ukraine. With the participation of Vietnamese capital, the company Svitloprint LLC is engaged in the production of plastic materials, including the production of polypropylene bags in Mykolayiv. Rollton's Mareven Food produces fast food products - a food concentrate production line has been launched in the city of Bila Tserkva together with Japan's Nissin Foods, and Technocom Corporation in Kharkiv is represented by the well-known Mivina brand.

Most of these enterprises are located in Kyiv, Kharkiv, Lviv and Ternopil regions. It is no coincidence that the Vietnamese provinces are cooperating with these regions. In particular, close ties have been established between Khánh Hòa Province and Kharkiv Oblast, Đồng Nai Province and Ternopil Oblast.

The current state of bilateral economic cooperation between our countries is marked by the growth of mutually beneficial trade, partnership of industries, entrepreneurs and regions.

Vietnamese investments are many times higher than investments from other Asian countries, such as Japan, China and India, and in 2020 alone reached about 4 million USA dollars. At the same time, according to the State Statistics Committee of Ukraine, direct investments from Ukraine into the Vietnamese economy amounted to 15.9 million USA dollars, or 0.23% of total Ukrainian investments.

Trade relations between Ukraine and Vietnam are also developing rapidly. In 2020, in terms of bilateral trade with Ukraine, Vietnam ranked 6th among the countries of the Asia-Pacific region and 32nd among the countries of the world. The turnover of goods and services between Ukraine and Vietnam increased by 21.8% compared to 2019 - to 653.1 million dollars. At the same time, the volume of exports of Ukrainian goods and services to Vietnam increased 1.8 times and reached 192.1 million dollars. The volume of imports to Ukraine of goods and services from Vietnam increased by 6.7 percent to 461.0 million USA dollars.

Friendly relations between Ukraine and Vietnam continue to develop and have great prospects.

Both countries face the same challenges – structural modernization of the national economy, and, to some extent, comparable level of problems. This could be proved by almost the same trajectory of development and the reaction of the Vietnamese and Ukrainian economies to changes in global trends, including the global financial crisis (Fig. 1), which is reflected in the leading macroeconomic indicators.

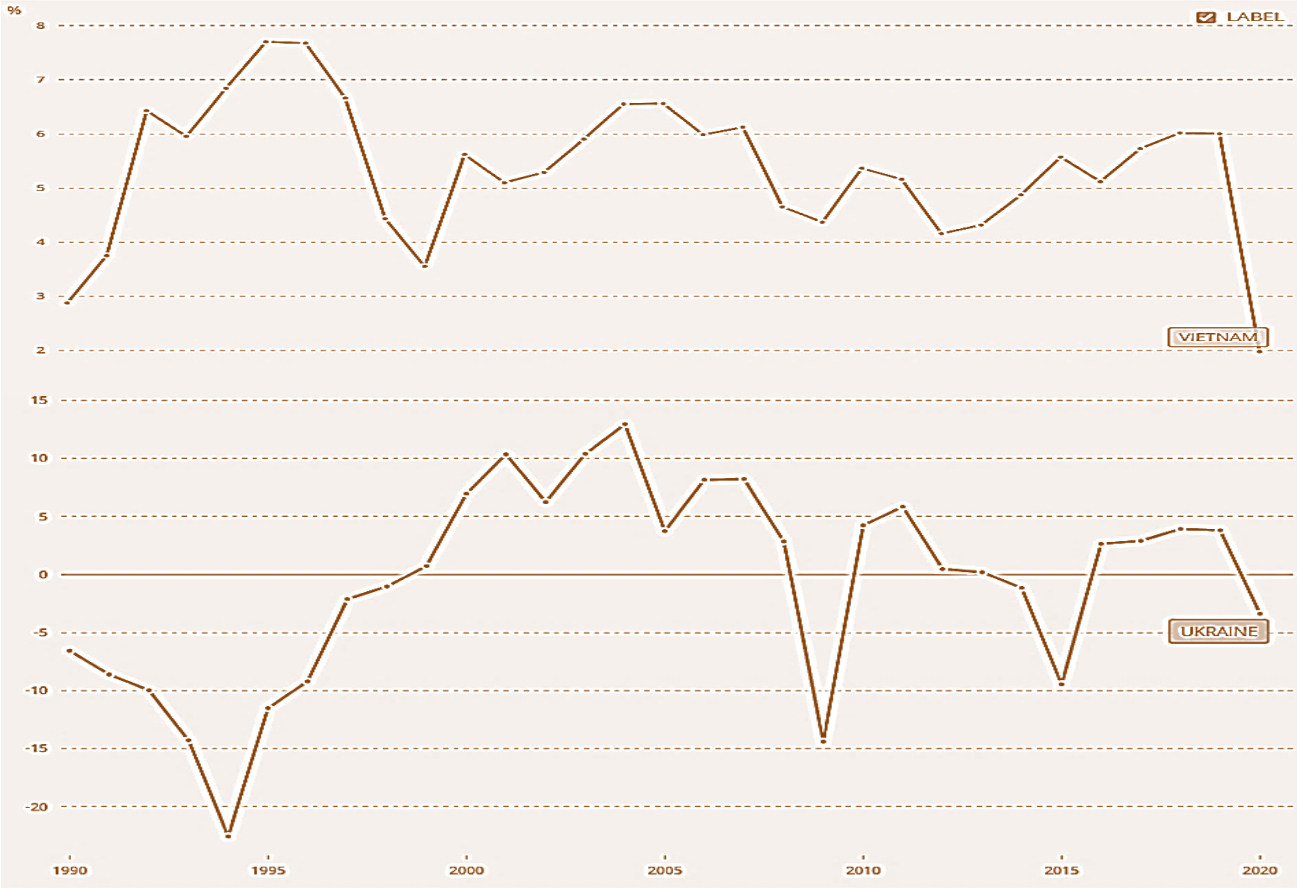

Fig. 1. **Annual GDP growth of Vietnam and Ukraine in 1990-2020** (% to the previous year)

Source: The World Bank [2]

At the same time, experts note that the structures of economies of our countries are changing, which may later negatively influence the synchronicity of Ukraine's and Vietnam's economic progress.

First of all, it is noted [3] that Vietnam's strong manufacturing sector is confidently increasing the competitiveness of its international trade. Its share in terms of GDP has been increased from 165 percent in 2013 to 210 percent in 2019 and helped the country to join group of 20 WTO members with biggest volumes of international trade. In 2019, total exports from Vietnam amounted to 281 billion dollars, which in value terms compared to 2019 amounted to 6.36%, and exports of goods increased by 16.8 billion dollars.

If previously the structure of Vietnamese exports was dominated by agricultural products, in 2020 there are electric machines, equipment and spare parts for them, sound recording and reproducing equipment, devices for recording and reproduction of television images and sound and spare parts for them, electronic devices (39% – 110 billion dollars), as well as nuclear reactors, boilers, equipment and mechanical devices (6.7% - 18.8 billion dollars).

Changes in the structure of exports and imports are the result of systemic shifts in the structure of Vietnam's economy, which is already an established trend. Moreover, radical changes are gradually taking place not only in the structure of exports, but also became the basis for the formation of high-tech production. In 2019, about 85 percent of the total import of electronic industry products were components for finished products, almost half of which came to Vietnam from the Republic of Korea and China, and 44 percent of total exports of electronic products were ready-to-use goods, half of which were exported to the United States, the United Arab Emirates and Austria.

According to the Index of Economic Complexity of Production, Vietnam is moving fast. In 1995, he ranked only 107th in this ranking, and in 2019 – already 56th. In the last ten years alone, the value of the Index has shifted by 14 positions, which indicates the acceleration of structural changes in the economy.

Vietnam's role in shaping global value chains (especially in the consumer electronics industry, including smartphones) is also growing. Vietnamese companies are producing more and more products with a high share of value added, which affects the quality of its exports - in 1990 its volume in total exports amounted to 1.11 billion dollars, and in 2019 increased to 21.9 billion dollars, more than 20 times.

The regional structure of exports is also changing rapidly, as determined by the growing share of value added - the largest volumes are in developing countries (13.16 billion US dollars), among which Asian countries import products and services at 12, 78 billion US dollars. Exports to developed countries are also growing (about 37.5%), while countries with economies in transition account for only 2.3% [4].

Obviously, these changes set a stable growth trajectory, which is projected at 6.5% over the next decade. According to DBS Bank (Singapore), Vietnam has every chance to stay ahead of the Singapore economy due to the inflow of foreign investment and increasing manufacturability and productivity.

The success of the Vietnamese economy is largely due to the transformations in the institutional and economic environment of the country, which had both endogenous and exogenous origins. The country is firmly integrated into the regional economic system of East Asia, in particular in the ASEAN group, which is developing at an impressive pace and has continued over the past decades and is causing a shift in the global center of economic attraction. Euler Hermes experts, who calculate the shift trends (WECG) [5], point out that back in the late 1990s, the WECG moved towards the United States, stopped in 2001 and in 2002 rapidly turned east. In developed countries, economic growth began to slow down - if in 2000 developed countries accounted for about 80% of world GDP, in 2019 this figure was 60%, and from 20 percentage points, which decreased the share of developed countries in the world economy, 8 % fell on the Asia-Pacific region (APR), including ASEAN countries. Moreover, in 2020-2021, this center shifted 1.8 times faster than the average for 2015-2019 and is projected to accelerate due to the crisis, caused by the Covid-19 pandemic, another 1.4 times. According to economists, their potential will continue to develop and they will be the locomotive of the next stage of globalization and will determine the trends of the global market. In other words, the region may soon become a world economy leader, and economic leadership is the key to powerful modernization, investment growth, high consumer demand, expanding the domestic market and expanding into foreign markets and, ultimately, increasing prosperity.

Noting that the balance of power in the global economy has changed in favor of East Asian countries, the authors of a number of studies try to explain this phenomenon. Among the main features that deserve special attention is the specifics of the model of economic modernization. That is, the countries of East Asia, which in many ways are not similar to each other, despite historical, cultural and linguistic differences use different from the European, a specific model of integration, and, consequently, national economic development. Their economies are integrating, affirming a new phenomenon and a new trend of globalization - the creation of a "large regional economy" in a sovereign and solidary interpretation.

As the Ukrainian political scientist Yu. Makukha rightly points out [6], solidarity is the main feature and the basic principle of regional integration. It strengthens national sovereignty and the sovereignty of the "big regional economy" in terms of external influences, which is fixed at two levels - at the level of the community as a whole and at the level of each country. It is based on the subordination of the economic interests of individual countries to the common interests of the group, and at the national level - the subordination of private interests to the general national interest, namely - economic modernization. Thanks to the special mechanisms of international

cooperation, introverted integration and collective protection of national economic sovereignty, this is a special, regional solidarity model of development.

For example, at the group level, this is reflected in the fact that barriers to duty-free trade within ASEAN countries have been virtually removed, while for other countries they are virtually insurmountable in areas to be protected; two thirds of the goods produced by the member countries of the community are intended for use within the integration group as a result of the commitments made by the countries to develop the international division of labor within the union, etc.

It should be noted that the specific civilizational nature of this model of integration does not contradict innovation and entrepreneurship, and even more - it is common to all countries in the region, as the most acceptable on the way to them.

Vietnam is a country that fully embodies all the features of both the Asian mentality and the Asian modernization model of development - it is organically intertwined with the family of nations, taking part of the responsibility for the dynamic development of the region.

The model of modernization of the region's and individual countries' economies is based on the principle of "economic nationalism" and solidarity of East Asian countries, based on state intervention and the leading role of state property; on corporate social responsibility of enterprises; formation of protective barriers through tax manipulation and direct bans on exports (especially food and raw materials) or imports (which may harm their own production); for the artificial creation of related industries or protection of jobs, etc.

It is most pronounced in Vietnam, where the state's presence in the economy remains significant - more than 700 state-owned enterprises generate about 30% of GDP, which is 30 times more than in the 1990s. State-owned enterprises and their conglomerates set the direction and pace of development, increasing their share in strategic industries - 94% of participation in the oil and gas and energy sectors, 97% - in the coal industry, 99% - in the chemical industry (fertilizer production), 91% - in telecommunications, 88% - in insurance. There is a leading role for state-owned enterprises in other sectors of Vietnam's economy, including banking, telecommunications and transport. Large state-owned corporations generate about two-thirds of total tax payments to the budget. At the same time, public-private partnership is gaining strength, thanks to which the channels of reorientation of private business to the realization of national interests are being formed.

The state determines strategic directions of development, controls and stimulates their development. For example, Vietnam's national energy security is linked to the development of PetroVietnam, which faces the strategic goal of turning the oil and gas industry into a leading sector of the economy by 2035. Modernization of the industry will be accompanied by a system of state measures to stimulate and protect it.

The classification of food industries as strategically important for the country's security has led to a number of actions, including reducing the tax burden on investors, including foreign ones, the use of customs levers, compensatory mechanisms and subsidies for farming, a total ban of exports or introduction of export quotas.

Vietnam's export sector is in the spotlight. First, export support is carried out in accordance with the state strategy, which provides assistance to export-oriented enterprises that produce products with a high share of value added and claim to create national brands. Secondly, the state creates conditions for access to new domestic and foreign markets (in particular through the signing of free trade agreements). Third, by using protectionist methods through imposition of corresponding taxes and duties, it protects the economy and encourages import substitution.

Successfully building market relations, Vietnamese entrepreneurs, like entrepreneurs in other countries in the region, strictly adhere to their traditional "seven virtues of productive class economic life", as essential components of success and support for development, which were described in terms of their economic efficiency by economist Deirdre McCloskey [7] - love (friendliness and friendship), faith (unity, integrity, respect for others' desires), hope (reliability and entrepreneurship), courage (resilience and perseverance), moderation (thrift and modesty), prudence (knowledge and foresight) and justice (social balance and honesty). All of these mental traits are

historically inherent in the Vietnamese business environment and are the basis of Vietnamese solidarity.

Thus, Vietnam is the clearest example of the implementation of the principles of the Asian model of modernization and confirmation of their effectiveness. Like all countries in the region, it is developing according to a common scenario - based on these requirements for the priority of the regional international division of labor, and not only overcomes barriers to trade, capital, knowledge and innovation and protects its economic space, but also protected membership in ASEAN, increases its economic potential. If the region is ahead of the rest of the world in terms of development and, since 2000, real incomes have grown by an average of 5% annually, Vietnam has developed even faster: from 1990 to 2020 GDP per capita increased almost threefold - from 0, 95 thousand to almost 2.8 thousand dollars (Fig. 2)

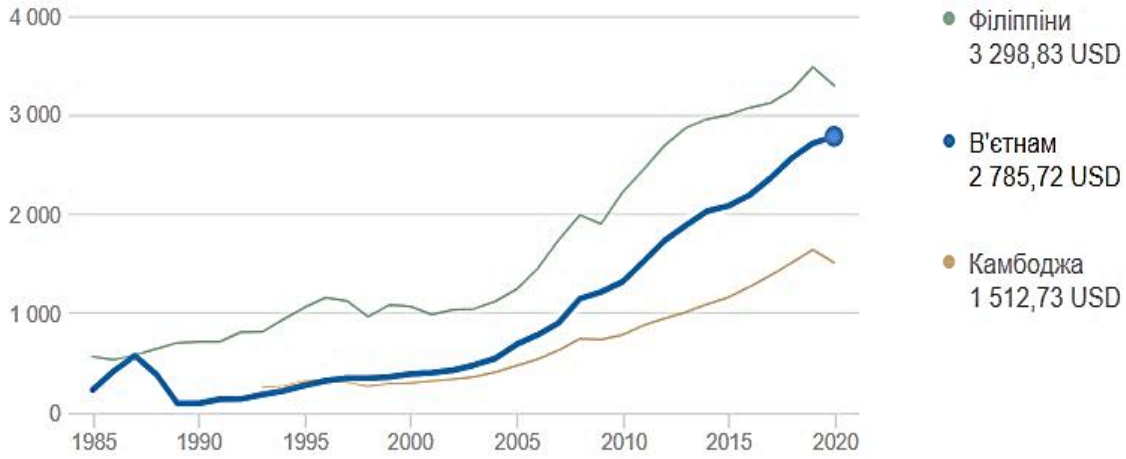

Fig. 2. **Vietnam's GDP per capita in 2020.**
Source: The World Bank [2]

The number of poor people in the country is also declining rapidly. If in 2000 14% lived on $ 1.25 a day, in 2013 their number was only 3%, and in 2019 more than 45 million left poverty [8].

In 2020, consumer spending per capita was more than 1.4 thousand dollars. per year (Fig. 3)

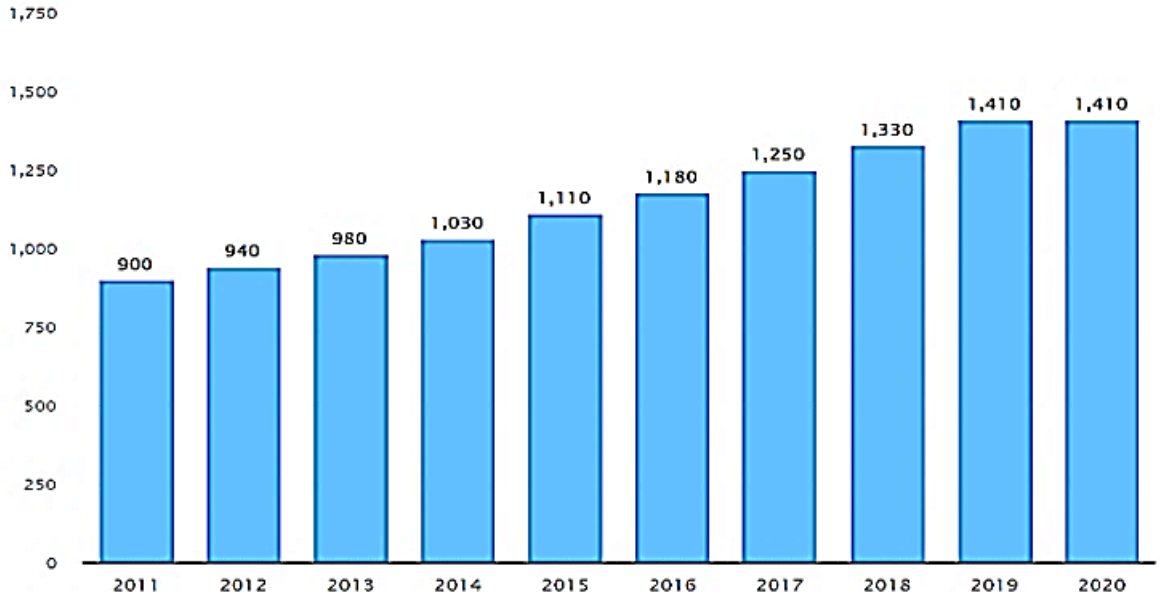

Fig. 3. **Household consumption expenditures per capita in Vietnam (2011 to 2020, US dollars 2010)**
Source: The World Bank [2]

Vietnam's consumer market is characterized by rapid growth and changes in structure in favor of its modernization, and the innovation-oriented manufacturing sector relies on a base provided by industrialization and international cooperation.

In the light of the abovementioned the tasks of the Ukrainian government and Ukrainian diplomacy, national enterprises and companies should be considered. The major task is to choose the right guidelines and aim to develop cooperation with Vietnam in an environment where the center of gravity of the global economy is gradually shifting towards Asian countries. And when our economies use radically opposite models of transformation, when our state is opted out from implementation of modernization policies we in Ukraine should clearly understand the laws and consequences of competition.

Of course, there are still areas where our countries are successfully cooperating with each other, and this cooperation is based on a parity consensus of interests. For example, Ukraine is interested in developing an international partnership in the maritime sector. Therefore, we should now focus on the possibilities of using the port infrastructure of JV Lotus as a logistics center to promote not only Ukrainian products to eastern markets, but also national economic interests. This is due to the extremely favorable conditions of the port - the company is located at the mouth of the Saigon River, which opens convenient routes to connect with the global eastern centers of business - Singapore and Hong Kong.

In addition, container shipping has proven to be a mutually beneficial and efficient way to transport goods from Ukraine to Vietnam, which strengthens the competitive position of domestic exporters but does not exacerbate competition between Ukrainian and Vietnamese producers. It is obvious that the expansion of trade through maritime container shipping will continue to contribute to the establishment of strong partnerships and parities between the two countries.

Given that the Vietnamese economy is important for maritime transport due to its geographical location and port infrastructure with more than 40 seaports, the Vietnamese side is interested in further developing port infrastructure and providing new connections to different parts of the country. Vietnam is investing heavily in road construction, and a partnership with Ukraine with its extensive construction experience could also benefit Vietnam [8].

With the participation of the Ukrainian side, an analysis of the activities and formulation of a strategy for the development of port enterprises can also be carried out. Today, Ukraine is already offering joint ventures and development of adjacent ports, construction of new sites and development of logistics infrastructure for transport of various types of cargo, which will increase the competitiveness of both economies.

Ukrainian logistics companies, in particular Star Shine Shipping and LTD PVL Group, can be involved in the development of export and import logistics schemes at the global level. They have an extensive global network of agencies and provide logistical support at all levels, making extensive use of innovative technologies and digital services.

In Vietnam, as in other countries in the region, it is important to build innovation capacity. The course of innovative development is implemented through the formation of Vietnam's state innovation policy - the country is constantly increasing funding for science and innovation, which is carried out both through public funds and using the potential of public-private partnership. The basis is a clear understanding of the goals reflected in government programs for the formation of the knowledge economy - the basis of innovative development. That is why the country has increased attention to the training of quality personnel, their training, retraining and advanced training.

A significant contribution of Ukraine to the development of this program given the high level of demand for highly qualified specialists in Vietnam may be the training of Vietnamese students in higher education institutions of Ukraine in natural science and technical fields, which is quite competitive in the world market and becomes a priority for most countries who are embarking on an innovative path of development.

Scientific and technological cooperation between the two countries in the context of Vietnam's innovation strategy is recognized by the parties as one of the most promising areas of cooperation. An agreement on scientific and technological cooperation between the two countries

was signed between the governments of Ukraine and Vietnam in 1996, and in 2000 it was specified in the Agreement between the National Academy of Sciences of Ukraine and the National Center for Natural Sciences and Technologies of the Socialist Republic of Vietnam. However, the promising areas of research cooperation in the field of biotechnology and joint projects in medicine and the environment are still under discussion, while the work of Ukrainian scientists in these fields are already used by leading institutions in the US and other countries and have a confirmed effect.

The cooperation between the Vietnamese National Space Center and the State Space Agency of Ukraine, the National Space Management and Testing Center and the Pivdenne Design Bureau, which enjoy a well-deserved reputation in the world, seems promising. The identified areas of cooperation in the future may be the basis for the creation of joint economic research and innovation zones related to the aerospace industry in both Vietnam and Ukraine.

From the sectoral point of view, the areas of cooperation between Ukraine and Vietnam in the aviation sector, as well as cross-investment in the field of mechanization and electrical equipment also have a great potential.

Ukraine can provide significant assistance in the field of digital online technologies by supporting Vietnam's initiatives aimed at developing e-government, modernizing customs administration using the National Single Window System, and electronic customs clearance.

Vietnam can also use the Ukrainian experience in the application of innovative technologies for the construction of industrial facilities and housing, the need for which is caused by rapid urbanization and rising incomes.

However, it should be noted that along with these promising areas of cooperation with Vietnam, Ukraine already experiencing some risks in the most developed area - international trade, and the biggest of them is the loss of high-tech markets and switching to a monocultural service economy. Compared to Vietnamese economy, it is non-diversified and has a distinct raw material orientation – now two thirds of Ukrainian exports are raw materials from agricultural and metallurgical complexes. In 2019, Ukraine ranked 49th in the economic complexity index, but the trend of the last thirty years, unfortunately, indicates a gradual loss of these positions.

The deterioration of the complexity indicator is due to the specifics of the Ukrainian model of modernization - the course of comprehensive liberalization, in which the country is rapidly losing its competitive position. That is why strengthening economic cooperation and reviewing the conditions for the organization of international trade is an urgent task for Ukraine. In this context, Vietnam's experience is unique for Ukraine. The Ukrainian government, which intends to create a free trade zone with Vietnam, must be very careful in concluding this agreement, bearing in mind that in addition to image aspects, there is economic feasibility. Implementing the idea of forming a common market with duty-free exports of Ukrainian grain products to Vietnam in exchange for imports of Vietnamese electronics and mechanical equipment could be another factor in reducing Ukraine's foreign trade revenues, shrinking the agricultural sector and import substitution [9]. In addition, it should be remembered that Vietnamese producers receive systematic support from the state and effectively use their own cheaper factors of production compared to Ukrainian ones.

Main results of the research. Modern Vietnam is moving towards high-tech industries and it will be unfortunate if in the future it will consider Ukraine as a potential economic and food supplement to its own economy. It is also worth remembering that this country adheres to common, often uncodified rules for doing business with countries outside the region and has already formed a certain quality of competitive environment that is significantly different from the usual for Ukraine, which exists in, say, the EU.

Vietnam, as an ASEAN member country, is currently working on a free trade agreement with Australia, China, India, Japan, New Zealand and South Korea and is involved in negotiations to establish an expanded regional trade association in Southeast Asia. This partnership will inevitably lead to a single Asian market with a population of 3 billion and a combined GDP of $ 21 trillion. For Vietnam, protected by regional integration and state protectionism, these are factors of economic and technological growth, expanding its presence in foreign markets. It is gradually taking over the role of the Asian factory, but the risks of rolling to the periphery are minimal, as its

modernizing model of "economic nationalism" provides a number of safeguards and includes a program of innovative development, as evidenced by today's successful development of Vietnam's economy.

At the same time, bilateral cooperation with Vietnam is an important mechanism for Ukraine to diversify into Asian markets. Recognizing the fundamental importance of developing economic relations with the East Asian region, Ukraine must be constantly looking for new points of contact with its member countries, including Vietnam, realizing that each of the jointly implemented new economic projects will not only bring our countries closer and promote increase the welfare of Ukrainians and Vietnamese, but also geographically expand the economic opportunities of each of them.

First of all, for Ukraine it stems from the conditions of cooperation in the Asia-Pacific region, which at first glance seem favorable, but in fact there are a number of reservations related to predetermined regional priorities - when concluding trade and partnership agreements, preference is given to countries region, and only then - others. This is especially true of ASEAN member countries. The difficulty of deploying business projects in the region can be overcome through existing channels, and agreements with Vietnam as an ASEAN member country can play an important role in this. By strengthening its economic ties with Vietnam, Ukraine may have a chance to find a niche in this market.

On the other hand, Vietnam, as a country seeking to be present in the EU markets, can benefit from its cooperation with Ukraine, which has already signed an Association Agreement with this integration association, and thus may become a kind of additional bridge between the two. regional associations.

Ukraine, like Vietnam, is ready to address the urgent challenges of the global agenda. Both countries are active participants in the struggle for peace, nature protection, pandemics, famine and terrorism. They are united by a common desire to improve the living conditions of the planet.

But the main thing that is important for both Ukraine and Vietnam is not to lose the friendly relations that were established over the years and became the basis of the brotherhood of Ukrainian and Vietnamese peoples.

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РЕЦЕНЗІЇ

EDUCATION FOR EUROPEAN INTEGRATION

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Recently I have read the biographical book "Pawlowski" published in Poland in 2021 by Krzysztof Pawlowski and Adam Szymczak [Pawlowski. Biography. 2021 // Krzysztof Pawlowski, Adam Szymczak. Poland, Nowy Sacz, 460 P.]

Krzysztof Pawlowski is a prominent Polish politician, scientist, organizer of the advanced system of higher education in Poland. Dr. Pawlowski was elected a Senator of the Polish Sejm of the first two convocations. Already 30 years ago he has founded and continues to head as a President of one of the most modern universities in Poland - the Higher School of Business - National Louis University (HSB-NLU). Krzysztof Pawlowski does a lot for the development of Ukrainian-Polish cooperation in education, science and other fields.

The positive experience of Polish reforms and the European integration successes of the country are very important for Ukraine especially now when it became a candidate for the EU membership. The book under reviewed is largely devoted to the development of higher education in Poland over the past 30 years which decisively promoted eurointegration vector of the country.

Back at the beginning of 90th Senator Pawlowski led the development of higher education and intellectual country's path to Europe. Many world leaders marked the importance of his efforts for Poland. US President George W. Bush noted Pawlowski outstanding success in the development of education in Poland, and Secretary of State Zbigniew Brzezinski considered him a symbol of Polish successes in the 90s.

In the book Krzysztof Pawlowski noted that "education development and HSB-NLU became the meaning of his life". Indeed, Dr. Pawlowski for several decades he has been investing his broad soul, his remarkable political weight, his outstanding scientific talent and unique managerial skills in his life's work - the university HSB-NLU. He was the first in the country to widely introduce the teaching of subjects in English and invited the best professors from various countries. In addition to the spread of business English, this helped to achieve the development of synergistic multiculturalism, which subsequently led to the successful European integration of Poland.

The principle of the leading world universities is observed at the HSB-NLU, that a "face" of the university is it's professorship, and students have a choice of courses to attend, i.e. professors in whom they would like to study. As a rule, professors teach courses based on the results of their research, prepare and distribute supporting visual materials for classes, interactively communicate with students during lectures and seminars, ie not only provide information but also teach to analyze material and generate new ideas. If for various reasons there is no demand among students for a particular professor's course, the contract is not extended.

There has long been a demand among young people around the world for specific knowledge and the acquisition of specific practical skills in various fields - business, state-building, law, international economic relations, etc. The HSB-NLU makes sure that graduates are competitive in the labor market, can find a decent job or start their own successful business. Nowadays students care about the reasons for a professor to teach a particular subject, which, in

addition to pure teaching, he has practical experience - in business, diplomacy, civil service, or in any other field that is important for their future careers.

We have met with Krzysztof Pawlowski at an international conference for more than a quarter of a century ago. At that time, Poland was actively preparing to join the European Union. We chatted over coffee and Dr. Pawlowski offered me a temporary contract at the university. I replied that unfortunately I would not be able to lecture in Polish. And then he told me the words that I remembered for the rest of my life - we are going to Europe, he said, and there no one will speak Polish to us, they will speak English to us and we need you to teach in English, but in Poland we speak our native language and we will never forget it.

The temporary contract lasted for three years and we became friends. Then Krzysztof came to Ukraine with practical seminars for the Ministry of Economy, together with our employees we published a textbook on the development of international business in Ukrainian. In a word, since then we have been trying to bring to Ukraine the positive experience of European development and we continue to do a lot of other useful work together to promote the integration of Ukraine into Europe.

Nowadays, human capital plays an increasingly important role in economic development. Currently, education and training are the key elements in defining the quality aspects of the laborforce. Knowledge became a true wealth that a person possesses for gainful employment and effective service to the society.

In conclusion, I would like to note that in Poland Christian values based religion traditionally plays an important role in the society. High moral and ethical values are being introduced at all levels in the country. Education system in Poland practically employs relatively new but critically important disciplines dealing with ethics in business and in other spheres thus contributing to the formation of high moral and ethical values in young people, as even the highest quality reform program will not work if it is carried out by professionals who do not have these values.

So Poland presents many good practical examples that Ukraine can borrow for successful development along the European path, and the book under review will be interesting and useful to all who read it.

ЗМІСТ

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

ОСОБЛИВОСТІ РОЗВИТКУ СВІТОВОГО ГОСПОДАРСТВА ТА МЕВ

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