КИЇВСЬКИЙ НАЦІОНАЛЬНИЙ УНІВЕРСИТЕТ
ІМЕНІ ТАРАСА ШЕВЧЕНКА
ІНСТИТУТ МІЖНАРОДНИХ ВІДНОСИН

АКТУАЛЬНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

ВИПУСК 141

ACTUAL PROBLEMS OF INTERNATIONAL RELATIONS

ISSN 2308-6912

КИЇВ – 2019

Актуальні проблеми міжнародних відносин : Збірник наукових праць.
Випуск 141.
К. : Київський національний університет імені Тараса Шевченка.
Інститут міжнародних відносин, 2019. – 99 с.

У Збірнику розглянуто актуальні питання розвитку сучасних міжнародних відносин, міжнародного права та міжнародних економічних відносин.
Розраховано на викладачів, наукових співробітників, аспірантів та студентів.

Адреса редакційної колегії:
04119, Київ, вул. Юрія Іллєнка, 36/1, Інститут міжнародних відносин.
тел. 044 481-44-68.

Збірник наукових праць «Актуальні проблеми міжнародних відносин» заснований у 1996 році. Засновник: Інститут міжнародних відносин Київського національного університету імені Тараса Шевченка.

Збірник наукових праць включено до переліку наукових фахових видань України у галузі політичних, юридичних і економічних наук.
Наказ Міністерства освіти і науки України № 241 від 09.03.2016 р.

Електронну версію видання розміщено на сайті «Актуальні проблеми міжнародних відносин» за адресою **http://apir.iir.edu.ua/index.php/apmv/index** і передано до Національної бібліотеки України імені В. І. Вернадського на депозитарне зберігання та представлення на порталі наукової періодики: **http://www.nbuv.gov.ua.**

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

UDK 327:316.32

CLIMATE COMMUNICATIONS OF INTERNATIONAL ORGANIZATIONS AND SUB-NATIONAL SUBJECTS AS ACTORS OF GLOBAL CLIMATE CHANGE SETTLEMENT

КЛІМАТИЧНІ КОМУНІКАЦІЇ МІЖНАРОДНИХ ОРГАНІЗАЦІЙ ТА СУБНАЦІОНАЛЬНИХ СУБ'ЄКТІВ ЯК АКТОРІВ ВРЕГУЛЮВАННЯ ГЛОБАЛЬНИХ КЛІМАТИЧНИХ ЗМІН

КЛИМАТИЧЕСКИЕ КОММУНИКАЦИИ МЕЖДУНАРОДНЫХ ОРГАНИЗАЦИЙ И СУБНАЦИОНАЛЬНЫХ СУБЪЕКТОВ КАК АКТОРОВ УРЕГУЛИРОВАНИЯ ГЛОБАЛЬНЫХ КЛИМАТИЧЕСКИХ ИЗМЕНЕНИЙ

Shevchenko O. V.
PhD (Politics), associate professor, associate professor of the Department of International Mediacommunication and Communication Technologies, Taras Shevchenko National University of Kyiv, Institute of International Relations, e-mail: ovsh@ukr.net

Шевченко О. В.
Кандидат політичних наук, доцент, доцент кафедри міжнародних медіакомунікацій і комунікативних технологій Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка, e-mail: ovsh@ukr.net

Шевченко Е. В.

Кандидат политических наук, доцент, доцент кафедры международных медиакоммуникаций и коммуникативных технологий Інститута международных отношений Киевского национального университета имени Тараса Шевченко, e-mail: ovsh@ukr.net

Annotation. *Resolving the issue of global climate change addresses a number of vital issues, including the identification of participants and the scope of their competences and areas of responsibility. One of the most influential actors are international organizations, in particular the UN and its special structures, programs and projects, whose activities are aimed at tackling global climate change, adaptation and mitigation of the effects of climate change. Such specialized entities include the United Nations Environment Program, the World Climate Research Program, the Global Climate Observing System, the Global Ocean Observing System, and the Intergovernmental Panel on Climate Change. It is emphasized that the application of effective communication tools is an important element in the success of these global climate change response structures. It is shown that in the practice of UN specialized agencies such communication tools as evaluation, special and technical reports, summaries, newsletters, methodological guides, video materials are used; annual conferences, thematic seminars, special information events, etc. are held. In major cases, all information is available to the public in the Internet, as well as in print materials. The author explains the importance of subnational actors, such as cities and regions, in reducing emissions and meeting climate targets that successfully implement regional climate initiatives, which later on serve as a platform for demonstrating, testing and disseminating new, cutting-edge climate challenges. The article demonstrates that the information factor in the work of international*

organizations and subnational actors contributes to the raising awareness among the world community and improving the understanding of the causes and effects of climate change, as well as how countries and communities adapt to the future effects of climate change.

***Key words**: global climate change, UN, IPCC, subnational entities, climate communications*

***Анотація**. Розв'язання проблеми глобальної зміни клімату актуалізує низку першочергових питань, зокрема визначення учасників процесу та обсягів їх компетенцій і сфер відповідальності. Одними з найвпливовіших акторів є міжнародні організації, зокрема ООН та її спеціальні структури, програми і проекти, діяльність яких спрямована на вирішення проблеми глобальної зміни клімату, запровадження дій з адаптації та пом'якшення наслідків зміни клімату. До таких спеціалізованих структур відносяться Програма ООН з навколишнього середовища, Всесвітня програма з досліджень клімату, Глобальна система спостережень за кліматом, Глобальна система спостережень за океаном, Міжурядова групу експертів зі зміни клімату тощо. Наголошується, що важливим елементом успіху діяльності зазначених структур з врегулювання глобальних кліматичних викликів є використання ефективних комунікативних інструментів. Показано, що в практиці спеціалізованих структур ООН використовуються такі комунікативні інструменти як оціночні, спеціальні та технічні доповіді, резюме, звіти, інформаційні бюлетені, методичні посібники, відеоматеріали, щорічні конференції, тематичні семінари, спеціальні інформаційні акції тощо. Як правило, вся інформація доступна у відкритому доступі в мережі Інтернет, а також у друкованому вигляді. Підкреслено важливу роль субнаціональних суб'єктів таких як міста та регіони у зменшенні викидів та досягненні цільових кліматичних показників, які успішно реалізують регіональні кліматичні ініціативи, що стають майданчиками для демонстрації, випробувань і поширення нових, передових технологій вирішення кліматичних викликів. Показано, що інформаційний чинник в діяльності міжнародних організацій та субнаціональних суб'єктів сприяє підвищенню рівня поінформованості світової громадськості і поліпшенню розуміння причин і наслідків зміни клімату, а також способів адаптації країн і громад до майбутніх наслідків кліматичних змін.*

***Ключові слова**: глобальна зміна клімату, ООН, МГЕЗК, субніцальнальні суб'єкти, кліматичні комунікації.*

***Аннотация.** Решение проблемы глобального изменения климата актуализирует ряд первоочередных вопросов, в частности определения участников процесса климата и объемов их компетенций и сфер ответственности. Одними из самых влиятельных акторов являются международные организации, в частности ООН и ее специальные структуры, программы и проекты, деятельность которых направлена на решение проблемы глобального изменения климата, внедрение действий по адаптации и смягчению последствий изменения климата. К таким специализированным структурам относятся Программа ООН по окружающей среде, Всемирная программа по исследованиям климата, Глобальная система наблюдений за климатом, Глобальная система наблюдений за океаном, Межправительственная группа экспертов по изменению климата и др. Отмечается, что важным элементом успеха деятельности указанных структур по урегулированию глобальных климатических вызовов является использование эффективных коммуникативных инструментов. Показано, что в практике специализированных структур ООН используются такие коммуникативные инструменты как оценочные, специальные и технические доклады, резюме, отчеты, информационные бюллетени, методические пособия, видеоматериалы, проводятся ежегодные конференции, тематические семинары, специальные информационные акции и тому подобное. Как правило, вся информация доступна в открытом доступе в сети Интернет, а также в печатном виде. Подчеркнуто важную роль субнациональных субъектов таких как города и регионы в уменьшении выбросов и достижении целевых климатических показателей, которые успешно реализуют*

региональные климатические инициативы, становятся площадками для демонстрации, испытаний и распространения новых, передовых технологий решения климатических вызовов. Показано, что информационный фактор в деятельности международных структур и субнациональных субъектов способствует повышению уровня осведомленности мировой общественности и улучшению понимания причин и последствий изменения климата, а также способов адаптации стран и населения к будущим последствиям изменения климата.

***Ключевые слова**: глобальное изменение климата, ООН, МГЭИК, субницальнальные субъекты, климатические коммуникации.*

Introduction. Adaptation of humanity to global climate change is now regarded as a necessity for solving technical, managerial and communication problems. Managing global climate projects means interaction between many international actors and addresses global climate challenges resolving. Managing climate change adaptation and mitigation is reflected at all levels of government, from local to international. Today, there is a strong understanding of the need for short- and medium-term climate policy based on the long-term forecasts.

Practice shows that current global problems, which are related to global climate change, cannot be solved individually and straightforwardly without the involvement of all stakeholders and the general public. The urgent issue is the development of communication mechanisms that would facilitate the implementation of adaptation strategies, mitigate the consequences, and enhance the adaptive capacity of society and planetary ecosystems. Climate change requires collective action at global level; major changes must be initiated by the most influential international actors, such as international organizations, sub-national actors, and research centers that produce and implement global climate policies at their levels. Climate change is now regarded as a global political challenge, because it has many commonalities with other pressing issues of international policy and how it is addressed by the international community.

Recent literature review. Studies of the risks of global climate change and the role of international organizations and subnational structures in overcoming them are reflected, in particular, in international documents (UN Framework Convention on Climate Change (UNFCCC), Kyoto Protocol, Paris Agreement), materials from UN conferences (UNFCCC)), official publications of the UN specialized agencies (Evaluation reports of the Intergovernmental Panel on Climate Change, UN Climate Change Reports, World Meteorological Organization Research, Global Atmospheric Service, etc.), publications by other UN agencies (including Food and Agriculture Organization, World Food Program, United Nations High Commissioner for Refugees, International Organization for Migration, UN Intergovernmental Commission on Oceanography, UN Environmental Programme), open materials of national meteorological and hydrological services, regional climate centers.

The most extensive publications on this issue are presented in the work of the Intergovernmental Panel on Climate Change under the leadership of R. Pachauri and, in particular, British researchers M. Allen, J. Brum, German V. Kramer, O. Edenhofer, J. Marotzke, and American L. Clarke, K. Field, K. Mach, M. Mastrandrea, B. Preston, Norwegian J. Fuglstwedt, K. Oberin, Australian M. Hofden, S. Power, Russian V. Kattsov and others. These studies look at global causes and possible scenarios for managing global climate change.

Specific areas for tackling global climate change, including contribution of international organizations and research centers are contained in the work of the Spanish researcher XK. Abanades, Japanese M. Akai, American S. Benson, K. Keldeira, R. Doctor, Dutch H. De Koninko, B. Metz, L. Meyer, British P. Freund, D. Gale, E. Palmer and others; the role sub-national actors are in the work of Hsu, A.; Widerberg, O.; Weinfurter, A.; Chan, S.; Roelfsema, M.; Lütkehermöller, K. and Bakhtiari, F.

Information about the role of subnational actors in addressing global climate challenges is also provided in the special reports (Bridging the Emissions Gap, CDP Supply Chain Report 2017, Green Bonds Market Summary, Low Carbon Investment Registry Highlights and others); analytical

reports of research centers (Center for Climate and Energy Solutions, Center for International Climate and Environmental Research, Climate Ark, Harvard Project on Climate Agreements, etc.); specialized communication programs on climate change at Yale University, George Mason University, the Adam Corner British Project and the Adelphi Platform. These documents identify the interplay between global climate and non-climate risk factors and the role of international organizations, sub-national actors and research centers in overcoming them.

However, the new realities of global climate change and the impact of international actors require further exploration of this issue. Unfortunately, the role of international organizations and research centers in the development of global climate change policy and its communicative support has not yet been given sufficient attention in Ukrainian literature. Therefore, the study of these issues is an urgent problem of modern international communication, and their solution will be of considerable practical importance.

The purpose of the study is to identify the communicative tools and technologies used by international organizations and subnational actors as international actors to disseminate climate information and generate awareness and support the global public opinion on their climate initiatives.

Main research results. UN Secretary-General Antonio Guterres called the problem of climate change "a major issue of our time, and its solution is a turning point in history" [13]. According to the Secretary-General of the United Nations, global climate change is the responsibility of all stakeholders, including states, governments, international organizations, subnational actors, corporations, public movements, the scientific community, individuals, the media, etc. This idea is supported by the 2007 Nobel Peace Prize laureate, former Head of the Intergovernmental Panel on Climate Change (2002 to 2015), Rajendra K. Pachauri, who states that "the most driving force behind the implementation of global climate change adaptation and mitigation programs are governments, political parties, the UN, international organizations, corporations and every citizen of the planet" [15].

One of the most powerful structures for mitigating and adapting to global climate change is the United Nations and its structures that take a system-wide approach to addressing climate change. The United Nations Framework Convention on Climate Change (UNFCCC) is a comprehensive mechanism for coordinating international action in response to this problem. The document, which was signed by 154 countries (plus the EU) in Rio de Janeiro in 1992, came into force in March 1994. Its ultimate goal is to "stabilize greenhouse gas concentrations in the atmosphere at a level that would not allow dangerous anthropogenic impacts on the climate system. Such level must be reached within a timeframe sufficient for the natural adaptation of ecosystems to climate change, which will not compromise food production and ensure further economic development on a sustainable basis" [12]. Now, the list of the State Parties to the Convention is almost universal – 197 countries ratified the Convention and became its parties.

In 1995, countries began negotiations to strengthen global climate change responses. Two years later, the Kyoto Protocol was adopted. This document commits developed countries, Parties to the Protocol, to reduce their greenhouse gas emissions. The first commitment period began in 2008 and ended in 2012. The second period began on January 1, 2013 and will end in 2020. The Kyoto Protocol has 192 member states.

The 21st Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, held in Paris in December 2015, concluded a historic agreement to fight climate change and enhance the activities needed to ensure sustainable low carbon development. The Paris Charter relies on the Convention's mandate and unites all peoples for the first time in history in order to take decisive steps to combat climate change, mitigate its effects and assist developing countries. The main goal of the Paris Agreement is to strengthen global climate action so as to keep global temperatures rising to 2°C this century and even try to reduce it to 1.5°C. The Paris Agreement was signed at the UN Headquarters in New York on April 22, 2016, the International Mother's Day, by the Heads of 175 countries. This has become a record number of countries that have signed an international agreement in one day. In September 2019, the Secretary-

General of the United Nations held a Climate Summit to discuss issues in this area. The world leaders gave a presentation on the measures that were taken and the activities planned until the UN Climate Conference to be held in 2020.

A large number of structures, programs and projects have been set up within the UN to address global climate change, adaptation actions and mitigate the effects of climate change. For example, the United Nations Environment Program (UN-Environment, UNEP) is a "leading global environmental organization that defines a global environmental agenda, promotes a coherent implementation of the environmental component of sustainable development within the UN system, and is a credible defender of environmental interests" [14]. The UN Program collaborates with governments, the private sector, civil society, international academia and professionals as well as with other UN bodies and international organizations around the world. It is the main UN body in the field of environment, it defines the policy and coordinates the activities of all organizations of the UN system and beyond in the environment and is responsible for the environmental component of sustainable development. UNEP publishes a large number of reports and newsletters [19]. For example, the Fourth Global Environmental Initiative (DEI-4) is a good example of a report on ecology, development and human well-being, and provides analytical material and information for policymakers and all stakeholders. One of the main ideas of the DEI-4 is to warn humanity that it "lives inappropriately to its wealth." The report notes that the number of people is so large that the amount of resources needed to survive exceeds the available amount. The environmental imperative (or the amount of land required to provide one person's food) is 21.9 hectares, while the Earth's biological capabilities is 15.7 hectares per person.

United Nations agencies are monitoring the environmental impacts of climate change. The UN also supports joint programs to address global climate problems. Such joint programs include, in particular, The World Climate Research Programme (WCRP), The Global Climate Observing System (GCOS) and The Global Ocean Observing System (GOOS) [17]. These programs are funded by the UNESCO International Oceanographic Commission (IOC), the United Nations Environment Program, the World Meteorological Organization and the International Science Council. The activities of the World Climate Research Program (WCRP) contribute to the improvement of the forecasting capabilities of operational centers in extended weather and seasonal weather forecasts and contribute to the prediction of annual, ten-year and long-term variability, as well as to improving the estimation of validity and prospects climate. The WCRP provides the bulk of the scientific input to the Intergovernmental Panel on Climate Change in the process of developing its recommendations, and forms the scientific basis for adapting to climate change and developing mitigation strategies that are implemented internationally and regionally over time. The Global Climate Observation System (GCOS) was established in 1992 to provide the production of observations and information needed to address climate issues and bring them to all potential users. The GCOS is a long-term user-oriented operating system to provide comprehensive observations needed to monitor the climate system, identify and explain climate change, evaluate the effects of climate change and variability, and support research efforts to improve climate understanding and anticipation. It deals with the entire climate system as a whole, including its physical, chemical and biological properties, as well as processes occurring in the atmosphere, oceans, on land and in the cryosphere. The Global Ocean Observation System (GOOS) is an ongoing global system for the observation, modeling and analysis of marine and ocean variables in support of operational maritime services worldwide. GOOS provides an accurate description of the current situation in the ocean, including living resources; provides continuous forecasts of future sea conditions for as long as possible, as well as a basis for climate change forecasts.

In 1988, UNEP and the World Meteorological Organization established the Intergovernmental Panel on Climate Change (IPCC), a UN special unit dedicated to the study of global climate change. The IPCC's role is to evaluate, on a comprehensive, objective, open and transparent basis, available scientific, technical and socio-economic information related to understanding the scientific basis of the risk of climate change caused by human activity, its potential impact and adaptation and mitigation consequences. The IPCC does not carry out research and monitoring of climate-related

data. Its estimates are based on published and peer-reviewed scientific and technical literature. In 2013, the most comprehensive data on anthropogenic impacts on climate change were presented. The IPCC has issued its Fifth Assessment Report, which clearly identified the anthropogenic cause of global climate change.

The IPCC's main information product is the Assessment Report, which presents current and expected changes in the Earth's climate, their impact on natural and economic systems, public health, as well as opportunities to adapt to climate change and mitigate human impact on the global climate. The IPCC Sixth Assessment Report commenced in 2015 and will end in 2022. Each volume of the report has a Technical Summary and a Policy Summary (which is prepared with a minimum of technical terms). The term of preparation of such reports is 5 – 7 years. Numerous national meteorological and hydrological services and related agencies, as well as regional climate centers, the World Meteorological Organization (WMO), the World Climate Research Program, the Global Atmospheric Service and the Global Crioshpere Service, are sources of information for the IPCC report. Information is also provided by a number of other UN agencies, including the Food and Agriculture Organization, the World Food Program, the Office of the United Nations High Commissioner for Refugees, the International Organization for Migration, the UNESCO Intergovernmental Oceanographic Commission and the United Nations Environmental Program. WMO, for example, uses data sets (based on monthly climatological data from observation stations) from the National Oceanic and Atmospheric Administration of the United States of America, the Goddard Institute for Space Research, NASA, Hadley's Center, Meteobureau of the United Kingdom and The Climatic Research Unit (CRU) of the University of East Anglia in the United Kingdom. WMO also uses data sets from the analysis conducted by the European Center for Medium-Term Weather Forecasts and its Climate Change Service within the Copernicus program, as well as by the Japan Meteorological Agency. The combination of observational data with simulation enables the estimation of temperature values at any time, anywhere in the world, even in the polar regions.

In the cycle of the main Assessment Report, special reports, technical reports, methodological reports or methodological manuals can also be prepared, as well as various thematic seminars, based on which the reports are published. Each type of such information products has its own specific. However, they are all based on information from scientific publications. In doing so, IPCC reports should be politically neutral in order to become a basis for policy-making.

The Special Reports highlight a specific topic relevant to the activities of two or three IPCC Working Groups. They also contain a Summary for Politicians. The term of preparation of special reports is 2 – 3 years. A Synthesis Report is also being prepared, summarizing the most important information presented in the reports of all three IPCC Working Groups in the Assessment report, as well as in the special reports prepared in this IPCC work cycle. The Synthesis Report also has its own Summary for Politicians. Sometimes it is decided to prepare a Technical Report that summarizes information on a specific issue that has been presented in other reports – evaluation or ad hoc. For example, the Climate Change and Biodiversity Technical Report (2002) was released in 2002. All types of IPCC information products are available on the organization's public website http://www.ipcc.ch/publications_and_data/. They are also published in hard copy.

The UN's response to global climate change was honored with the Nobel Prize in 2007. Nobel Peace Prize winners were Intergovernmental Panel on Climate Change and former US Vice President Albert Gore. They have been honored with this award for their work in studying and disseminating information on anthropogenic causes of climate change, as well as for developing possible measures to combat such changes.

The UN website also provides a big variety of open information on climate topics. In addition to the IPCC Climate Assessment Report, there is the WMO Greenhouse Gas Bulletin, the United Nations Environment Program Gap Report, the New Climate Economy Report and others [20]. For example, the WMO Bulletin on Greenhouse Gases publishes data on the concentration of greenhouse gases in the Earth's atmosphere, which states that the levels that hold the heat of greenhouse gases in the atmosphere have reached another record. A key report of the United

Nations Environment Program includes a final estimate of the gap in the emission level, i.e. the gap between the expected emission levels in 2030 compared to the targets corresponding to the 2 / 1.5 ° C level. The report emphasizes that the level of global emissions is rising as national commitments to combat climate change prove inadequate. However, the growing indluence from the private sector and the untapped potential of innovation and green finance are creating ways to bridge the gap in emissions. According to the New Climate Economy report for 2018, the next 2-3 years are a crucial period, during which a number of political and investment decisions will be taken that will determine the future of the planet for the next 10-15 years. The document notes that front-runners are already taking advantage of the economic and market opportunities for growth that a new approach offers, while laggards not only lose those opportunities but also put all of us at increased risk. If everyone takes this approach, it can bring in over $26 trln. and make the world more sustainable.

Russian researchers A. Gladilshchikov and S. Semenov believe that "recently, IPCC has been paying much attention to communication strategies. The conclusions of IPCC reports should be communicated to governments, relevant NGOs and the public concerned. It is important to use publicly available terms to point out the importance of these conclusions for different social groups of the population, their current and long-term interests, for future generations" [*Гладильщикова, Семенов,* 2017: 19]. Confirmation of this is the UNDP Special Comprehensive Program on Improving Climate Change and Early Warning Systems for Climate Change and Adaptation to Climate Change in Africa, Asia and the Pacific. Under this program, subregional and regional systems provide disaster preparedness and response based on a model that integrates risk knowledge, monitoring and forecasting components, information dissemination and alert response.

UNESCO, together with other UN agencies, promotes climate change education and public awareness at high-level events, such as the UNFCCC annual conferences within the UN Alliance on Education, Training and Publicity on Climate Change. As part of its program on Climate Change Education for Sustainable Development, UNESCO seeks to help people understand the effects of global warming and increase climate literacy among young people. This program and other innovative educational initiatives, including the Global Action Program, Climate Change Empowerment Actions and the ZOOM Campaign, were presented and discussed at the United Nations Climate Change Conference (COP-22) held in Marrakech, Morocco in November. 2016.

As part of its work on education for sustainable development, UNESCO supports countries in integrating climate change into education, and facilitates dialogue and exchange of experience in the field of climate change education through international expert meetings. UNESCO calls on schools to implement climate change education through a "school-wide" approach. In accordance with this approach, the principles of sustainability are integrated into the management of school premises and equipment, as well as into the structures of management of educational institutions. UNESCO is developing technical guidance and teaching materials, including a six-day online course for Secondary School Teachers on Climate Change. The UNESCO Climate Change Education Center provides stakeholders with free access to hundreds of climate change education resources.

By supporting the capacity-building of journalists and broadcasters on climate change, UNESCO helps Member States raise public awareness and improve understanding of the causes and consequences of climate change, as well as how countries and communities adapt to the future effects of climate change. This work also helps to highlight the activities of governments and companies to counter these threats. An example of this is the publication Climate Change in Africa: A Guide for Journalists [22].

The World Metrological Organization (WMO) works closely with weather forecasters, who are responsible for education and information on climate issues. Their efforts have created a new network "Climate Without Borders", which covers approximately 375 million people every day and aims to "educate, motivate and activate" weather forecasters so that they provide relevant and useful information to relevant audiences. In addition, in partnership with Climate Central, WMO has released a series of videos entitled "Summer in the Cities" that simulate weather in cities around the

world as a result of global warming. These videos are a follow-up to the Weather in 2050 series of television weather reporters presenting weather forecasts calculated in the 2050 weather scenarios [21].

The UN understands that education and public awareness have an important role in enhancing the capacity of communities to mitigate and adapt to climate change, enabling people to make informed decisions. On the other hand, information and education is the first step towards implementing adaptation strategies and mitigating the effects of global climate change. Combating climate change requires the involvement of as many stakeholders and collective action as possible across the globe. Therefore, on December 3, 2018, the climate bot ActNow.bot was launched on the UN's Facebook page at the UN Climate Conference in the Polish city of Katowice. This initiative will allow the public to be informed about the developments and take an action to fight climate change. According to the organizers, "with ActNow.bot, people will be able to better understand what actions they can personally take to combat climate change. ActNow.bot will recommend day-to-day activities, such as going by public transport, eating less meat, tracking the volume of measures taken, which will allow us to assess the impact of collective action at this critical moment in our planet's history" [21]. Another UN-supported information project is the "People's Seat" initiative, in which famouse naturalist and TV presenter Sir David Attenborough invites people to share their thoughts on the need to battle climate change. Thousands of well-known social networks users have already joined this action with the hashtag #TakeYourSeat and shared their ideas with their followers. The campaign is aimed to attract the attention of the general public to the problem of climate change and battling it. People all over the world have the unique opportunity to share their thoughts, which were then featured in a special People's Message read by Sir David Attenborough at the KS-24 Conference in Poland.

Thus, the United Nations system is one of the leading actors in the architecture of international governance for a range of climate change activities. States Parties are required to reaffirm their support for the organizations of the system and to provide them with the resources necessary to develop a consolidated, effective and efficient system-wide climate change strategy that takes into account the processes underway in the implementation of the UNFCCC, and would be consistent with the results of past and future sessions of the Conference of the Parties (COP). The UN also uses traditional and modern tools to convey its position to target audiences.

In addition to international organizations, subnational actors, whose activities often have a decisive influence on state behavior and the international system, play a significant role in settlement of global climate change. On the eve of the Global Climate Action Summit (GCAS) held in San Francisco in September 2018, the UN released an environmental review highlighting the important role of non-state actors in reducing emissions and achieving climate targets. The document emphasized that "non-state actors such as cities, regional governments, companies, investors, higher education institutions and public organizations are increasingly committing themselves to resolutely battling climate change" [14]. The survey notes that "most national governments do not make the stated efforts to improve climate change legislation, as declared in the Paris Agreement, while the efforts of non-state (subnational) entities are becoming increasingly important to achieve the global goals of reducing emissions" [14]. The document shows that over the three years since the Paris Agreement, the framework and pace of climate change efforts among non-state actors has increased significantly. Cities, regions, businesses, civil society and a number of other sub-national actors can take individual and joint action to tackle climate change. Overall, the UN study analyzes the results of more than 183 international cooperative initiatives and thousands of non-state actors located in 7,000 cities, 133 countries, and more than 6,000 private companies.

Certain actions by non-state and sub-national actors concerning climate change are presented in form of commitments, initiatives or goals. As a rule, they refer to a diverse set of management measures that are implemented in parallel with state and intergovernmental arrangements. When such non-state actors are involved in international cooperative or transnational climate management initiatives, they may define their individual commitments or climate actions according to the set of

rules identified by the initiative or program. Typically, these entities undertake to operate in the climate field through a range of networks that combine individual climate commitments or reporting platforms. The criteria for participating in these networks and platforms differ: some networks require participants to fulfill specific obligations, such as reducing greenhouse gas emissions or submitting regular emissions reports; others prefer collective knowledge sharing and capacity building; the third of these are membership-based networks that do not require entities to commit to specific goals. Despite the considerable coverage and analysis of non-state actors' actions on climate action, it is difficult to obtain comprehensive global statistics.

The analysis shows that the participation of individual non-state actors through similar networks has increased since the Paris Agreement. For example, if in 2015 the number of cities that came up with climate initiatives was 7,025 from 99 countries (11% of the world population), in 2017 their number increased to 7,378 cities from 133 countries (16.9% of the world population); in 2015, there were 116 regions from 20 countries (11% of the world population), in 2017 – 245 regions from 42 countries (17.5% of the world population). Similarly, this tendency is relevant for companies and investors, if climate projects were implemented in 2015 by 4,431 companies from 88 countries and more than 400 investors with a total asset portfolio of about US $ 25 trillion, then in 2017 there were already 6,225 companies and investors from 120 countries with a combined portfolio assets about US $ 36.5 trillion. In 2015, 15 of the 20 largest banks in the world participated in such projects, in 2017 – 34 of the 57 largest banks with a total market capitalization of US $ 3.1 trillion. Following the Paris deal in 2017, there are approximately 700 US colleges and universities with a total student population of approximately 1 million and endowment funds of US $ 250bn. participated in climate initiatives [*Hsu, A.* et.al, 2018: 28].

When considering such sub-national actors as cities and regions, there are several networks that integrate urban and regional climate initiatives. Examples of such networks are the Global Covenant of Mayors (GCoM), signed by 9130 cities, covering 775.5 million people worldwide (just over 10% of the world population). All signatories are required to submit separate Sustainable Energy and Climate Action Plans or to reduce their carbon footprint by 40% by 2030 [6]. ICLEI, a global network of regional governments, has developed the Carbonn Climate Registry, which includes more than 1,000 cities and regions from 89 countries (covering 9% of the world's population) and is publicly available at http://carbonn.org/. 110 regional governments from 36 countries in the world (total population 658 million, 18% of the world economy and 3.9 GtCO2 baseline emissions) in 2017 signed an agreement on states and regions and committed themselves to 290 climate actions, aimed at reducing emissions, developing renewable energy sources and energy efficiency that are expected to "lead to an overall (aggregate) reduction of 21.9 GtCO2 between 2010 and 2050 if climate targets are met in time" [10].

According to a Climate Development Program (CDP) survey in 2018, more than 6,300 companies with a total value of more than $ 3 trillion and over 650 investors with assets of $87 trillion support climate protection programs [1]. In 2017, the CDP survey found primary data from more than 4,800 companies, of which 47% reported emission reductions or a target for renewable energy. The 2018 Green Bonds Market Summury showed that $ 74.6 billion of green bonds were issued in the first half of 2018, by 156 issuers from 31 countries [3]. The largest number of green bonds and the largest financial donor to climate projects in energy, construction and land use were companies and investors from the United States and China. The Low Carbon Investment Registry (LCI) currently includes 53 investors from 21 countries, with US $ 50 billion in low-carbon assets [7].

By attracting big non-state and sub-regional actors representing a large number of population of the planet, the implementation of International Co-operative Initiatives (ICI) can lead to significant emission reductions, in circumstanses that achieving climate goals does not contradict with their other goals. In addition to direct emission reductions, international cooperative initiatives can, in particular, work out concepts of local development strategies, stimulate the development and diffusion of technology, and assist in the formulation of additional initiatives and activities. There are several databases that collect information about ICI, the largest of which is the Climate

Initiatives Platform, which is regularly updated, includes clear criteria for analysis and is publicly available. This Platform is supported by UNEP and includes ICI that meet the following criteria: includes several non-state actors involved in voluntary activities and may include States; are intended to reduce greenhouse gas emissions or increase ecosystem sustainability, or may result in greenhouse gas emissions reductions or gas sustainability; have an international scale or potential for significant global impact, and have a focal point [4]. The Climate Initiatives platform currently contains 244 initiatives, 220 of which are related to mitigation of global climate change in more than one country. Over the last two decades, the number of international cooperative initiatives has increased significantly, and the peaks of launching new initiatives are directly related to major climate events such as the COP-15 in 2009, the UN Climate Summit convened by UN Secretary-General Ban Ki-moon in 2014. and COP-21, which took place in 2015 in Paris.

The largest growth of international cooperative initiatives is observed in Latin America and the Caribbean, where the number of ICI has increased from 6 in 2016 to 25 in 2018. In Western Europe, Asia and the Pacific, regional participation is about twice as high as in 2016. Researchers note that global ICI may be more active in regions with relatively low participation in regional ICI such as Southeast Asia and the Middle East. 149 out of 220 ICIs cover several sectors, mainly energy, industry, forestry, transport, agriculture and construction. The choice of the sector often changes according to the needs and capabilities of the regions where they are implemented. Sustainability and agriculture, for example, are most commonly implemented in low- and middle-income countries, while initiatives in the industrial sector are most prevalent in high- or middle-income countries. The percentage of ICI that set quantitative targets, that is, specific, measurable targets, such as reducing emissions by a certain amount to a specific year, or raising funds to strengthen the capacity of certain communities remains low, around 22%. The analysis showed that only 8 initiatives had clear targets for reducing emissions per year. Monitoring, reporting and verification practices remain weak. Many initiatives do not conduct or do not disclose cost estimates or feasibility studies, which creates an additional barrier to assess the feasibility and effectiveness of the project. Only a few initiatives, such as The Bonn Challenge, support an interactive online panel that tracks the commitment of its subscribers and their potential collective progress toward the goal of the initiative.

Non-state and sub-national actors are therefore also contributing greatly to global climate change governance. At the international level, there is particular interest in how much they can contribute to global GHG reductions by 2030 and the extent to which these potential contributions are already included in national climate policies. The activities of sub-national actors on climate change are not limited to quantitative indicators of potential emission reductions. They play an important role in building confidence in national governments in the implementation of climate policy, implement innovative projects, share experiences with other participants in climate processes, i.e. undertake actions that are difficult to quantify.

Research findings from research and education centers, metrological and hydrological services also become the basis for political decision-making and the promotion of global climate change in society. Therefore, such structures can also be identified as actors in addressing global climate challenges. Thus, national meteorological and hydrological services facilitate national climate assessments. As a rule, their documents are used in policy formulation and are informational and advisory in nature. A new report from the US Federal Metrology Bureau explains how climate change impacts the environment, agriculture, electricity, land and water, transportation, health and wellbeing, and the risks that it will cause damage to infrastructure and property rights in the country and how this will hold back economic growth in this century. UK's Metrology Service assessment published on November 26, 2018 warned that by 2070 summer temperatures could be up to 5.4 ° C, summer rainfall could reach 47% and sea levels by 2100 may increase by 1.15 m in London. The report of the Swiss Climate Scenario Service, released on November 13, 2018, notes that the climate in Switzerland becomes hotter and drier, but nonetheless, in the future the country will have to face more strong rains and its famous ski resorts will become less snowy [16].

Powerful resource centers that accumulate information on global climate change are the Center for Climate and Energy Solutions, a non-governmental organization that conducts research related to the development of new energy technologies to tackle climate change; Center for International Climate and Environmental Research (CICERO) – an independent Norwegian Climate Policy Research Center that publishes climate policy reports, news and analysis; Climate Ark is a portal and search engine that provides access to news articles, working papers, government reports and climate change related research; Harvard Project on Climate Agreements, a project sponsored by the Harvard Center for Science and International Relations, provides access to working papers, records and comments of climate negotiation experts.

Among the university's climate change programs are US climate change projects at Yale, George Mason University and Adam Corner's British project. It is worth noting that they are not only conducting research on global climate change, but are also paying much attention to the information aspect, that is, informing the world's public about climate challenges in order to raise awareness of the issue. For example, the Yale University's Climate Change Communication Program conducts research to raise public awareness of global climate change, identify the public's concerns, political preferences and behaviors of ruling political elites, as well as major psychological, cultural and political factors, that affect them. Representatives of the general public, government, media, business, non-governmental organizations are invited to discuss climate issues on the daily national radio program Yale Climate Connections [11]. The results of the research are published in open reports, interactive maps, scientific articles, and are presented during public presentations and private briefings. Yale University's climate research program is used by hundreds of news organizations, including CBS, ABC, NBC, CNN, New York Times, Washington Post, Associated Press, Guardian, Xinhua, and more.

The mission of the Communications Center for Global Climate Change at George Mason University is to develop and implement scientific knowledge that will help society make informed decisions that stabilize the earth's viable climate and prevent further damage from climate change. To achieve this, the Center participates in three broad activities: conducts research in the field of communications; helps government agencies, NGOs, professional associations, and companies apply social science research to improve their grassroots engagement initiatives; and prepares students and communications professionals who will have the knowledge and skills needed to engage the public in climate change projects. For example, under the "Climate Change Program in the American Understanding" national representative surveys are conducted twice a year in partnership with the Yale Climate Change Communication Project from 2008 to study and track public understanding of climate change. Since 2009, in collaboration with the American Meteorological Society, NASA, the Yale Program, the TV project "TV anchors as Climate Educators" has been launched to turn anchors of weather programs into opinion leaders in global climate change. Each week, more than 300 television meteorologists from across the nation receive climate material and experts' explanations of how to use this data to competently inform the public about the effects of climate change. The 2014 "Climate and Health Project" launched in collaboration with leading US medical and nursing societies and related organizations, assesses clinicians' knowledge and experience of the effects of climate change on public health and support interested clinicians to inform the public and policy makers about the impact of climate change on health. Since 2012, the National Park Service and the Environmental Alliance for Urban Ecology have launched a national park program and organized summer internships for students on climate change and its impact on national parks. There are also partnership programs raising awareness of climate change with a large number of government agencies, NGOs and universities in the region, aiming to strengthen their programs to address climate change and promote community resilience [2].

"The Climate Communication" project of Adam Corner's British Research Center brings together scientists and practitioners working to engage the public in climate change. Since 2018, the project has been working in three main areas [9]: auditing the skills and capabilities of UK practitioners on climate change, identifying audiences, networks and co-production channels, and

synthesizing resources through seminars, online meetings and online stakeholder surveys, collaborating with community networks to identify their needs and potential barriers to discuss climate science topics. The results of all the studies are published on the project website.

One of the most powerful centers for research on global climate change in continental Europe is the Adelphi platform, which is supported by the Federal Ministry of Foreign Affairs of Germany. The main objective of the project is "the exchange of information on the environment, climate conflicts and international climate cooperation" [5]. The Adelphi's activities focus on two main areas: climate diplomacy and developing strategies for resilience to global climate change. Climate diplomacy explores the external dimension of global climate change and climate policy, including various regional and thematic approaches, including access to drinking water, global food safety, global climate risks, climate security in the UN, G7 and informing key stakeholders about global climate instability. The second approach is to analyze and highlight approaches and projects to adapt and mitigate the effects of global climate change.

To inform and disseminate knowledge among key stakeholders about a variety of climate policy topics, the Adelphi platform offers several tools, including file documents on the project site about more than 120 environmental conflicts around the world; exhibitions and their Internet version with a demonstration of the dramatic impact of global environmental change, links to conflicts and opportunities for collaboration; video interviews with leading experts and thematic videos; newsletters about the most interesting current events, research, events and initiatives and more. Adelphi receives information on specific climate projects and initiatives from partners around the world. Among the largest partners of the project are the Energy Poverty Research Group (EPRG) of the University of Queensland (British Columbia), the Manipal Advanced Research Group (MARG) of India, the leading African Center Institute Institute for Security Studies (ISS) from South Africa, The Voinovich School of Leadership and Public Affairs at Ohio University, USA; Fund for the Future of Latin America (Fundación Futuro Latinoamericano, FFLA); Center for Non-Traditional Security Studies (NTS) of Asia Pacific at the University of Singapore; Environmental and Security Change Program at the US Wilson Center; Ministry of Foreign Affairs of the Netherlands with "the Planetary Security Initiative" (PSI) and others.

So, scientific research, the activities of international projects and research centers stimulate new developments in energy efficiency, the use of alternative energy sources, startups around the world. However, all of these projects, although quite specific, cover a limited number of people and territories and operate within the limits set by national law.

Conclusions. Today, projects aimed at addressing global climate challenges are being implemented by international organizations and sub-national actors. However, the results of their activities differ in the nature of the decision, the audience reach, the range of used tools, the speed of implementation of climate initiatives and other parameters. Thus, international organizations make mostly advisory types of climate decisions, which are implemented through the establishment and financing of specialized structures, the implementation of environmental projects, the financing of climate researches, the development of recommendations for decision-making by political leaders, the involvement of opinion leaders, and so on. Their implementation speed of climate tools and initiatives is slow. At the same time, one of the most powerful structures that defines global climate policy for mitigation and adaptation to global climate change is the United Nations and its structures that adhere to a system-wide approach in solving climate change issues.

Sub-national and non-state actors' initiatives are increasingly becoming the platform for demonstration, testing and dissemination of new, cutting-edge technologies for addressing climate challenges. They often take action to tackle climate change through a number of networks and initiatives. Over the last two decades, the number of such coalitions has increased significantly. On the other hand, non-state actors cannot act as a dominant actor in overcoming global climate problems due to a number of factors. First of all, non-state and sub-national actors need to gain the support of national governments and ruling parties to carry out their activities. Secondly, the data that would allow a comprehensive assessment of the potential impact of subnational actors on climate change is limited.

The tools served by sub-national actors include, in particular, the adoption of local development programs, regional, city-level action plans, implementation of joint environmental projects and initiatives at local level, involvement of business entities, cooperation with partner cities, dissemination of information and sharing experiences through forums, roundtables, seminars, trainings, websites and more. Given the local nature of projects in practice, they are being implemented fairly quickly.

The results of research and projects of educational institutions and research centers are advisory and informative. The conclusions of scientific developments are the basis for political and managerial decision-making at all levels. Therefore, the target audience of the research centers is quite narrow and segmented. Their tools include, particularly, conducting their own research and disseminating their results to decision-makers, opinion leaders, media means, conducting joint research with partner organizations, disseminating ideas through training courses, developing and disseminating educational literature. It can be concluded that the findings of their studies are implemented in practice at medium speed or even slowly because of a large number of decision-making units at the relevnt structures.

References

1. *CDP Supply Chain Report 2017. Closing the Gap: Scaling up sustainable supply chains,* < https://b8f65cb373b1b7b15feb-c70d8ead6ced550b4d987d7c03fcdd1d.ssl.cf3.rackcdn.com/cms/reports/documents/000/003/014/original/CDP_Supply_Chain_Report_2018.pdf>.
2. *Center for Climate Change Communication. Programs,* <https://www.climatechangecommunication.org/programs/>.
3. *Climate Bonds Initiative. Green Bonds Market Summary: H1 2018,* <https://www.climatebonds.net/fles/fles/H1%202018%20Highlights_12072018.pdf>.
4. *Climate Initiatives Platform About the Climate Initiatives Platform,* <http://climateinitiativesplatform.org/index.php/Climate_Database:About>.
5. *ECC Platform. About ECC,* <https://www.ecc-platform.org/about-ecc>.
6. *Global Covenant of Mayors for Climate & Energy. ThisiIs a powerful and historic response to climate change,* <https://www.globalcovenantofmayors.org/>.
7. *Global Investor Coalition on Climate Change. Low Carbon Investment Registry Highlights,* <http://globalinvestorcoalition.org/portfolio/summary/>.
8. *Hsu, A.; Widerberg, O.; Weinfurter, A.; Chan, S.; Roelfsema, M.; Lütkehermöller, K. and Bakhtiari, F.* (2018). *Bridging the emissions gap - The role of non-state and subnational actors. In The Emissions Gap Report 2018*. A UN Environment Synthesis Report. United Nations Environment Programme. Nairobi.
9. *The Climate Communication Project,* <https://theclimatecommsproject.org/climate-communicators-a-visual-map/ >.
10. *The Climate Group.* Global States and Regions Annual Disclosure: 2017 Update: How Over 100 States and Regions are Acting on Climate Change, <https://www.theclimategroup.org/sites/default/fles/disclosure_update_2017_digital.pdf>.
11. *The Yale Program on Climate change Communication. About The Program,* <https://climatecommunication.yale.edu/about/the-program/>.
12. *United Nations Framework Convention on Climate Change,* <https://unfccc.int/resource/docs/convkp/conveng.pdf>.
13. *UN: Climate Action Summit 2019,* <https://www.un.org/en/climatechange/un-climate-summit-2019.shtml>.
14. *UNEP: Why does UN Environment matter?,* <http://www.unepcom.ru/unep/unep.html>.
15. *Буняк Р. Нобелевский лауреат: Чтобы спасти Землю, нужно отказаться от мяса, авто и одежды* [Nobel laureate: To save the Earth, you need to abandon meat, cars and clothes], <https://fakty.com.ua/ru/lifestyle/20170911-nobelivskyj-laureat-aby-vryatuvaty-zemlyu-treba-vidmovytysya-vid-m-yasa-avto-ta-odyagu/>.

16. *ВМО Сигналы и последствия изменения климата сохраняются в 2018 году* [Signals and effects of climate change persist in 2018], <https://public.wmo.int/ru/media/пресс-релизы/сигналы-и-последствия-изменения-климата-сохраняются-в-2018-году>.
17. *ВМО Совместно спонсируемые программы* [Co-sponsored Programs], <https://www.wmo.int/pages/summary/cosponsored_summary_ru.html>.
18. *Гладильщикова А.* (2017) *Межправительственная группа экспертов по изменению климата (МГЭИК): цикл шестого оценочного доклада* [Intergovernmental Panel on Climate Change (IPCC): Sixth Assessment Report Cycle], *Фундаментальная и прикладная климатология,* 2: 13–25.
19. *ООН Глобальный обзор действий по борьбе с изменением климата указывает на нарастающую динамику, перемещении бремени, упущенные возможности* [The global climate action review points to growing momentum, displacement burdens, missed opportunities], <https://www.unenvironment.org/ru/news-and-stories/press-release/globalnyy-obzor-deystviy-po-borbe-s-izmeneniem-klimata-ukazyvaet-na>.
20. *ООН Доклады по климату: Ключевые доклады о мерах и решениях в области борьбы с изменением климата* [Climate reports: Key reports on climate change measures and decisions], <http://www.un.org/ru/climatechange/reports.shtml>.
21. *ООН ООН и меры по борьбе с изменением климата* [UN and Climate Change], <http://www.un.org/ru/climatechange/un-climate-action.shtml>.
22. *ЮНЕСКО Образование и информированность в вопросах изменения климата* [Climate change education and awareness], <https://ru.unesco.org/themes/obrazovanie-i-informirovannost-v-voprosah-izmeneniya-klimata>.

УДК 327

УДК 341.171

EVOLUTION OF THE EASTERN PARTNERSHIP REGARDING ASSOCIATED COUNTRIES

ЕВОЛЮЦІЯ СХІДНОГО ПАРТНЕРСТВА СТОСОВНО АСОЦІЙОВАНИХ КРАЇН

ЭВОЛЮЦИЯ ВОСТОЧНОГО ПАРТНЕРСТВА В ОТНОШЕНИИ АССОЦИИРОВАННЫХ СТРАН

Berezovska I.
Candidate of Legal Sciences, Senior Research Associate of the research department of the Institute of International Relations of Taras Shevchenko National University of Kyiv. Berezovska.iir@gmail.com

Березовська І. А.
Кандидат юридичних наук, старший науковий співробітник науково-дослідної частини Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. Berezovska.iir@gmail.com

Березовская И. А
Кандидат юридических наук, старший научный сотрудник научно-исследовательской части Института международных отношений Киевского национального университета имени Тараса Шевченко. Berezovska.iir@gmail.com

Abstract. *The entry into force of the Association Agreements concluded by the European Union with Georgia, Moldova and Ukraine has become a key moment in the Eastern Partnership evolution resulting in the widened gap between the partnership countries. The article emphasizes that these agreements created the legal basis for enhancing the EU law impact on the associated countries resulting in the Europeanisation of the legislation of the latter. It notes that due to implementation of these agreements the associated countries have already started large-scale internal reforms.*

The article shows that against the apparent success in the implementation by the EaP associated countries there emerge initiatives to implement a separate advanced format of EU cooperation with the associated countries – the Eastern Partnership Plus.

The completion in 2020 of the implementation period of the Eastern Partnership's main working document 20 Priorities for 2020 together with the perspective of holding of the next sixth summit of all partnership countries give a chance to renew the partnership based on the more for more principle and to develop new mechanisms of work that can meet the associated countries' intentions to deepen the EU integration.

The article points out that the announcement by the European Union of broad strategic consultations on the updates of the Eastern Partnership is a positive element that should be used by the associated countries to convince the EU of the need for a new strategy that will complement the Eastern Partnership and make it more focused on the integration objectives of the three countries.

It gives arguments that Association Agreements updating efforts may be an efficient way to make such aspirations come true, analyses the grounds and directions for such update.

The article underlines that the associated countries need to use the time remaining to deciding on the further evolution of the EaP for the definite implementation of the current operation programme and demonstration of significant progress in the Association Agreements implementation.

***Keywords**: Eastern Partnership, European Union, Association Agreement, EaP Associated Countries, Free Trade Area, legislation approximation.*

Анотація. *Ключовим моментом еволюції Східного Партнерства, внаслідок якого посилилась диференціація між країнами-учасницями стало набрання чинності угодами про асоціацію, укладеними Євросоюзом з Грузією, Молдовою та Україною. Підкреслено, що ці угоди створили правові засади для посилення впливу права ЄС на асоційовані країни, внаслідок чого здійснюється європеїзація законодавства останніх. Відзначено, що в результаті виконання зазначених угод, асоційовані країни вже розпочали масштабні внутрішні реформи.*

Продемонстровано, що на тлі очевидних успіхів у реалізації асоційованими країнами Східного Партнерства з'являються ініціативи щодо впровадження в його рамках окремого просунутого формату співробітництва Євросоюзу з асоційованими країнами - Східне Партнерство-плюс.

Завершення в 2020 році часу імплементації основного наразі робочого документу Східного Партнерства «20 пріоритетів до 2020 року» разом з перспективою проведення чергового шостого саміту усіх країн-учасниць дають шанс на оновлення партнерства на основі принципу диференціації «більше за більше» та вироблення нових механізмів роботи, здатних задовольнити наміри асоційованих країн поглиблювати інтеграцію з ЄС.

В статті відзначається, що оголошення Євросоюзом широких стратегічних консультацій щодо оновлення Східного Партнерства є позитивним моментом, який має бути використаний асоційованими країнами для переконання ЄС в необхідності запровадження нової стратегії для асоційованих партнерів, що доповнить Східне Партнерство і зробить його більш сфокусованим на інтеграційних цілях для трьох країн.

Доводиться, що ефективним засобом реалізації таких прагнень, може стати робота щодо оновлення угод про асоціацію, аналізуються підстави та напрямки такого оновлення.

Підкреслюється необхідність використання асоційованими країнами часу, що залишається до прийняття рішення про подальшу еволюцію Східного Партнерства, для остаточного виконання чинної робочої програми та демонстрації вагомого прогресу в імплементації угод про асоціацію.

Ключові слова: *Східне партнерство, Європейський союз, угода про асоціацію, асоційовані країни СхП, зона вільної торгівлі, наближення законодавства.*

Аннотация. *Ключевым моментом эволюции Восточного партнерства, в результате которого усилилась дифференциация между странами-участницами стало вступление в силу соглашений об ассоциации, заключенных Евросоюзом с Грузией, Молдовой и Украиной. Подчеркнуто, что эти соглашения создали правовые основы для усиления воздействия права ЕС на ассоциированные страны, в результате чего осуществляется европеизация законодательства последних. Отмечено, что в результате выполнения указанных соглашений ассоциированные страны уже начали масштабные внутренние реформы.*

Продемонстрировано, что на фоне очевидных успехов в реализации ассоциированными странами Восточного партнерства появляются инициативы по внедрению в его рамках отдельного продвинутого формата сотрудничества Евросоюза с ассоциированными странами - Восточное Партнерство-плюс.

В статье отмечается, что начало Евросоюзом широких стратегических консультаций по обновлению Восточного партнерства является положительным моментом, который должен быть использован ассоциированными странами для убеждения ЕС в необходимости введения новой стратегии для ассоциированных партнеров, которая бы дополнила Восточное партнерство и сделала его более сфокусированным на интеграционных целях трех стран.

Подчеркивается необходимость использования ассоциированными странами времени, остающегося до принятия решения о дальнейшей эволюции Восточного партнерства, для окончательного выполнения действующей рабочей программы и демонстрации весомого прогресса в имплементации соглашений об ассоциации.

Ключевые слова: *Восточное партнерство, Европейский союз, соглашение об ассоциации, ассоциированные страны ВП, зона свободной торговли, сближение законодательства.*

Definition of Issue. It makes 10 years in 2019 since the European Union launched the Eastern Partnership (EaP) policy. A 10-year period makes a line to reflect on the success and, at the same time, to review the development perspectives of this policy. Over this period, the geopolitical and security realia of international relations have changed dramatically, the internal political situation in the EU and partnership countries have transformed significantly. The new reality of international relations in the region, including the Russia's aggression effects, pushed the EU to the need to update the EaP. The European Union has already started structural consultations about the future of the Eastern Partnership. This is a chance for Ukraine to develop a new format of the Eastern Partnership that would take into account the association relations outcomes and make a basis for boosting of the integration of the Eastern Partnership associated countries with the EU. Given the new internal political reality of Ukraine and the institutional updates in the European Union, the study of EaP evolution trends becomes particularly topical.

Review of Latest Studies and Publications. The details of the Eastern Partnership policy implementation are actively studied by the European and Ukrainian researcher societies. Certain regulations of the Eastern Partnership initiative have become a subject of discussions by the partnership countries as well as scientists, political analysts and independent experts. Among the studies of the first outcomes of the partnership in certain sectors, it is worth mentioning the works by Barbe, Costa, Lavenex, Lehmkuhl, Natorski, Surralles, Youngs, Whichmann. Relation of EaP to the Association Agreements conclusion is analysed in the works by Ch. Hillion, A. Mayhew, and the special study by a group of European scientists led by N. Šišková From Eastern Partnership to the Association. A Legal and Political Analysis is of particular note.

In the Ukrainian realm, the general issues of the EaP implementation and outcomes of ordinary partnership summits are traditionally analysed by political theorists and international relations experts, e.g.: V. Kopiyka, V. Mandzhola, O.Shnyrkov, T. Shynkarenko, N. Vesela etc. For the studies of the legal aspects of EaP, one will mention the works of T. Anakina, Z. Makarukha, R. Petrov, K. Smyrnova, I. Yakovyuk. It is worth noting individually the Expert Evaluation of the joint working document Eastern Partnership – 20 Deliverables for 2020: Focusing on Key Priorities and Tangible Results; the evaluation was performed by experts of the Ukrainian National Platform of the Eastern Partnership Civil Society Forum with the support of the Civic Synergy Project [17].

While the studies dedicated to the EaP evolution perspectives have emerged only this EaP anniversary year. In this respect, we can mention the works by experts V. Martyniuk, I. Nahorniak, S. Sydorenko.

Objective of Article. The objective of this work is to analyse the legal basis for the Eastern Partnership evolution in the context of strengthening of cooperation between the European Union and Eastern European Partners.

Presentation of Basic Material of the Study. As it is known, the Eastern Partnership (EaP) initiative, that was for the first time presented in Prague on May 07, 2009, is the policy of the European Union aimed at strengthening relations with the six eastern post-Soviet countries of the Eastern Europe and the South Caucasus (Azerbaijan, Belarus, Armenia, Georgia, Moldova and Ukraine) and a continuation of the EU-initiated European Neighbourhood Policy. The introduction of the Eastern Partnership has made a clear distinction between the mentioned European countries and other neighbours of the European Union from North Africa and the Middle East that even in terms of a formal geographic criterion do not have perspectives of the EU membership. However, this initiative covers post-Soviet countries that have different approaches and goals in the development of the relations with the EU. On the one hand, it has spread to Azerbaijan and Belarus, the countries with authoritarian government, far from close integration with the European Union, Armenia with unstable pro-European orientation, and, on the other hand, to pro-European-oriented Georgia and Moldova as well as to Ukraine whose strategic interest is to have a clear perspective of EU-membership.

This is the reason why the EaP has been criticized inside the partnership countries since the very beginning. Against the undeniable possible attitude to the Eastern Partnership initiative related to the creation of special programme for the Eastern Europe countries, the mentioned policy is treated as too general and overall. As for certain countries, like Ukraine, Moldova, Georgia, it offered too little (as it was not about the EU membership), while for others – Belarus, Armenia, Azerbaijan – too much (the EU integration).

The differences in the relations with different partnership countries become particularly scorching against the establishment of their EU association.

The Ukraine's strong endeavour to strengthen the EU integration by concluding the Association Agreement caused the extension of the Association relations to other Eastern Partnership members. This was first reflected in the European Commission's Communication on the Eastern Partnership dated December 3, 2008, stating "Association Agreements can provide a response to partners' aspirations for a closer relationship. This contractual frame for a stronger engagement, superseding the current Partnership and Cooperation Agreements, will be negotiated with partners that are willing and able to take on the resulting far-reaching commitments with the EU. These new agreements will create a strong political bond and promote further convergence by establishing a closer link to EU legislation and standards. They should also advance cooperation on Common Foreign and Security Policy and European Security and Defence Policy" [1].

Therefore, the conclusion of Association Agreements with each of the partnership countries including the creation of Free Trade Areas (FTA) became from the very beginning the Eastern Partnership basis that should have been accompanied with visa liberalization, cooperation for energy security and special funding of the project by the EU.

In 2012-2013, there were completed AA negotiations with four Eastern Partnership countries: Armenia, Georgia, Moldova and Ukraine. Adopted in September 2013 the decision on Armenia's accession to the Customs Union of Russia, Belarus and Kazakhstan meant that the AA and FTA were no longer an option for Armenia. The dramatic story of the EU-Ukraine AA entry into force after the President Yanukovych's refusal to sign it at the EaP Vilnius Summit on November 28-29, 2013 (including the Revolution of Dignity, Russia's opposition and the Dutch referendum) finally ended on September 1, 2017, when according to the decision of the EU Council 2017/1248 dated July 11, 2017 the AA with Ukraine finally came into force. Earlier, since July 1, 2016, the Association Agreements with Moldova and Georgia became effective bringing these three countries into a separate institutional group of the Eastern Partnership.

Association agreements concluded by the EU with the countries of the Eastern Partnership refer to the new generation of agreements [*Loo*, 2016: 434]. The Association Agreements concluded with Georgia, Moldova and Ukraine have the same structure and are very close in terms of their content.

It should be noted that, in terms of the sectors of cooperation and the volume of commitments undertaken, the mentioned Agreements are the largest among international agreements concluded by Georgia, Moldova and Ukraine so far. Their entry into force opened a new stage in the development of relations between the EU and Eastern Partnership associated countries. Implementation of the AA has become a factor determining the further directions of the associated countries' legal framework development. First of all, this is about a significant increase in the EU law influence on the associated countries' legal systems, especially in the areas covered by the deep and comprehensive FTA where the AA engages to gradually approximate their legislation closer to the EU norms and standards. With the fulfilment of these commitments, the Georgia's, Moldova's and Ukraine's legislations get gradually Europeanized.

In accordance with the general commitment in all three AAs, the associated countries will "gradually approximate their legislation to the EU law" (Art. 417 of AA with Georgia, Art. 448 of AA with Moldova, and Art. 474 of AA with Ukraine). This provision is clearly reflected in the specific commitments and mechanisms defined both in the AA Titles of the FTA and in the annexes and protocols to the AA containing a large list of references to the secondary EU legislation, thus consolidating the most of norms of the EU *acquis*. Their general analysis shows that the legislation

approximation caused by the FTA introduction becomes the main form of Europeanization of the associated countries' legislation.

The Agreements introduce various mechanisms of sectoral Europeanization, where the European Union is determined to share the part of its internal market with associated countries, subject to the approximation of their respective legislation. At the same time, in the various spheres of trade relations covered by the Agreement, the legislation harmonization provisions are set out differently: in some, the legislation approximation process is clearly linked to the entry of the relevant goods into the EU internal market, and therefore the annexes contain a detailed list of the relevant legal and regulatory framework of the EU, while others are more general or even do not provide a clear legal commitment to legislation approximation. To some extent, such a difference in the approach to harmonization is stipulated by the various objectives of each chapter of the AA Title of the FTA.

The scope of the planned reforms of legal regulation which will be carried out as a result of the fulfilment of AA commitments gives a basis to state the expected large-scale Europeanization of a number of the associated countries' legislative branches. Among the areas where innovative approaches to legal regulation and modernization of the sectoral legislation of the associated countries are based on the EU *acquis*, there are sectors: technical barriers to trade, sanitary and phytosanitary measures, establishment, trade in services and e-commerce, public procurement, competition etc.

It is worth mentioning that the Agreements provide for clear conditions for the practical implementation of the FTA and the liberalization of trade relations with the timelines, completeness and quality of the approximation of the legislation of the associated countries to the EU *acquis*, including the aspects of implementation and enforcement.

Thus, as a result of the establishment of the Association and FTA between the European Union and Eastern Partnership countries, a new stage of the Europeanization of the legislation of the associated countries aimed at ensuring their economic integration with the EU has been launched. The European Union is trying to spread its values, principles and legal norms, setting them as conditions that should be respected by the associated countries in accordance with the treaty obligations.

At the same time, it is obvious that the impact of European legislation on the associated countries' legislation due to the liberalization of access to the EU market will have global consequences not only for their trade relations with the EU but also will lead to global modernization of a significant number of social relations spheres within the associated countries. Due to the AA commitments, the Europeanization becomes a systemic legal phenomenon that ensures integration of Georgia, Moldova, and Ukraine with the EU internal market and determines the direction of development of the associated countries' legal systems.

Consequently, the conclusion and coming into force of the Association Agreements with the three partner countries became a landmark in the Eastern Partnership evolution causing the increase in the gap between the partner countries.

The associated countries have already launched the large-scale internal reforms conditioned by the AA. Whereas the other three partnership countries are not eager to join the European reforms, and Armenia and Belarus cannot do that even in theory, since they have to follow the criteria of the Eurasian Economic Union as its members.

So far, that most significant result of association is the trade intensification between the associated countries and EU. Even under the Russian military aggression and economic pressure, the export from Georgia, Moldova and Ukraine has grown over the last three years. Against the drastic reduction of the export from Russia, the EU FTA allowed the associated countries to minimize the effects of economic warfare initiated by the RF. For example, the trade has now become a true success story for Ukraine within the Eastern Partnership [15]. Experts estimate that moving away from GOST standards inherited from the Soviet Union and adopting current EU technical standards, adapting legislation to the EU *acquis* and eliminating non-tariff barriers have contributed to the economic growth of countries and created long-term perspectives for their

modernization and sustainable development. Following the AA, the three EaP countries not only gain wider access to the 500-million EU single market but also integrate into the global supply chains [11].

Introduction of visa-free regimes with the three associated countries is another big success of the EaP, especially for ordinary citizens.

The ongoing format of multilateral cooperation between the EU and partners, remaining a platform for tries to establish regional cooperation is also on the list of EaP's successes. The establishment of the Georgia, Moldova and Ukraine Inter-Parliamentary Assembly and the Euronest Parliamentary Assembly (EU – Eastern Neighbours) should also be mentioned here.

Given these success stories resulting from the association implementation the obvious gap between the EaP countries has led to the idea of a new additional format of cooperation EU +3. Looking at the trends in the past years, it seems the countries of the region can be divided into two groups. Moldova, Georgia, and Ukraine – which signed Association Agreements with the EU – show higher standards of democracy than the other three countries: Armenia, Belarus, and Azerbaijan [7].

Before to the Brussels EaP Summit in November 2017, the European Parliament adopted a resolution with recommendations and offered its own vision of the future development of the EaP [2]. One of the main novelties of this document was the possibility of separating Ukraine, Georgia and Moldova from other partners in the 'Eastern Partnership Plus' format, the EU associated partners started lobbying it back in 2015.

A possibility of having access to the EU's customs, energy and digital unions as well as to join the Schengen area and abolish the mobile roaming rates was at the bottom. In addition, the resolution provides for the establishment of a trust fund for Ukraine, Georgia and Moldova, that can focus on private and public investments in social and economic infrastructure.

Unfortunately, this resolution has never been endorsed by the European Council, and it was hardly possible to have a joint final resolution at the Brussels Summit. The idea of Marshall's plan for Ukraine has not been implemented either.

The Eastern Partnership policy efficiency seems to wane in recent years. On the one hand, this is due to the internal political situation of the European Union. According to *Artyomov*, "the EU is more concerned about the post-Brexit life, the behaviour of Trump, the North Stream-2 and the establishment of a common security architecture with Russia rather than about the security of its Eastern flank and in the Eastern Partnership countries" [*Artyomov* 2019: 19]. On the other hand, it is caused by a factor that is regarded as a major failure of the EaP policy: its inability to ensure the stability and security in the region [13]. Although it was considered the EaP format priority, the security situation in the region in view of the war in Ukraine only aggravated, and potential mechanisms to strengthen the security support in the region by EU Member States have not been established yet.

The EU membership of the associated countries is equally problematic. One cannot disagree with *Blockmans'* view that "as long as there is no consensus within the EU on the ultimate goal of strengthening relations with neighbouring countries, it can be argued that the declared purpose of the Eastern Partnership – strengthening the stability of the institutions and societies of the six participating countries – has been put into the anabiotic state. The application of the Extension Lite methodology will soon reach its limit in the countries that are not offered the EU accession" [11]. Against the recent freezing of EU enlargement with the Balkan countries and the apparent fatigue of Europeans from the ambitious goals of the EaP associated countries, Ukraine in particular, the membership perspectives seem unrealistic in the medium term.

It is now clear that no major revision of the EaP should be expected by the end of 2020. Therefore, the key task at the current stage of the EaP evolution is the partner countries to deliver the results set out in joint working document Eastern Partnership – 20 Deliverables for 2020: Focusing on Key Priorities and Tangible Results [3]. The document is a blueprint aimed at achieving the objectives in 2017-2020 in 20 sectors grouped into four key priority areas determined by the 2015 EaP Summit: 1. Economic Development and Market Opportunities; 2. Strengthening

institutions and good governance; 3. connectivity, energy efficiency, environment and climate change; 4. mobility and people-to-people contacts.

It should be noted that the Key Priorities 2020 intersect with the AA, and the tools suggested to implement them can be used in the Agreement implementation process [*Makarukha* 2019: 19]. Moreover, the document has a number of objectives that are additional to the AA, and therefore represent an "added value" for the associated countries. In particular, there are additional objectives across all cross-sectoral sections, with completely new tasks presented in the Strategic Communications, Pluralism and Independence of Media section. Particular attention should be paid to the sections that consist entirely of new objectives compared to the AA: gaps in access to finance and financial infrastructure; new job opportunities at local and regional levels; implementation of key judicial reforms; expansion of TEN-T main networks; European School of the Eastern Partnership. In addition, new objectives are in the sections on energy supply, energy efficiency, renewable energy use, greenhouse gas emissions, environment and adaptation to climate change, youth, education, skills development and culture; research and innovation [19].

The completion of its implementation in 2020 together with the perspective of holding the next sixth EaP Summit, that was not held in 2019 due to the uncertainty with the Brexit and the re-election of EU institutions, give a chance to update partnerships based on the more for more principle and to develop new mechanisms of work that can meet the intentions of the associated countries to deepen the EU integration. Most likely, the vision of the EaP's future will be presented during the term when Germany holds the presidency of the EU in the second half of the next year, and this is the time when the implementation of the Partnership's 20 for 2020 programme comes to end.

Searching for the means how to ensure that the Eastern Partnership remains relevant and inclusive the EU announced a broad and inclusive structured consultation process to reflect on the future strategic direction of the Eastern Partnership and a new – post 2020 – generation of deliverables. For this purpose, all stakeholders are invited to send their contributions on the future of the Eastern Partnership post-2020 policy framework using the EU Survey. The deadline for sending contributions is until 31 October 2019 [16].

Holding such consultations is undoubtedly a positive point. There are already first initiatives on the directions of the EaP evolution being articulated.

Thus, the Ukrainian party continues expressing its hope for a special partnership in the Eastern Partnership Plus format. At the heart of the Ukrainian party's proposals lies the concept of introducing a deeper differentiation, e.g. by setting new goals in the relations with the associated partners through integration into the EU's '4 Unions' (Customs, Energy, Digital and Schengen), a more active use of the EU Common Security and Defence Policy instruments, improving communication to overcome the Russian misinformation [*Makarukha* 2019: 18].

According to Dmytro Kuleba the Deputy Prime Minister for the European and Euro-Atlantic Integration, "a new EU strategy for the associated partners is needed, complementing the EaP and making it more focused on integration goals for the three countries. We will be grateful to the EU for recognizing that these three countries are different while maintaining relations with the other three (Armenia, Azerbaijan, Belarus)" [18].

In our opinion, the Association Agreements updating efforts may be an efficient way for making such aspirations come true. All three agreements, given the continuous development of EU law, provide for a possibility to update them. This may be done either to update the Annexes containing the list of EU acts the laws of the associated countries are to be harmonized to, and to move to further stages to deepen the integration, this is made possible as a result of fulfilment of their harmonization commitments.

Thus, in accordance with Article 463 of the AA with Ukraine, Article 406 of the AA with Georgia and Article 436 of the AA with Moldova, the competent Association Council may take decisions aimed at achieving the AA objectives. In particular, it may update or amend the annexes to the Agreement taking into account developments in the EU law and applicable standards set out in international instruments as deemed appropriate by the Parties.

In addition, Article 481 of the AA with Ukraine (unlike similar provisions of the AAs with Georgia and Moldova) provides that the Parties shall review comprehensively the achievement of the objectives of this Agreement five years after its entry into force as well as at any other time by mutual agreement of the Parties.

One may now say that the AA update has already started. The first example of such update in Ukraine was the ratification by the Verkhovna Rada in June 2019 of the updated "Energy" Annex 27 to the AA providing for new energy standards and rules that will allow Ukraine to integrate into the EU's internal energy markets. [4].

"More ambitious tasks in trade liberalization" and the realization of the intention to transform the trade with the European Union into economic integration are among Ukraine's expectations of the new format.

Having considered this, another direction of the AA updating capable of deepening integration could be the conclusion of Agreements on Conformity Assessment and Acceptability of Industrial Products (ACAA) provided for by Art. 57 of the AA with Ukraine, Article 48 of the AA with Georgia and Article 174 of the AA with Moldova. The possibility of their conclusion, that has been called "industrial visa waiver" in the expert environment, is able to increase significantly the exports to the EU and reorient trade priorities from the agricultural sector, currently dominating in the export structure, to other product groups. At present, the Ukrainian party is stepping up efforts to sign respective treaty with the EU [15].

In addition to the directions of economic integration strengthening, experts also analyse possibilities of filling with the real content of the "political association" stipulated by the agreements [5].

At current, there are bilateral association bodies between the EU and the associated countries that include separate committees and clusters dealing mainly with the technical aspects of the Agreement implementation and have daily dialogue with certain units of the European Commission on specific issues. With the AA update, these institutions could gain more value. First, if they have mechanisms for prior informing and consulting on perspective legislation that is currently under development by the European Commission and will later need to be reflected in the updated annexes to the AA. A similar efficient mechanism for "supporting the uniformity of legislation" works in the EU – European Economic Area relations (Iceland, Liechtenstein and Norway) [*Berezovska*. 2011: 238-244]. Replication of such model within the framework of the association with the EaP countries, as *I. Nahornyak* fairly points out, could give the latter "the feeling of true partners to be reckoned with in Brussels" [14].

Obviously, the desire to review the AA and strengthen the EaP not supported with the large-scale implementation of already existing contractual arrangements and working documents by the associated countries is unlikely to find rapid support from the EU. No wonder the doctrine says "The main weakness of this EaP strategy, however, is implementation" [*Martinaitis*. 2018:174] and states "there is a clear discrepancy between rule adoption and rule application".

We believe that the time remaining to deciding on the further evolution of the EaP can be used by the associated countries for the definite implementation of Priorities 20 for 2020 and demonstration of significant progress in the AA implementation.

Conclusions. The signing of the Association Agreements has become the highlight in the EaP policy evolution over the last 10 years. Today, there is a clear need for a fundamental update of this policy and definition of further priorities in the partnership development. Given the progress of Ukraine, Moldova and Georgia within the EaP, only a differentiated approach can give a new impetus to this initiative.

In the absence of better opportunities for enhancing integration that would open under the enlargement policy the associated countries should make the best of the potential EaP PLUS format's strengths.

Therefore, the period of consultations announced by the European Union is extremely important for upholding Ukraine's proposals for EaP PLUS and their implementation in a multilateral format of partnership. In this regard, the ability of Ukrainian diplomacy to convince

Brussels becomes of particular importance for the fundamental update of the EaP. It is worth agreeing with *S. Sydorenko's* position that Ukrainian diplomacy has repeatedly demonstrated its ability to achieve what seemed to have little chance [15] and expressing the hope for success of the EaP evolution this time around.

To this end, the associated countries need to demonstrate, in the nearest future, a truly efficient work for the existing Association Agreements implementation and making use of opportunities to update them. Coordination of positions and joint actions of Ukraine, Moldova and Georgia is also important.

Under these conditions, the further evolution of the EaP could, despite the task complexity, contribute to enhancing the security in the region and the reality of the associates' intentions for EU membership.

References

1. Communication from the Commission to the European Parliament and the Council Eastern Partnership. Brussels, 3.12.2008 COM(2008) 823 final.
2. European Parliament recommendation of 15 November 2017 to the Council, the Commission and the EEAS on the Eastern Partnership, in the run-up to the November 2017 Summit (2017/2130(INI)).
3. Joint Staff Working Document Eastern Partnership - 20 Deliverables for 2020 Focusing on key priorities and tangible results Brussels, 9.6.2017 SWD (2017) 300 final. <https://eeas.europa.eu/sites/eeas/files/swd_2017_300_f1_joint_staff_working_paper_en_v5_p1_940530.pdf>
4. Закон України «Про Рішення Ради асоціації між Україною та ЄС про внесення змін і доповнень до Додатка XXVII до Угоди про асоціацію між Україною, з однієї сторони, та Європейським Союзом, Європейським співтовариством з атомної енергії і їхніми державами-членами, з іншої сторони від 6 червня 2019 року№ 2739-VIII [Law of Ukraine "On the Decision of the Ukraine and EU Association Council amending Annex XXVII to the Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part, June 6, 2019, No. 2739-VIII] // Відомості Верховної Ради (ВВР), 2019, № 27, ст.112.
5. *Emerson M. Scenarios for a Wider Europe.* Centre for European Policy Studies, N 2019/02, February 2019 <https://www.ceps.eu/ceps-publications/scenarios-wider-europe/>
6. *Loo G. The EU-Ukraine Association Agreement and Deep and Comprehensive Free Trade Area: A New Legal Instrument for EU Integration without Membership*. - Leiden; Boston]: Brill Nijhoff, 2016. Series: Studies in EU external relations ; volume 10, 434.
7. *Solonenko* I. '*Eastern Partnership Countries: democracy in limbo'*, EUobserver, 06.01.2015. <https://euobserver.com/opinion/127032; Eastern Partnership European Integration Index 2014, January 2015: www.eap- index.eu.>
8. *Martinaitis Žilvinas. European Promises: Policy Options of Eastern Partnership Policy.* Baltic Journal of European Studies Tallinn University of Technology (ISSN 2228-0588), Vol. 8, No. 2 (25), 164-181.
9. *Артьомов І. Десятиліття Східного Партнерства: проблеми та перспективи* [The Decade of the Eastern Partnership: Challenges and Prospects]. Геополітичні пріоритети України. Збірник наукових праць. Випуск 1 (22), 2019, 7-29. <http://geopolitics-of-ukraine.uzhnu.edu.ua/article/download/2078-1431.2019.1%2822%29.7-29/166198>
10. *Березовська І. Правові механізми інтеграції в рамках Європейського економічного простору: досвід для України* [Legal mechanisms of integration within the framework of the European economic space: more for Ukraine] // Право України. – 2011. – № 8. – С. 236-244.
11. *Блокманс С. 10-річчя Східного партнерства: три поразки ЄС та шанс на оновлення*. [10th Anniversary of the Eastern Partnership: three EU defeats and a chance for renewal]. <https://www.eurointegration.com.ua/articles/2019/05/13/7096046/>

12. *Макаруха З. 10-а річниця заснування ініціативи ЄС «Східне Партнерство»: нагода обговорити майбутнє партнерства після 2020* [10th Anniversary of the EU Eastern Partnership Initiative: an opportunity to discuss the future of the partnership after 2020]. Журнал європейського і порівняльного права, випуск 9 (2), 2018, 17-26 < http://journals.iir.kiev.ua/index.php/pravo/article/download/3642/3310>
13. *Мартинюк В. Більше безпеки та перспектива членства в ЄС: як варто змінити Східне партнерство* [Better security and the prospect of EU membership: how the Eastern Partnership should be changed] <https://www.eurointegration.com.ua/articles/2019/07/3/7097905/>
14. *Нагорняк І. Нова реальність для Східного партнерства: як зміниться ключова ініціатива ЄС* [A new reality for the Eastern Partnership: how a key EU initiative will change] < https://www.eurointegration.com.ua/experts/2019/08/5/7099191/>
15. *Сидоренко С. Свято без перспектив: що планує робити Євросоюз із форматом Східного партнерства* [An official holiday with no prospects: what the EU plans to do with the Eastern Partnership format] <https://www.eurointegration.com.ua/articles/2019/05/15/7096156/>
16. *Eastern Partnership structured consultation*. An official website of the European Union <https://ec.europa.eu/neighbourhood-enlargement/tenders/consultation_eap_en>
17. *Ukraine's Implementation of 20 Eastern PartnershipDeliverables for 2020Monitoring* by the Ukrainian national platform of the EaP Civil Society PlatformState of Play as of 1 September 2018.<https://www.civic-synergy.org.ua/wp-content/uploads/2018/04/Ukraine-s-Implementation-of-20-Eastern-Partnership-Deliverables-for-2020.pdf>
18. *Київ просить ЄС про нову стратегію відносин для України, Молдови та Грузії* [Kyiv asking the EU for a new relations strategy for Ukraine, Moldova and Georgia] <https://www.pravda.com.ua/news/2019/10/22/7229722/>
19. *Порівняльний аналіз «20 очікуваних досягнень Східного партнерства до 2020 р.» з положеннями Угоди про асоціацію: якою є додана вартість для відносин Україна-ЄС?* [The Eastern Partnership's key deliverables compared with the Association Agreement provisions: what is the added value for the EU-Ukraine relations?].< https://www.civic-synergy.org.ua/en/analytics/the-eastern-partnership-s-key-deliverables-compared-with-the-association-agreement-provisions-what-is-the-added-value-for-the-eu-ukraine-relations/>
20. *«Промисловий безвіз»: оціночна місія ЄС може прибути вже у першій половині 2020 року* [Industrial Dropping Off: EU Assessment Mission May Arrival in First Half of 2020] <https://www.eurointegration.com.ua/news/2019/10/8/7101659/>

УДК 316:1 59.937

STATE SYMBOL OF RUSSIA AND ALBANIA: COMPARATIVE ASPECT

ДЕРЖАВНА СИМВОЛІКА РОСІЇ ТА АЛБАНІЇ: КОМПАРАТИВНИЙ АСПЕКТ

ГОСУДАРСТВЕННАЯ СИМВОЛИКА РОССИИ И АЛБАНИИ: КОМПАРАТИВНЫЙ АСПЕКТ

Romanenko Y.
Doctor of Sociology, Professor, Department of International Media Communications and Communication Technologies of the Institute of International Relations of Taras Shevchenko National University of Kyiv. E-mail: romanenko.jura@gmail.com

Романенко Ю.
Доктор соціологічних наук, професор кафедри міжнародних медіакомунікацій та комунікативних технологій Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка E-mail: romanenko.jura@gmail.com

Романенко Ю.
Доктор социологических наук, профессор кафедры международных медиакоммуникаций и коммуникативных технологий Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: romanenko.jura@gmail.com

Abstract. *The purpose of this research is a comparative description of the visual features of the national flags of Russia and Albania as symbols of diffusion of macroidentity, which is expressed in the contradictory vectors of their foreign policy and focus on both European and Asian macroidentity. Based on color semantics, the article analyzes the state flags of Russia and Albania, which, as in state symbols, reveal the features of the geopolitical positioning of states. The connection between the axial symbol of identity – the double-headed eagle – and the bifurcation (diffuseness) of political macroidentity is shown. The features common to the two states are shown: a tendency toward geopolitical isolationism, authoritarian state power, the dependence of the institution of the church on the state and statist atheism, the prevalence of corrupt practices, the emphasis on forced modernization and extraordinary technologies for overcoming situations of foreign political challenges. It is stated that in both countries there is a corruption of power, a sign of which is a fierce struggle for power during most of Byzantine history. It was determined that this struggle was not waged by political methods, but by force – a military coup, uprising or assassination of the current head of state. In the geopolitical position of Albania, this was due to Skannerberg's attempt to combine two in one: Islamic and Orthodox identities, as well as situational adaptation of the country's political elite to the next occupier: from 1443, i.e. the years of struggle against Turkish rule and until 1944 the coat of arms acquired alternately Turkish, Austrian, Greek, Italian and Soviet-Russian details. The coat of arms of the Russian Federation also contains Byzantine elements, which indicates a spiritual succession with the Byzantine Empire, however, with less borrowing.*

Key words: *Russia, Albania, the national flag of Russia, the national flag of Albania, geopolitical isolationism, autarky, diffusion of macroidentity.*

Анотація. *Метою дослідження є порівняльний опис візуальних особливостей національних прапорів Росії та Албанії як символів дифузії макроідентичності, що виражається в суперечливих векторах їх зовнішньої політики та зосередженості як на*

європейській, так і на азіатській макроідентичності. У статті на основі колористичної семантики проаналізовано державні прапори Росії і Албанії, в яких, як у державних символах, розкриваються особливості геополітичного позиціонування держав. Показано зв'язок між осьовим символом ідентичності – двоголовим орлом – і роздвоєністю (дифузністю) політичної макроідентичності. Показано спільні для двох держав особливості: схильність до геополітичного ізоляціонізму, авторитарність державної влади, залежність інституту церкви від держави і етатистський атеїзм, розповсюдженість корупційних практик, ставка на форсовану модернізацію і технології екстраординарного виходу з ситуацій зовнішньо-політичних викликів. Констатовано, що в обох країнах має місце корупція влади, ознакою чого є запекла боротьба за владу протягом більшої частини візантійської історії. Визначено, що ця боротьба велася не політичними методами, а силою – військовим переворотом, повстанням або вбивством чинного глави держави. В геополітичному положенні Албанії це було пов'язано зі спробою Скандерберга об'єднати два в одному: ісламську і православну ідентичність, а також ситуативну адаптацію політичної еліти країни до наступного окупанта: з 1443 року, тобто роки боротьби з Турецьким пануванням, і до 1944 року герби набували попеременно турецьких, австрійських, грецьких, італійських та радянсько-російських деталей. В гербі РФ також присутні візантійські елементи, що вказує на духовне правонаступництво з Візантійською імперією, проте, з меншою кількістю запозичень.

Ключові слова: *Росія, Албанія, державний прапор Росії, державний прапор Албанії, геополітичний ізоляціонізм, автаркія, дифузія макроідентичності.*

Аннотация. *Целью исследования является сравнительное описание визуальных особенностей национальных флагов России и Албании как символов распространения макроидентичности, что выражается в противоречивых векторах их внешней политики и фокусируется как на европейской, так и на азиатской макроидентичности. В статье на основе цветосемантики проанализированы государственные флаги России и Албании, в которых, как в государствепнных символах, раскрываются особенности геополитического позиционирования государств. Показана связь между осевым символом идентичности – двуглавым орлом – и раздвоенностью (диффузностью) политической макроидентичности. Показаны общие для двух государств особенности: склонность к геополитическому изоляционизму, авторитарность государственной власти, зависимость института церкви от государства и этатистский атеизм, распостраненность коррупционных практик, ставка на форсированную модернизацию и технологии экстраординарного выхода из ситуаций внешнеполитических вызовов. Констатировано, что в обоих странах имеет место быть коррупция власти, признаком чего является ожесточенная борьба за власть в течение большей части византийской истории. Определено, что эта борьба велась не политическими методами, а силой – военным переворотом, восстанием или убийством нынешнего главы государства. В геополитическом положении Албании это было связано с попыткой Сканнерберга объединить два в одном: исламскую и православную идентичности, а также ситуативную адаптацию политической элиты страны к следующему оккупанту: с 1443 года, т.е. годы борьбы с Турецкое господство и до 1944 года герб приобретали попеременно турецкие, австрийские, греческие, итальянские и советско-российские детали. В гербе РФ также присутствуют византийские элементы, что указывает на духовное правопреемство с Византийской империей, однако, с меньшим количеством заимствований.*

Ключевые слова: *Россия, Албания, государственный флаг России, государственный флаг Албании, геополитический изоляционизм, автаркия, диффузия макроидентичности.*

Introduction. The problem of a comparative analysis of the state symbols of Russia and Albania as countries with common features of macroidentity is one of the most important subjects of research both in political history and in comparative political science. For international relations, the similarity of state symbols (flags and emblems) reflects both the peculiarities of the geopolitical

positioning of states and the connection of the latter with the course of internal political development and modernization. This is affected not only by the influence of Soviet civilization (Stalinism), but also by the severity of the realized and unrealized imperial ambitions of Russia and Albania, which is manifested in the force mode of interstate relations and relations between the government and the population within the state itself. Both states show autarkyness, a tendency to use technologies of militarist-oriented propaganda, as well as reception of the political culture of countries in whose orbit they were or were previously cultural hegemons. It is this aspect of the influence of Byzantine macroidentity on both Russia and Albania that is presented in their state symbols and is the subject of research in the article.

Recent literature review. The state symbolism and macroidentity of Russia and Albania was studied in monographs and scientific articles on heraldry, political history, coloristic semantics. G. Arsh and I. Senkevich, N. Smirnova, V. Pantin, Yu. Romanenko devoted their work to this subject. The works of the presented authors contain empirical material concerning the political genesis of Albania and Russia, the features of state modernization, the analysis of permanent crisis, and the problems of diffusion of macroidentity typical for two states [*Albanian crisis*, 2002; *Arsh*, 1965; *Pantin* 1997; *Romanenko* 2017].

For the author, the top-down structuralist opposition and the use of color semantics by M. Lusher, which, in this case, acts as the starting point of the analysis, are important, and the cross-cutting trends in the history of the community, that is, the patterns of transition from the period of historical ruin to the period of the next occupation, find their isomorphic expression / reflection in color values. The explanatory color-semantic model allows one to analyze the choice of symbols based on the conventionalist conventions of the founders of statehood. These symbols express, in fact, the implicit logic of the archetypes of the collective unconscious, represented in the language of colors and geometric shapes. K.-G. pointed to this circumstance in his works. Jung and a number of other representatives of Jungianism [*Heydt* 1976: 22-88].

Of course, such conclusions have their basis in the theories of structuralism and symbolic interactionism, whose representatives are K. Levy-Strauss, J.-G. Mead, H. Blumer [*Blumer* 1935; *Blumer* 1937*; Blumer* 1939; *Blumer* 1969; *Levi-Strauss* 2005; *Levi-Strauss* 1963: 51-75; *Moore* 2009: 237-262].

The first group of these theories postulates the possibility of imagining any system as a language based on implicit grammar, so that "... matrimonial rules and systems of kinship taken together can be interpreted as a kind of language and a set of operations guaranteeing a certain type of communication within a group ..." (Levy-Strauss). The author in this case is not just talking about the parallelism of grammars, but about the ability to convert characters from one language to another, i.e. make a transfer. It turns out that a structuralist interpretation of the flag's color symbolism will be correct only if it is not based on the conventions of ideologists and propagandists, but on balanced analytical explications implemented in line with structuralist color semantics.

The second direction, symbolic interactionism, also contains postulates that allow translation and relay of symbols in symbolic interactions, which in itself does not contradict structuralism. After all, if there are various languages, then there are translations of texts from one language to another. In this case, the flag text is a kind of abbreviated "translation" from the language of historical performative to the language of color combinations and combinations of images / symbols (J.-G. Mead, G. Blumer) [*Joas* 13, 23-69].

The purpose of research. The purpose of this research is a comparative description of the visual features of the national flags of Russia and Albania as symbols of diffusion of macroidentity, which is expressed in the contradictory vectors of their foreign policy and focus on both European and Asian macroidentity.

The important research results. It is worth noting that the two-headed eagle is a common state symbol of both countries.

Now the double-headed eagle is considered the emblem of the Byzantine Empire. In fact, this is not true. The coat of arms is still a Western European phenomenon that arose around the time of

the Crusades. In Byzantium there was no coat of arms as such. But there was a place to have its own original system of symbols of state power (such as the Constantine Cross). But the double-headed eagle, as a sign of the Emperor's power, dates back precisely after the 4th Crusade, when Constantinople was conquered by the Catholic armies, and the lands of the Empire were divided between the conquerors. And first, he appears in the role of the Byzantine symbol precisely in the Western arms and only then accepted by Byzantium itself [*Vilinbakhov* 1998: 28-31].

The last Byzantine dynasty of the Paleologists, which managed to return Constantinople and restore the Empire for a short time, already used the image of double-headed eagles as its own dynastic symbol. And this continued until the fall of Byzantium as a state – until 1453, when Constantinople fell under the blows of the Ottoman conquerors, and the last Emperor Constantine XI died, defending his legacy.

From that moment, the double-headed eagle as a symbol began to exist simultaneously in two planes – secular and church.

On the one hand, the two-headed eagle, as the coat of arms began to use the monarchs, one way or another claiming to be the legacy of the Roman or Byzantine Empire. So, the double-headed eagle became the emblem of the Holy Roman Empire of the German nation (and after its liquidation – the Austrian Empire). At different times, the double-headed eagle was also included in the arms of the Balkan states that arose in the former Byzantine territories: Serbia, Montenegro, Yugoslavia, Albania.

Also, the double-headed eagle continued to be used by members of the House of Paleologists, who managed to escape to Italy. It was this Paleologian variant of the double-headed eagle that came to Moscow with the bride of Grand Duke John III – Sofia Paleologine, the niece of the last Byzantine Vasileus Constantine XI, and eventually became the Russian coat of arms.

On the other hand, in the territories conquered by the Turks, the double-headed eagle has become a symbol of church authority. It happened, paradoxically, by the will of the conquerors. The first, elected with the permission of the Sultan after the fall of Byzantium, the Patriarch of Constantinople – Gennady II Scholarius – became not only the Primate of the Church, but also the head of the Christian community in the Ottoman Empire – an ethnarch. In this regard, the First Hierarchs of Constantinople adopted some elements of the former imperial symbolism.

The patriarch's vestment became more magnificent, it looked more and more like ceremonial imperial clothes: once a simple white omophorion began to resemble the imperial belt – lor, miter – the crown-stemma of the last Paleologists. The same thing happened with the imperial double-headed eagle. Only now did he mean not royal, but bishop authority. And as a reminder of such, he began to adorn the bishop's thrones, orlets, high places, placed on the Royal Doors of temples, etc [*Weyss* 1991, 78].

The national flag of Russia is a hierarchical tricolor, consisting of white, blue and red stripes. The vertical arrangement of stripes on any flag reflects the hierarchy of ethnic values, in this case, the Russian one.

Based on the semantics of white, it can be assumed that the hierarchically highest value of Russians is identification with the Highest reality (God, Spirit), that is, everything that has no image and is associated with spiritual perfection – read: high intellectual and moral qualities (white color corresponds to identification with God as an ugly (achromatic) color, that is, the one from which all other colors flow).

The predominance of blue marks the state of socio-historical stabilization, which corresponds to the force-regime of the formation of society constantly present in Russian history and the scenario of catch-up modernization. Blue acts as an indicator of inertia, sensitivity, concentricity, desire for peace with the simultaneous dominance of sensitivity (sensitivity), dependence, conformity and anxiety.

The self-direction of blue is fully consistent with the tendency to self-isolation (cultural and political isolationism), the desire to form a closed political system (political autarky), manifestations of latent xenophobia, which, sometimes, are refracted in the rigid forms of ethnic apartheid and the authoritarian ethnopolitical segregation of ethnic minorities.

According to the author, the blue color in the political color semantics of Russian macroidentity corresponds to the Finnish-Finnish sub-ethnic sub-identity, which, in its purest form, expresses itself primarily in internally-introverted programs of political activity. Blue acts as a semantic relic of the Finno-Baltic-German monarchical dynasties, the last of which was the Romanov dynasty. All of them, against the background of the dominance of the Turkic-Mongolian political and cultural models among the masses (we are talking primarily about the eastern type of the Russian monarchy and the peasant community) showed a tendency to political reaction and conservation of obsolete political institutions. The reaction of the last Russian monarch to the revolutionary upheavals of 1905–1917 was also, figuratively speaking, ethnically specific "blue" (introvert).

In Nicholas II, the very provincial Dane appeared, who did not want and could not (due to known ethnic peculiarities) react to the growth of the criminal-Bolshevik underground and the decomposition of the army other than by repressive measures. The self-directedness of blue accompanies the popularity of authoritarianism as a model of rational-volitional governance based on the elimination of opposition pluralism and minimization of the institutions of democratic participation in favor of bureaucratic autocracy.

At the same time, a cyclical fluctuation scenario is common for Russia: situations of political stagnation and reaction, "tightening the screws in the blue" are replaced by chaotic freemen, riots, riots and rampant crime in the "red", which semantically correlates not only with state attributes, but also Russian social everyday life.Extroversion, passivity, combined with cultural and political fatalism complement the second disposition of the state's macroidentity.Of interest in the context of the foregoing is the cyclical-wave approach to the review of reforms and modernization of Russia.

So, V.I. Pantin identifies 5 cycles of reforms and counter-reforms: 1) reforms of Alexander I – the counter-reforms of Nicholas I; 2) the reforms of Alexander II – the counter-reforms of Alexander III; 3) S.Yu. reform Witte and P.A. Stolypin – counter-reforms after October 1917; 4) reform N.S. Khrushchev and A.N. Kosygin – the counter-reform of the "stagnant" period; 5) reforms of our days (second half of the 80s – 90s of the twentieth century).

Among the internal reasons for the cyclical nature of reforms in Russia, V. Pantin identifies the following: the predominance of attempts to transform "from above" with the unpreparedness of the lower classes, immaturity and lack of form of civil society; undocking between different groups of the political elite and the bureaucratic apparatus; elements of pressure and violence in the policy of reformers that provoke a response from society; centrifugal tendencies arising every time during the reforms, which forces to strengthen political centralization.

In his review of the book V.I. Pantin "Cycles and waves of modernization as a phenomenon of social development", V.G. Khoros supplements this list with the following factors of imperial modernization of Russia: selective borrowing, mainly for military purposes, technical and organizational achievements of more developed countries in exchange for raw materials and raw materials; the exploitation of the population, which is being tightened with reforms, in archaic, pre-bourgeois ways; the need to maintain a high degree of centralization and bureaucratization of management.The imperial model of modernization contained an unavoidable contradiction between the techno-economic and socio-political sides of the reforms. Hence the periodic imbalances and failures in the mechanism of Russian modernization, hence the need to correct it with reforms and counter-reforms [*Pavlova-Sylvan* 1999, 212].

On the one hand, Russian culture expresses interest in other cultures and societies, clearly dominating interest in its own culture. The production of meanings on a Russian basis in most cases was fraught with excess difficulties, which was partly due to expansionist projects, and partly to the factors in which the state got into extraordinary situations that required human extra costs.

The pole of these extra costs corresponds to the red color, which, in combination with blue, involves the alternation of cycles of autopoietic stagnation and mobilization overvoltage using administrative-power technologies. In general, we are talking about, including, material, energy, and human costs of most technological projects related to industrial production, the construction of infrastructure, and the provision of basic vital needs of the population.

Given the partial relevance of organismic and medical analogies and the corresponding models of sociological theorizing, a comparison of Russian society with the body of an athlete-bodybuilder, the muscular system of which is hypertrophied through the use of anabolic catalysts for muscle growth, suggests itself.

The colossal dimensions of the territorial periphery require extreme efforts to pump "blood", which is analogous to money and other life-supporting resources, including food and basic necessities. Both the size of the regions and their inaccessibility, as well as the archaic way of life, turn everyday life and everyday life into an agonal extreme. The latter is enhanced by significant corruption and criminality, forming symbiotic alliances with state bureaucracy.

Y. Gilinsky, analyzing the historical origin of corruption, notes that, following the example of Byzantium, the institution of "feeding" was formed, which represents the provision by the head of state (prince) of positions to his representatives (governor, governors) in the provinces without monetary compensation. "It was assumed that the population of the region would" feed "the governor," since the administrative resources available to the latter assumed unlimited conversion of power into any other material goods. The latter possessed enormous powers, and it is clear that the population did not skimp on offerings ... "Fattened" governors, returning to the capital – Moscow, brought with them accumulated good, "gifts", the "surpluses" of which were withdrawn even upon entering the "golden-domed" in favor of the treasury ...

So there was the mutual responsibility of bribe-takers provincial and metropolitan. Feeding was officially abolished in 1556, but the tradition of living and becoming wealthy at the expense of subjects actually remained for a long time, perhaps still. How else can one explain the size of wages – often below the subsistence level established in modern Russia by police, customs, state sanitary and epidemiological service, etc.? There was no shortage of moral and sovereign condemnation of bribery (in the 13th century, Metropolitan Cyril, then Tsars Ivan III, Ivan IV the Terrible, during which the first known execution for a bribe took place), but "corruption is a chronic and incurable disease of any state apparatus of all time and all peoples" [*Gilinsky* 2004: 126-128].

The center of power of Russia, as the "heart" of a socio-state organism with hypertrophied "regional-muscular periphery", is in an situation of extraordinary collapse and constant total mobilization. Efforts, however, are nullified by a shortage of fertile arable land and the high labor costs of peasant labor. The latter constantly created the prerequisites for serfdom (including collective farms and state farms of the USSR as organizational forms of socialist feudalism), slavery and enslaving landlord methods of exploitation of the population of the agrarian periphery, which, using all despotic and extreme agonal technologies for obtaining a surplus product, still remained on low standard of living in a state of stagnant poverty.

In politics, these features of a national character were steadily manifested, on the one hand, in a tendency toward receptions in their mechanical combination with autochthonous political forms (a combination of German, Mongol-Tatar and authentic Russian forms of government and political regimes), on the other hand, in a tendency to idealization of foreign elites and a tendency to import elite-forming elements of other states. The last two trends were combined with unstable external assimilation of both the first and second.

On the other hand, in combination with white, which comes first, the meaning of blue can be interpreted as isolation in one’s own representation-understanding of higher reality, that is, in insisting on a specific form of religious orthodoxy and identifying, in this connection, a specific version of cesarepapism.

In general, in the history of Russia it is difficult to deny the connection of the Orthodox hierocracy with a part of the state bureaucracy, which represented the structures of the political police and propaganda.

In the plots of visual media this is manifested in a combination of separation between the government / opposition (Putin–Zhirinovsky, Yeltsin–Zyuganov, etc.), and the alternation of periods of conservative stabilization and a return to the model of autocratic and original Russia.

It is enough to compare, for example, the reign of Peter the Great and Elizabeth with Catherine II, the reign of Alexander III with Nicholas I and Nicholas II to make sure that

conservatism, inertia, the desire to maintain the status quo as attributes of the image of a strong hand ("blue") are steadily prefered in relation to the freemen of reforms, smoothly turning into confusion and chaos ("red"). At the daily level, tolerance for repressive power, ignoring the suffering and inconvenience of commoners, expresses the same opposition aggression / depression (suppression of retaliatory aggression) as blue / red.

So, red gives corresponds to the manifestations of aggressive dispositions of ethnic mentality and the desire for success, but, in combination with blue, creates a conflicting combination of multidirectional trends: motivation to achieve and motivation to avoid failure. In practice, this provides a rather interesting stratagem of Russian foreign policy. It combines a directly-aggressive persistent realization of intentions with a strongly pronounced tendency to lose interest in internal processes in the occupied space.

For Russia itself, aggressive seizure with an onslaught, huge human and material costs corresponds to numerous wars that have been and have been fought not so much to assimilate / absorb the conquered and conquered peoples, but to demonstrate strength, valor and the ability to control the situation. This form of mechanical annexation of territories, preserved from the time of Batu and Tamerlane, like no other, contributed to the preservation of the autochthonous cultural identities of the conquered peoples.

Their mechanical Russification did not contribute to the transformation of all other components of the cultural system and created the illusion of external loyalty to the metropolis. In practice, this led and leads to the autonomy of the periphery and the model of "forced consociality", which does not imply cultural and social unity, but mainly the ethocratic integration of ethnoses into a superethnos with a diffuse cosmopolitan identity.

This just explains that Russia did not exist for much of its history as a Russian state, as well as the weak manifestation of Russian nationalism and ethnocentrism, which is being replaced by a surrogate version of pan-Slavic cosmopolitanism and chauvinism.

In fact, the presence of blue is also accompanied by a peculiar sensitivity to detecting any shortcomings in the system of political government that are revealed when all "external", mainly foreigners, observe Russian reality (in the history of the country there are enough examples of how much foreigners have done here, for foreigners and for foreigners).

The blue color in this case expresses two attitudes: increased social sensitivity and, at the same time, a pronounced desire for self-sufficiency. For Russian politics (both foreign and domestic), this means the presence of extremes in the form of rejection of open imitation or total suggestion. It is a tendency to display the dichotomy of the choice in favor of an authentic image or total reception. So, when it comes to the development of production technologies, in Russia either foreign models are taken as a basis, or authentic versions of the same technologies are invented. On the other hand, the presence of red gives a great political spontaneity, which, however, does not exclude latent imitation of the political experience of European countries.

A comparison of Russian symbols with the state symbols of Albania requires an analytical consideration of the latter.

The national flag of Albania is represented by a black two-headed eagle on a red cloth. The symbol of the eagle for Albania acts as a totem, i.e. the image of a bird, from which the national hero Skanderberg produced the name of the country.

Any bifurcation (splitting) in the image structure means the loss of integrity, holonomy of consciousness and corresponds to fragmented perception, as well as split thinking. In macroidentity, this corresponds to the recognition of the duality of the religious–philosophical–ideological axiosphere, which correlates with compromises in the field of higher value consciousness, for example, in attempts to combine paganism and Christianity (Orthodoxy), Christianity and Islam (which, with a certain compatibility in monotheism, nevertheless however, they are incompatible in the recognition of the Tri-apostasy of God and in the recognition of the God-man. For Islam with its radical monotheism, the latter generally seems unacceptable.

Given the Byzantine origin of the symbolism of the double-headed eagle, it is also worth taking into account the visualization of dual power, expressed in the symphony of Byzantine

caesarepapism. Perhaps this can explain the lack of inquisition and persecution of heretics in the Eastern part of the Roman Empire, since there was no one to pursue, to put it mildly.

Repressive religious censorship, as was the case in the Catholic states, was absent, since this function was performed by state power, so that the priesthood itself turned into a kind of officialdom, and officialdom received part of the priestly prerogatives. The latter, however, did not prevent corruption (which is also built on double standards), as well as the contradiction between unfit laws and the real needs of society.

This situation resembles what happened later and is happening in the states of the Byzantine civilizational macroidentity, including Russia and Albania. It is, on the one hand, about the reproduction of the feeding system in the bureaucratic environment, and on the other hand, about the practice of coups d'etat, which has become a kind of "political fashion", expressing the lack of connection between the interests of the oligarchic establishment and the masses.

For example, as the French historian A. Guillau points out, for many centuries there has been a practice of selling officials' posts. Each official, at least in the highest echelon of the Byzantine bureaucracy, officially bought his position, and later, of course, sought to recoup the money spent in this way due to some additional fees or bribes from the population.

This fact alone, no doubt, indicates the presence of corruption. Another fact that testifies to the corruption of power is a fierce struggle for power during most of Byzantine history, moreover, the struggle was not by political methods, but by force – through a military coup, rebellion or the assassination of the current emperor. So, it was estimated that out of 109 emperors who ruled in Byzantium, 74 ascended the throne by overthrowing or killing their predecessor [*Arsh* 1965: 78-79].

In the geopolitical positioning of Albania, this was due to Skanderberg's attempt to combine two in one: Islamic and Orthodox Christian identities, as well as the situational adjustment of the country's political elite to the next occupier: from 1443, i.e. years of the struggle against Turkish domination and until 1944 the coat of arms acquired alternately Turkish, Austrian, Greek, Italian and Soviet-Russian details.

"Above the two-headed eagle, either the Skanderberg helmet appeared (after the Zogu monarchist coup in 1928), then two lictor beams and the Savoy crown (during the period of the Italian occupation of 1939-1943), then lightning in the legs of the eagle (in the Austrian manner), then a red pentagram (after the formation of the communist government in Permet in 1944" [*Smirnova* 2003: 100-211; *Bogdani* 2007: 30-80; *Pearson* 2006: 69-111].

After the anti-communist coup, the entire heraldic decor disappears from the coat of arms, and the eagle on the red background of the panel becomes the only macro-identity. The eagle's bifurcation corresponds to Albanian defense militarism in the macro-identity of the state, which is combined with the uncertainty and precariousness of power (in most cases, a two-headed eagle as an image gives the power perception of itself as unstable, shaky, uncertain and forked-split). However, this does not prevent Albanians from displaying militaristic aggression against ethnic groups that do not have pronounced expansionist inclinations.

Conclusions. For the coat of arms of the Russian Federation, the double-headed eagle implies a split macroidentity: Europe in Asia and Asia in Europe, which, in fact, can be considered the main fluctuation of the Russian geopolitical vector. The multi-vector eagle also points to the directions of the Russian superethnos' export, oriented towards expanding the sphere of influence on both the European and Asian heartlands. However, with various peculiarities of ethnogenesis, states that have a double-headed eagle in the coat of arms, in most cases, were objects of hidden cultural or political occupation and at the same time assimilated the peculiarities of the manifestation of aggression of an invader.

In the case of the Russian Federation, we are talking more about hidden cultural occupation, which in the history of the empire led to the separation of state-forming structures from the intellectual layer, which created the basis for the ongoing intellectual (most often pro-Western and pro-American) fermentation and opposition (reaching a frenzied fanatical political terror) with the inertia and conservatism of political institutions focused on the Asian-Prussian model of quasi-republican statehood.

In the Albanian mentality like this, latent aggression also manifests itself. The history of the originally Serbian Kosovo, which quietly became Albanian, is one of the most striking examples. Using the strategy of creeping demo expansion, the Albanians first implemented a quiet relocation, probing the Serbs for countermeasures, however, the Serbs showed the characteristic Orthodox feminine tolerance. After the number of Albanians exceeded 80% and the question was raised about changing the territorial and political status of Kosovo, S. Milosevic tried to return Kosovo, which a little later ended for Serbia with the guerrilla war of the Albanians [*Albanian crisis* 2002: 79-95].

The same shakiness is evidenced by the selection of red and black colors of the coat of arms, which indicates self-isolation and self-direction of efforts in the field of military aggression and partisan inclinations, i.e. the strategy and tactics of subversive and terrorist content used both in relation to external aggressors (for example, during the occupation of Albania by Italy and Germany), and in relation to non-assimilable minorities.

One of the autostereotypes used by Hodgist propaganda and expressing a disposition of self-isolated and inconsistent militaristic aggression against Russia (the USSR) was the image of Albania as a "besieged fortress". The autostereotype had an initial geographical conditionality, which, due to the circumstances of the ethno-political humiliation and infringement of Albania by the leadership of N. Khrushchev, grew into the ethnocentric mythology of "ideal socialism" in Albania. The bet on administrative-military technologies for maintaining labor discipline undoubtedly expressed the components of Islamic identity, due to which this very ideology of orthodox purity non-existent in socialism was formed.

It is clear that for the leadership of the USSR the adoption of the Maoist version of socialism meant revisionism in theory and in practice. On the other hand, the very construction of socialism in the USSR was also a kind of deviation in the Marxist canon with its laws of conformity of productive forces and production relations and the possibility of the victory of socialism in the advanced bourgeois societies of Western Europe. Therefore, even for Khoja (as well as for the second "revisionist" – Mao) the primary source of "heresy" was obvious. The bicapitals-eagles were the symbolic indicators of this heresy, expressing the bifurcation of the macroidentity of both Albania and Russia (as the state-forming superethnos of the USSR).

In both cases, both Russia and Albania, the bicapitality of the image of the eagle expresses corrupt practices immanent for revisionist socialism, which stemmed from an attempt to combine quasi-republicanism and quasi-democracy with feudal nepotism and corporate law.

References

1. *Албанский фактор кризиса на Балканах: Сборник обзоров и статей* / Гуськова Е.Ю. (отв. ред.) (2002). [Albanian crisis factor in the Balkans: Collection of reviews and articles]. Москва: ИНИОН РАН.
2. *Арш Г.Л., Сенкевич И.Г., Смирнова Н.Д.* (1965) *Краткая история* Албании [A Brief History of Albania]. Москва: Наука.
3. *Гилинский Я.* (2004) *Девиантология: социология преступности, наркотизма, проституции, самоубийств и других "отклонений"* [Deviantology: the sociology of crime, narcotism, prostitution, suicide and other "deviations"]. Санкт-Петербург: Издательство "Юридический центр Пресс".
4. *Павлова-Сильванская М.П.* (1999) 'Три века отечественных реформ' [Three centuries of domestic reforms], *Pro et Contra* 4 (3): 211-213.
5. *Пантин В.И.* (1997) *Циклы и волны модернизации как феномен социального развития* [Cycles and waves of modernization as a phenomenon of social development]. Москва: Московский философский фонд.
6. *Романенко Ю.В.* (2017) *Осевые символы идентичности в государственной атрибутике* [Axial symbols of identity in state attributes]. Киев: Меркьюри-Подолье.
7. *Смирнова Н.Д.* (2003) *История Албании в XX веке* [History of Albania in the 20th century]. Москва: Наука.

8. Этническая идентичность: социосистемологическое измерение геополитики. Романенко Ю.В. (ред.-коорд.) (2016) [Ethnic Identity: The Sociological Dimension of Geopolitics]. Киев: Меркьюри-Подолье.
9. *Bogdani M., Loughlin J.* (2007) *Albania and the European Union*. London-New York: Oxford University Press.
10. *Blumer H.* (1935) *The Human Side of Social Planning*. New York: Univ.-Press.
11. *Blumer H.* (1937) *Social Psychology, Chapter 4 in Emerson. Peter Schmidt* (ed.) *Man and Society: A Substantive Introduction to the Social Science*. New York: Prentice-Hall.
12. *Blumer H.* (1939) *Critiques of Research in the Social Sciences: An Appraisal of Thomas and Znaniecki's "The Polish Peasant in Europe and America"*. New York: Prentice-Hall.
13. *Blumer H.* (1969) *Symbolic Interaction: Perspective and Method*. New York: Prentice-Hall.
14. *Joas H.* (1993) *Pragmatism and Social Theory*. Chicago: The University of Chicago Press.
15. *Levi-Strauss Claude.* (2005) *Biography*. Dictionary of Literary Biography on Claude Levi-Strauss, <http://www.bookrags.com/biography/claude-levi-strauss-dlb/#gsc.tab=0>
16. *Levi-Strauss Claude*. (1963) *Structural Anthropology*. New York: Basic Books.
17. *Moore Jerry D.* (2009) *Visions of Culture: An Introduction to Anthropological Theories and Theorists.* Lanham-New York-Toronto: AltaMira Press.
18. *Pearson O.* (2006) *Albania in the Twentieth Century: A History. Vol. III: Albania as Dictatorship and Democracy. From Isolation to the Kosovo War 1946-1998.* London-New York: Bloomsbury Academic.
19. *Vilinbakhov G.* (1998) 'The Fate of the Double-Headed Eagle', *Moscow Magazine* May/June: 28-31.
20. *Van Den Heydt V.* (1976) *Prospects for the Soul: Soundings in Jungian psychology and religion*. London: Barton, Longman and Todd.
21. *Waal de C.* (2005) *Albania Today: A Portrait of Post-Communist Turbulence*. London-New York: I.B. Tauris.
22. *Weyss N.* (1991) 'Der Doppeladler Geschichte eines Symbols', *Adler Bd.* 16 (XXX). Janner/Marz: 78-81.

СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

УДК 341.1/8

THE PERPETUAL PEACE PROJECTS AS A TREND IN THE SCHOLARLY THOUGHT OF INTERNATIONAL LAW

ПРОЕКТИ ВІЧНОГО МИРУ ЯК НАПРЯМ НАУКОВОЇ МІЖНАРОДНО-ПРАВОВОЇ ДУМКИ

ПРОЭКТЫ ВЕЧНОГО МИРА КАК НАПРАВЛЕНИЕ НАУЧНОЙ МЕЖДУНАРОДНО-ПРАВОВОЙ МЫСЛИ

Rzhevska V. S.
Candidate of Juridical Science, Associate Professor, Associate Professor at the International Law Department of the Institute of International Relations of Taras Shevchenko National University of Kyiv. E-mail: valyarzhevskaya@gmail.com

Ржевська В. С.
Кандидат юридичних наук, доцент, доцент кафедри міжнародного права Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: valyarzhevskaya@gmail.com

Ржевская В. С.
Кандидат юридических наук, доцент, доцент кафедры международного права Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: valyarzhevskaya@gmail.com

Abstract. The article investigates how the so-called perpetual peace projects contributed to the scholarly thought of international law. Such projects have been proposed for centuries and came to constitute a rather remarkable trend in human thought, many of them being created by people, prominent of history and representing various fields of activity. Although such projects may be considered an interdisciplinary invention, their contribution to the development of the concepts and ideas of international law can be esteemed as especially significant. The meaning of some famous examples of such projects is summarized. The conclusion is made that among the traces of the influence that the perpetual peace projects had upon the scholarly thought of international law are the preservation and propaganda of the idea of peace, the acknowledgment of law and its means as a valuable component of peace achievement, the investigation of the causes of peace-breaking and combating them, the formation of the principles of peaceful settlement of international disputes and of non-use of force or threat of force, the establishing of theoretical grounds for creating international organizations and elaborating the concept of collective security.

Key words: perpetual peace projects, the peaceful dispute settlement, the non-use of force or threat of force, international organizations, the history of international legal thought, international courts, collective security.

Анотація. У статті досліджується, як так звані проекти вічного миру зробили внесок до наукової міжнародно-правової думки. Такі проекти пропонуються століттями, і як результат вони стали складати досить значний напрямок людської думки; багато з них були створені визначними в історії людьми, які репрезентують різні сфери діяльності. Хоча такі проекти можуть вважатися міждисциплінарним винаходом, їх внесок у розвиток понять та ідей міжнародного права може розцінюватись як особливо суттєвий. Узагальнено значення

декількох таких знаменитих проектів. Зроблено висновок, що серед наслідків впливу, який проекти вічного миру мали на наукову міжнародно-правову думку, - збереження та пропаганда ідеї миру, визнання права та його засобів як цінного компонента досягнення миру, дослідження причин порушення миру і боротьба з ними, формування принципів мирного вирішення міжнародних спорів і незастосування сили або загрози силою, встановлення теоретичних засад для створення міжнародних організацій і розробка поняття колективної безпеки.

Ключові слова: проекти вічного миру, мирне вирішення спорів, незастосування сили або загрози силою, міжнародні організації, історія міжнародно-правової думки, міжнародні суди, колективна безпека.

Аннотация. В статье исследуется, как так называемые проекты вечного мира внесли вклад в научную международно-правовую мысль. Такие проекты предлагаются столетиями, и как результат они стали составлять довольно значительное направление человеческой мысли; многие из них были созданы выдающимися в истории людьми, представляющими разные сферы деятельности. Хотя такие проекты могут считаться междисциплинарным изобретением, их вклад в развитие понятий и идей международного права может расцениваться как особенно существенный. Обобщено значение нескольких таких знаменитых проектов. Сделан вывод, что среди последствий влияния, которое проекты вечного мира имели на научную международно-правовую мысль, - сохранение и пропаганда идеи мира, признание права и его средств как ценного компонента достижения мира, исследование причин нарушения мира и борьба с ними, формирование принципов мирного разрешения международных споров и неприменения силы или угрозы силой, установление теоретических основ для создания международных организаций и разработка понятия коллективной безопасности.

Ключевые слова: проекты вечного мира, мирное разрешение споров, неприменение силы или угрозы силой, международные организации, история международно-правовой мысли, международные суды, коллективная безопасность

Introduction. Among the concepts generated in the historical development of the scholarly thought of international law are the so-called 'perpetual peace projects'. They can be generally defined as proposals to create a union of states aimed at preserving peace in their mutual relations. These projects have been known for a rather long time, and, the attainment of the said goal remaining to be desired, the tendency of such proposals persisted. The additional interest in the projects is created by the personalities of their authors: such initiatives have been put forward by lawyers, philosophers, politicians, a world-famous poet. It is easy to assume that these project necessarily reflect the specific worldview of their authors. This later circumstance allows to look upon the 'perpetual peace projects' as an interdisciplinary invention and field of self-expression, but still, they can be considered as having made some significant contribution into the development of concepts and ideas of international law.

The purpose of research is to sum up the historical development of perpetual peace projects through their most important examples and to sum up their contribution to the development of international law**.**

Recent literature review. The theme of the perpetual peace projects has been addressed by such scholars as I.S. Andreeva [*Андреева*, 1963], L.M. Batkin [*Баткин*, 1965: 38], N.N. Ulyanova [*Ульянова*, 1965], and especially in Ukraine by V.M. Koretsky [*Корецкий*, 2004] and in recent times by V.V. Kopiyka and T.I. Shynkarenko [*Копійка, Шинкаренко,* 2012: 15-30]. This present article aims at summarizing especially the aspects of several of these projects which can be characterized as concerning international law.

The main results of the research. The 'perpetual peace projects' were created in various epochs in history. It naturally follows that they reflect general or the most prominent tendencies in

the development of both 9legal ideas and international relations characteristic of the respective periods.

Some projects originate from the late Middle Ages. These are such famous projects as that by Pierre Dubois (1306), Dante Alighieri (1313) and Jiří z Poděbrad (George of Poděbrad) (the early 1460s). These project deal, to this or that extent, with the internal organization of Christendom and the competition of ecclesiastical and secular powers.

The work by Pierre Dubois 'De Recuperatione Terrae Sanctae' ('The Recovery of the Holy Land ') is obviously an illustration of the fight for predominance between the ecclesiastical and secular powers, and it is also an example of the efforts of one actor in the European international relations (namely France, led by the strong monarch Philip the Fair) to pursue with determination its own interest using the motto of a general one (namely the re-conquest of the Holy Land). This project includes such legal elements of security support as the undertaking of the Catholics not to wage war against each other, the creation of an international court with a possibility of appeal against its decisions to a supreme authority, and various forms of sanctions against offenders. It also provided for the military means of enforcement and the collective military aid of monarchs following the community interest [*Dubois*, 1891].

'De Monarchia' ('On the Monarchy'), a treatise by Dante Alighieri, who, besides being a poet of genius, was also a celebrated scholar, can be seen as a polemic answer to the work by Pierre Dubois and to those tendencies of political strife marking the epoch which had brought it to life. 'On the Monarchy', among other things, is aimed at proving how one person under whose power the union takes place (that is, the Emperor) is to serve in his place the good of all the union's participants [*Алигьери*, 1999*:* 22, 28, 31, 39, 49]. Dante's Empire is a sort of a system of security of the humankind, which is to be achieved through the individual responsibility of the Emperor rather than through the cooperation of its members. The Empire is an idealized pattern of the world order, where the particular legal mechanisms of functioning and control, except dispute settlement, are absent, but the principles of its functioning are given a very elaborate description.

'The Project of Establishing Peace Among All the Christians', associated with the name of Jiří z Poděbrad (George of Poděbrad), King of Bohemia, was brought about by Jiří's conflict with the Roman Pope and had as its purpose to prevent Jiří from international isolation. This project has the form of an international treaty, composed with perfection, and proposes to create an organization of the European princes aimed at their common defence against the Turks. The organization should be based on the equality of its members with no leading role for either Pope or Emperor. The project includes such elements as the mutual undertakings of members not to use force and to deliver assistance, the elaborate undertakings as to dispute settlement, the decision taking on the basis of equality, a system of organs resembling the one of the UN (it included an organ of general representation, assembling periodically, a council and a court), the new law, required to be created in accordance both to nature and to the peculiar features of various states going to be united [1]. A particular trait of this project is its being devised obviously for practical purposes. It may possess some additional interest as proposing the legal pattern to avoid an inter-state conflict caused by the activities of private persons.

The projects of the Early Modern Times necessarily took into account the practice and the experience of international relations of the period, for instance, the wars of religion. The establishment of the principle of state sovereignty created the framework for the emergence of such projects in the following centuries.

The so-called 'Great Design' (le Grand Dessein), or the project of creating the Christian Republic associated with the name of the French King Henry IV and formulated by his chief minister M. de Sully in his memoirs (first published by parts in 1638 and 1662), had as its political aim to weaken the might of the Habsburgs. The characteristic features of this project are: the creation of the new organization of international order as the result of victory over the mutual enemy, the common ideology, the balance of force of the members, an international organ authorized to discuss the political issues and with the particular responsibility for peaceful dispute settlement, the function to force the states outside this community to behave in correspondence to

the community's interests [*Sully*, 1810: 62–118]. The popularity of Henry IV's name contributed to the fame of this project.

The proposals of Jan Amos Komenský **(**Iohannes Amos Comenius**)**, the famous scholar and teacher, which were set down in the sixth part of his treatise 'General Consultation on an Improvement of All Things Human' (1643–1670, first published in 1950), included the creation of the permanent assembly of arbitrators, which would comprise the tribunal of educators, the one of ecclesiastics and the one of politicians. The assembly would have functioned by way of regular congresses and would have combined the tasks of justice and administration with those of opposing and preventing offences. The key role was attributed to prevention [*Коменский*, 1963: 66 -81.]. J.A. Komenský's proposals are especially marked by his recognition of the spread of education and the development of human personality to perfection as significant prerequisites to establishing peace.

W. Penn, the famous Quaker leader and founder of the American Commonwealth of Pennsylvania, also had his plan, which is explained in his work 'An Essay towards the Present and Future Peace of Europe by the Establishment of an European Dyet, Parliament, or Estates' (1693). The elements of W. Penn's proposals include: an international structure possessing the functions of peaceful dispute settlement and law-making, an international representative body, working by way of sessions, a procedure of international peaceful dispute settlement, the collective sanctions for non-performance or untimely performance, the compensation for damage caused by illegal behaviour, the regulation of armaments of the members [*Пенн*, 1963]. This project may be seen as predicting several types of inter-state unions, which appeared in the future.

One of the most famous and frequently discussed perpetual peace projects is one of a European republic, put forward by Ch.-I. Castel, abbot de Saint-Pierre in connection with the Congress of Utrecht, 1713-1714. Seeing the relations of the peoples in Europe as a system of interconnections, Ch. de Saint-Pierre proposed to create a general union of the European states, based on a free agreement of members. The Union would have possessed general laws, interpreted and applied also with uniformity, a court, authorized to take all-obligatory decisions, and the ability to organize centralized enforcement, which would have prevented the opposition of the particular and general interests [*Сен-Пьер де*, 1963]. This union would not have possessed such features as redistribution of territories among the member states, a common enemy, or a special privileged status for any of its members. It should have been grounded on an international agreement and achieved peacefully. The ability of the union to resist any of its members in case of non-obedience, the elimination of the reasons for war and the prevention of the reasons for a new possible confrontation were deemed to be the main preconditions for the union's success.

The fame of Ch. de Saint-Pierre's project is largely due to the philosopher J.-J. Rousseau, who made an abbreviation of it (1761) and followed it with critical commentary of his own. Although welcoming Ch. de Saint-Pierre's idea, J.-J. Rousseau pointed out the too high cost of its implementation, for it could be put to practice by war only [*Русско*, 1963].

The project by another famous philosopher J. Bentham, contained in his work 'The Principles of International Law' (first published in 1843, the project itself written between 1786 and 1789), could be considered to contain a high degree of naivety, for many of his proposals were obviously inadmissible for state policy. J. Bentham indicates, though, several influences on peace support. These are disarmament and the limitation of armaments, the fate of dependent territories, the elimination of reasons for war, the understanding of war's economic disadvantage, the control of public opinion over states' policy, the abolition of secret diplomacy included, and the self-education of people. The international legal means of peace support, named by J. Bentham, included the codification of international law, the peaceful settlement of inter-state disputes and the collective sanctions on behalf of the international community in respect of a peace-breaker. J. Bentham also established the connection between international peace support and internal responsibility of governments [*Bentham*, 1843].

The famous philosopher E. Kant, the author of a wide-known work 'Perpetual Peace: A Philosophical Sketch', first published in 1795, proposed to create not a European unity, but a worldwide one. He also showed the mutability of purposes and means of their achievement in

historical processes and the interaction of opposite factors in the attainment of a goal [*Кант,* 1994a], [*Кант,* 1994b]. Several legal means of peace support, proposed by E. Kant, such as the principle of non-interference in the internal affairs, the protection of territorial integrity and political independence of states, and the non-use of military force aimed at receiving the payment of debts, entered the international law later on. In his 'Metaphysics of Morals' (1797) the philosopher himself acknowledged that the federation envisaged by him was due to break up, but still, the 'interminable approaching' to the perpetual peace was necessary [*Кант,* 1994a: 387-388]. This notwithstanding, E. Kant contributed to the popularity of the idea itself and generated further polemics concerning it.

The international relations in the aftermath of the French Revolution of 1789 were the context for the ideas of V.F. Malinovskyi, the first director of the Tsarskoe Selo Lyceum, expressed in his 'Thoughts on War and Peace' (written in 1790-1798, first published in 1803). V.F. Malinovskyi showed continuity with the European tradition of the perpetual peace projects, but introduced the argumentation of his own, joining the values of the Age of Enlightenment and Christianity together. The union of the European powers, proposed by him, possessed evident supranational features. International agreements should have been replaced in it by common legislation, and diplomatic representation should have given place to representation in the common council [*Малиновский,* 1963].

The common feature of the projects by J. Lorimer and J. Bluntschli is their reliance on the principle of division of power, similarly to the internal order of a state. J. Lorimer denied the possibility that international order could be established forever with no necessity for development as well as with absolute equality of all the recognized states. His project had two variants. The first one (1871) envisaged a system of international organs including a Congress, which would have been a legislature and an executive jointly, and a Court with the right to review the decisions of the Congress. The right of each state to vote in the Congress would have depended on its rank of relative importance, defined in each meeting of the Congress and consisting of several components considered [*Lorimer,* 1871]. The second one (1877) proposed to create an international organization with the internal division of three powers, corresponding to that existing in Great Britain and corresponding mostly to its interests [*Lorimer,* 1877]. J. Bluntschli (1895) proposed a Congress of the European countries with no supranational features, but with a possibility to contribute to the development of international law, to guarantee its enforcement and to support the equality of all nations. The Congress should have been composed of the Council, the Senate and the tribunal, or the court of arbitration. The Congress could have been developed into a universal one [*Bluntschli,* 1895].

Special attention should be paid and special credit given to the ideas stressing the usefulness of an international court as a means of peace support. The treatise 'On an international court' by L.A. Kamarovskyi (1881) is not a perpetual peace project in the strict sense. Though containing proposals as to the establishment of a permanent international court in the future, it openly excludes the question of the legality of the use of force from the court's jurisdiction. In this respect the treatise reflects the principles of international law of its epoch, refusing to restrict sovereignty decisively for the sake of peace. It, nevertheless, outlined several ways in which the court could have contributed to peace maintenance, the just settlement of disputes by it included, and expressed the thought that the establishment of an international court was to pave the way for creating an international organization with a view to maintain international peace [*Камаровский,* 2007: 242-243]. The H. Kelsen's project of 'Covenant of a Permanent League for the Maintenance of Peace' (1944) had the advantage of possibility to take into account the experience of the League of Nations, and it saw the international court with compulsory jurisdiction as the centre of the system of international guarantees of peace and security [*Kelsen*, 1995: 110]. Both these projects, though in different ways, demonstrate the recognition of international courts and judicial application of international law as significant contributors to the preservation of international peace.

Conclusion. The traces of impact that the creation of perpetual peace projects had on the general development of the scholarly thought in international law can be noticed in several directions. Firstly, it is the preservation and propaganda of the idea of peace itself, accompanied by

the acknowledgement that some of the means of its achievement should be those presented by law. It should be also acknowledged, though, that some of these projects were put forward not for the pure sake of peace itself, but as tools for solving current political problems for the benefit of the state of a project's origin. Secondly, the composition of such projects led to the general investigation of the causes of peace-breaking, this in turn leading to the problem of these causes being either diminished or excluded. Then, some contribution of these projects to the formation, at least in theory, of several principles of international law should be noted; this especially concerns the principles of peaceful settlement of international disputes, and, later on, of non-use of force or threat of force.

The role of these projects in establishing theoretical grounds for creating international organizations is quite evident, but a feature of special interest in some projects is an effort to introduce internationally the division of powers like that existing in states. Although the efforts to imitate this division certainly had some influence on the structure of international organizations, they also stressed the differences between states and international intergovernmental organizations as their unions. Sometimes, in search of the means of establishing perpetual peace, the elements of the idea of supra-nationality were expressed as its prerequisite.

Another impact of the perpetual peace projects on the scholarly thought of international law is in their approaching to the modern notion of collective security and its legal aspects, including international responsibility for the breach of peace, the means of peace enforcement and prevention of the breach of peace.

References

1. Traité destiné à établir la paix dans toute la chrétienté. Traduit par Konstantin Jelinek, docteur ès lettres //Chrétiens et sociétés – 8 juillet 2008. – <http://chretienssocietes.revues.org//index68.html>
2. *Bentham J.* Essay 4. A Plan for an Universal and Perpetual Peace. // J. Bentham (1843). The Principles of International Law. <http://www.laits.utexas.edu/poltheory/bentham/pil/pil.e04.html>
3. *Bluntschli J.C. (1895) Le droit international codifié* [The International Law Codified]. [Traduit de l'Allemand par M.O. Lardy]. Paris: Guillaumin et Co, éditeurs.
4. *Dubois P. (1891) De recuperatione terrae sanctae. Traité de politique générale.* [The Recovery of the Holy Land. The treatise on general politic] Paris: A. Picard. — [Електорнний реусрс]:
http://archive.org/details/derecuperationet00dubouoft
5. *Kelsen H.* (1995) 'Covenant of a Permanent League for the Maintenance of Peace', in Tournaye C. *Kelsen et la securite collective, pp.* 103-111. Paris: Universite Pantheon-Assas (Paris II)
6. *Lorimer J.* (1871) 'Proposition d'un congres international basé sur le principe de facto' [The proposal of an international congress based on the de facto principle], *Revue de droit international et de législation comparée.* III: 1 – 11.
7. *Lorimer J.* (1877) 'Le problème final du droit international. Proposition d'un congres international basé sur le principe de facto' [The final problem of the international law. The proposal of an international court based on the de facto principle], *Revue de droit international et de législation comparée.* IX: 161 – 206.
8. *Sully M.* (1810) *The memoirs of the Duke of Sully, prime-minister to Henry the Great. Translated from the French by Charlotte Lennox: Volume 5.* London: Printed for William Miller, Albemarle Street; by Av. Blumer, and Co. Cleveland-road, st. James's.
9. *Алигьери Д.* (1999) *Монархия. [Пер. с итал. В.П. Зубова; Комментарии И.Н. Голенищева-Кутузова]* [The Monarchy. Translated from Itailan by V. P. Zubov. Commented by I.N. Golenishchev-Kutuzov]. Москва: Канон-пресс-Ц- Кучково поле.
10. *Андреева И.С.* (1963) *Вековая мечта человечества* [The eternal dream of the mankind], в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 13—37. Москва: Соцэкгиз.
11. *Баткин Л.М.* (1965) *Данте и его время.* [Dante and his time] Ленинград: Наука.

12. *Камаровский Л.А.* (2007) *О международном суде.* [On an international court] Москва: Зерцало.
13. *Кант И.* (1994a) 'Метафизика нравов' [Metaphysics of Morals], *Собрание сочинений в 8 томах: Том 6*: 223–543. Москва: ЧОРО.
14. *Кант И.* (1994b) 'К вечному миру'. Философский проект [Perpetual Peace: A Philosophical Sketch], *Собрание сочинений в 8 томах: Том 7:* 6–56. Москва: ЧОРО.
15. *Коменский Я.А.* (1963) Всеобщий совет об исправлении человеческих дел. (Часть Шестая) [General Consultation on an Improvement of All Things Human (Part Six)] Всеобщее исправление, в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 66 — 81. Москва: Соцэкгиз.
16. *Корецкий В.М.* (2004) 'Проект Иржи Подебрада об организации мира и современность' [Jiří z Poděbrad's project on the organization of peace and the modernity], *Антологія української юридичної думки: Том 8 «Міжнародне право»:* 516 – 528. Київ: Видавничий Дім «Юридична книга».
17. *Копійка В.В., Шинкаренко Т.І.* (2012) *Європейський Союз: історія і засади функціонування.* [The European Union: its history and the bases of its functioning] Київ : Знання.
18. *Малиновский В.Ф.* (1963) Рассуждение о мире и войне [Thoughts on War and Peace], в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 213 – 239. Москва: Соцэкгиз.
19. *Пенн В.* (1963) Опыт о настоящем и будущем мире в Европе путем создания европейского Конгресса, Парламента или Палаты государств [An Essay towards the Present and Future Peace of Europe by the Establishment of an European Dyet, Parliament, or Estates], в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 82 – 106. Москва: Соцэкгиз.
20. *Руссо Ж-Ж.* (1963) Суждение о вечном мире [The judgment on the project of the perpetual peace] , в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 137 - 149. Москва: Соцэкгиз.
21. *Сен-Пьер де Ш. И.* (1963) Избранные места из проекта вечного мира (в изложении Ж-Ж. Руссо) [The selected places of the project of the perpetual peace (as retold by J.-J. Rousseau], в И.С. Андреева, А. В. Гулыга (ред.) *Трактаты о вечном мире*, сс. 106 – 136. Москва: Соцэкгиз.
22. *Ульянова Н.Н.* (1965)' 500-летие Трактата Иржи Подебрада об организации мира и безоопасности'[The 500 Anniversary of Jiří z Poděbrad's project on the organization of peace and security] , *Советское государство и право* 1:108–21.

УДК 341.4

LEGAL REGULATION OF UNIVERSAL JURISDICTION IN NATIONAL LEGISLATION: A COMPARATIVE ASPECT

ПРАВОВЕ РЕГУЛЮВАННЯ УНІВЕРСАЛЬНОЇ ЮРИСДИКЦІЇ У НАЦІОНАЛЬНОМУ ЗАКОНОДАВСТВІ: ПОРІВНЯЛЬНИЙ АСПЕКТ

ПРАВОВОЕ РЕГУЛИРОВАНИЕ УНИВЕРСАЛЬНОЙ ЮРИСДИКЦИИ В НАЦИОНАЛЬНОМ ЗАКОНОДАТЕЛЬСТВЕ: СРАВНИТЕЛЬНЫЙ АСПЕКТ

Присвячується 75 - річчю
Інституту міжнародних відносин
Київського національного університету
імені Тараса Шевченка

A. Korynevych
Philosophy Doctor in International Law, Associate Professor at the Department of International Law of the Institute of International Relations, Taras Shevchenko National University of Kyiv. E-mail: korynevych@gmail.com.

O. Chubinidze
Postgraduate student of the Department of International Law of the Institute of International Relations of Taras Shevchenko National University of Kyiv. Email: olexandra.chubinidze.fellow@gmail.com

Кориневич А. О.
Кандидат юридичних наук, доцент кафедри міжнародного права Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: korynevych@gmail.com.

Чубінідзе О. О.
Аспірантка кафедри міжнародного права Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: olexandra.chubinidze.fellow@gmail.com

Кориневич А. А.
Кандидат юридических наук, доцент кафедры международного права Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: korynevych@gmail.com

Чубинидзе А. А.
Аспирантка кафедры международного права Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: olexandra.chubinidze.fellow@gmail.com

Abstract. *The article reveals the peculiarities of application of universal jurisdiction in national law. In particular, attention was paid to the mechanisms for consolidating universal jurisdiction in the legislation of the Romano-Germanic and Anglo-Saxon legal systems, in particular as regards its subject-matter, personal and territorial application. An inalienable element of this study is the analysis of the powers and practice of the judicial authorities in this matter.*

The main purpose of the article is a study of universal jurisdiction, based on classical cases of its consolidation in national law. Additionally, we provide the consideration of issues of practical

application thereof in cases of war crimes. The conclusion is that national legislation has moved to a more narrow understanding of universal jurisdiction. Most often, in order to start a case, the complainant must be present before the national court. It is important that the offenses have a connection with public interests of the state iudex loci deprehensionis. The problem is also that the consolidation and application of universal jurisdiction at the national level has not been yet unified.

Key words: *universal jurisdiction, national criminal law, comparative law, judicial authorities, grave crimes.*

Анотація. *У статті розкрито особливості застосування універсальної юрисдикції у національному законодавстві. Зокрема, було приділено увагу механізмам імплементації універсальної юрисдикції у законодавстві романо-германської та англосаксонської правових систем, особливо, аспектам її предметного, персонального та територіального застосування. Невід'ємним елементом цього дослідження є аналіз повноважень та практики судових органів з цього питання.*

Основна мета статті - вивчення універсальної юрисдикції, заснованої на класичних випадках її закріплення у національному законодавстві. Крім того, ми пропонуємо розглянути питання практичного застосування цієї концепції у кримінальних справах, особливо, предметом яких є покарання за здійснення воєнних злочинів. Загальний висновок статті полягає в тому, що національне законодавство перейшло до більш вузького розуміння загальної юрисдикції. Найчастіше, для того, щоб розпочати справу, суд вимгаає, щоб скаржник перебував на території держави суду. Важливою передумовою є також факт тісного зв'язку правопорушення із фундаментальними суспільними інтересами держави iudex loci de prezurnienionis. Проблема також полягає в тому, що закріплення та застосування універсальної юрисдикції на національному рівні є диверсифікованим навіть у рамках однієї правової системи.

Ключові слова: *універсальна юрисдикція, національне кримінальне право, порівняльне право, судові органи, тяжкі злочини.*

Аннотация. *В статье раскрыты особенности применения универсальной юрисдикции в национальном законодательстве. В частности, было уделено внимание механизмам имплементации универсальной юрисдикции в законодательстве романо-германской и англосаксонской правовых систем, особенно, аспектам её предметного, персонального и территориального применения. Неотъемлемым элементом этого исследования является анализ полномочий и практики судебных органов по этому вопросу.*

Основная цель статьи - изучение универсальной юрисдикции, основанной на классических случаях её закрепления в национальном законодательстве. Кроме того, мы предлагаем рассмотреть вопросы практического применения зокрема в уголовных делах, особенно предметом которых является наказание за осуществление военных преступлений. Общий вывод статьи заключается в том, что национальное законодательство перешло к более узкому пониманию универсальнойюрисдикции. Чаще всего, для того, чтобы начать дело, суд требует, чтобы истец находился на территории государства суда. Важной предпосылкой является также факт тесной связи правонарушения с фундаментальными общественными интересами государства iudex loci de prezurnienionis. Проблема также заключается в том, что закрепление и применение универсальной юрисдикции на национальном уровне является диверсифицированным даже в рамках одной правовой системы.

Ключевые слова*: универсальная юрисдикция, национальное уголовное право, сравнительное право, судебные органы, тяжкие преступления.*

Formulation of the problem. Currently, international community is faced with bloody armed conflicts. During the operation in Syria thousands of civilians are becoming victims. Many other countries are suffering, because they are forced to divide their homes with the waves of migrants.

Every day we see violation of human rights, which are the most important values enshrined in international law, and these violations constitue crimes against international law.

Ukraine is also experiencing a similar situation. During the aggravation of Ukrainian-Russian relations, the issue of responsibility of the parties to the conflict for their crimes is very relevant. In this context, accusations and convictions often occur at the level of national courts. They are the most effective instrument of condemning citizens of the other party for war crimes.

The purpose of the article. Our task is to figure out whether there is an effective mechanism to convict the perpetrators of the most serious crimes. There are mechanisms to punish the subject, whose actions affect the interests of all mankind. It is widely known and used both in international and national law, and called universal jurisdiction. The problem is that still, there aren't any unified principles for its application. In particular, the question arises, who can apply it and against whom.

Analysis of recent research and publications. A number of researchers can be referred to the authors who touched upon this issue. The criminal-law aspect of the jurisdiction of the states was considered in the works of S. Bassiuni, A. X. Butler, L. Benvenides, D. de Fabre, R. O'Keeffe, A. Cassese, M. Trave, L. Reidems, K. Rendal. Universal jurisdiction is a kind of criminal jurisdiction of states, so all the named researchers paid attention to it in their works.

Outline of the main research material. According to W. Shabas, the principle of universality is an exceptional, extraordinary basis for the exercise of criminal jurisdiction. It can be applied only to international crimes and only if the state, which under normal conditions (on traditional grounds) has to exercise jurisdiction over these crimes, do not wish or cannot do so [37, p. 156]. The universal principle is the application of national criminal law to foreigners who are in the territory of a given country and who have committed a crime outside the country that violates international law in accordance with international treaties. This criterion allows any state to establish jurisdiction over persons who have committed criminal acts abroad and does not directly violate the interests of that state or its citizens [43, p. 520].

Universal jurisdiction is an additional (subsidiary) type of jurisdiction that applies if another state that has a legal or factual connection with the crime (based on the territorial, personal, flag principle) cannot or do not intend to bring the perpetrators to justice. Therefore, the State of iudex loci deprehensionis must, before pursuing a judicial proceeding based on universal jurisdiction, make an appropriate request to the State where the crime was committed or to the State, whose suspected national it intends to prosecute the offender, except for the explicit refusal or undesirability of these states to prosecute [32, p. 467].

States have the right to grant their national courts universal jurisdiction over war crimes. The practice of States establishes this rule as the customary law of war crimes committed both in international and non-international conflicts. The same is true of other types of international crimes [26, p. 777]. To date, many countries have legislation that, under varying conditions, allows them to prosecute international crimes committed not by their subjects or in their territory. The successful prosecution of international crimes by the courts of Spain, France, Belgium and the United Kingdom at the beginning of the new millennium indicates that universal jurisdiction is now a practical reality that is gradually being assimilated into the functioning of criminal law systems in parts of Western Europe [34].

With regard to the range of crimes, the national law of many states contains very few grounds for the universalization of jurisdiction. In most cases, there is no specific listing of activities to which the extraterritorial jurisdiction applies. Formally, it can be argued that all crimes are subject to extraterritorial jurisdiction [44, p. 48].

However, on the whole, one cannot admit that States are not inclined to recognize one another's right to exercise jurisdiction in cases beyond the scope of international law. Obviously, this is why universal jurisdiction is most often recognized for only a limited number of crimes (including terrorism), as well as in cases, where there are reasonable fears that the offender may abscond in his or her own state and escape justice [44, p. 49].

The specific conditions necessary for a State to exercise universal jurisdiction over an international crime vary depending on the law of the particular State. Ultimately, these conditions

are linked to two different concepts of this type of jurisdiction, which Antonio Cassese draws attention to [24, p. 284].

According to the narrow concept of universal jurisdiction, the presence of the accused in the territory of the state is a prerequisite for the commencement of the procedure for its implementation. According to the broad concept (or the concept of absolute universal jurisdiction), such a presence is not required to begin the procedure (although, of course, litigation cannot go in absentia, which would be a material violation of the suspect's rights) [24, p. 285]. The laws of each state, in one form or another, provide for the courts to exercise universal jurisdiction, ultimately either reflecting one of these trends, or relying on a mixed approach, assuming at least the "expected presence" of the suspect [31, p. 778].

"The practice is heterogeneous as to whether the principle of universal jurisdiction requires specific liaison with the prosecuting state. The requirement that the accused and the prosecuting State have any connection, in particular that the accused is in the territory or in the power of that State, reflected in the military statutes and regulations, legislation and case law of many states. However, there are also laws and case law that do not require such a link. The Geneva Conventions also do not require such a link, "- noted the authors of a fundamental study of the International Committee of the Red Cross on customary humanitarian law [31, p. 779].

For example, the laws of most countries that have criminalized international crimes in their domestic law require that the "actual" or "probable" presence of a suspect in the territory of a country must be prosecuted (forum deprehensionis). In some countries, the actual or expected presence of a suspect is a prerequisite for a preliminary investigation by the police [27].

It is especially important that allegations of prosecution of alleged criminals can be made by interested persons: victims, their relatives and representatives. There is a possibility of a judicial appeal against the refusal of the relevant authority to open an investigation.

One of the main trends in the application of universal jurisdiction is the establishment of elements of crime by the States [45, p. 9]. In the past century, national courts of individual countries have effectively applied the principle of universal jurisdiction as the legal basis for the prosecution and punishment of Nazi war criminals. Such practice was based on the recognition that the Nuremberg Justice was based on the principle of universality of the rules on the criminal liability of individuals for international crimes, which were considered to have unconditional priority over the rules of domestic law [7, p. 79].

Thus, in the "Hadamar" case, Alfon Klein and six other military men accused of violating the laws of war were brought before a military commission appointed by the US Seventh General. Considering the possibility of exercising jurisdiction, the commission noted:

"The commission had to decide whether it had jurisdiction, despite the fact that a crime committed by foreigners outside the United States did not affect the citizens of the United States. The Commission has resolved this issue in the affirmative [and thus] ... the grounds for the jurisdiction of the Commission derive from a recent general doctrine called "universality of jurisdiction in war crimes", endorsed by the United Nations War Crimes Commission, to which every independent state, under international law, has the competence to punish not only pirates but also war criminals who are under its authority, regardless of the victim's nationality or the place where the crime was committed, especially where for some reason the offender would otherwise go unpunished" [2, p. 51].

In addition, in the "Almelo" and "Zyklon B" cases, the same principle was used by the British military courts. The cases state that "under a general doctrine called the universality of jurisdiction over war crimes, each independent state has jurisdiction over international law to punish pirates and war criminals while in detention, regardless of the victim's nationality or place of residence, or place of committing the crime" [11, p. 41].

Subsequently, Nazi war criminal A. Eichmann (1962) was convicted in Israel on these grounds. The basis for the conviction was the Nazi and Nazi Collaborators Act, which was enacted in 1950. It lists the crimes to which it applies; asserts Israel's jurisdiction over Nazi suspects and repeals the prohibition on prosecution due to retroactivity and statute of limitations [20]. In

appealing the case, the Israeli Supreme Court justified its jurisdiction by referring to the principle of universal jurisdiction in war crimes and crimes against humanity [16].

Eichmann's defender argued that Israel had no jurisdiction since Israel did not exist until 1948. The Genocide Convention also came into force only in 1951 and do not establish universal jurisdiction [1]. Israel claimed that it had universal jurisdiction on the basis of the "general nature of the crimes involved and that the crimes committed by Eichmann were not only a violation of Israeli law but also grave crimes against international law per se". It has also been argued that the crime of genocide is enshrined in customary international law [16]. The court ruled: "All the crimes charged by the appellant are not only international in nature, but also, given the damage and the deadly consequences, have been able to turn the whole international community upside down. Therefore, in accordance with the principle of universal jurisdiction, the State of Israel has the authority to judge Eichmann" [16].

The impetus for the use of instruments of universal jurisdiction by national courts gave rise to the establishment and functioning of the UN Special Tribunals, and then to the signing and ratification of the Rome Statute. Over the last decade, national courts of several states have already convicted a number of persons for international crimes, including those of non-international armed conflict, under universal jurisdiction. However, the states of citizenship of the accused did not object to the exercise of universal jurisdiction [31, p. 777].

Let us consider in more detail the provisions of national law, which set out the conditions for the application of universal jurisdiction, in particular absolute jurisdiction. We start with the countries of the Romano-German legal system as those, closer to Ukrainian law.

In view of the adaptation of the German criminal law to the provisions of the Rome Statute of the ICC, the so-called Code of Crimes against International Law, which was adopted and came into force in 2002, is of interest. The current German Criminal Code has been supplemented by a new first section, entitled the International Criminal Code (ICC). It provides for three types of international crimes, as enshrined in the norms of the Rome Statute of the ICC: genocide, crimes against humanity and war crimes, and defines the conditions for their prosecution. This is illustrated by the fact that the Rome Statute not only established the ICC, but also became a code of universal criminal law, qualifying the most serious international crimes and regulating in detail the necessary features of individual criminal responsibility under international law. The comments highlight different aspects of the prosecution of crimes committed outside and outside Germany. This means that no matter where the crime was committed, by whom or against whom, the perpetrators may be convicted on the basis of German criminal law. However, according to a new section - the ICC, the crimes committed therein are subject to universal jurisdiction [22].

The provision on universal jurisdiction is set out in Section 1: "This Law applies to all criminal offenses referred to therein against international law, to the offenses specified therein, even when the act was committed abroad and is not relevant to the territory of the country" [22].

These crimes are not subject to the statute of limitations (paragraph 5). The general principles of criminal law are applied in accordance with the German Criminal Code, unless otherwise provided (paragraph 2) [22]. An innovation for the criminal law of Germany is the provision on the responsibility of the higher command. It should be noted that command responsibility is a principle of martial law that imposes the responsibility of commanders for committing war crimes by subordinates [27]. Execution of command orders can justify the perpetrator of these crimes only in exceptional circumstances (p. 3) [14].

According to paragraph 1, genocide, crimes against humanity and war crimes are subject to universal jurisdiction, so German courts may hear cases of crimes committed by foreign nationals [22].

According to the principle of universal jurisdiction, the leader of the Rwandan rebels, the Democratic Forces of Rwanda's Liberation, Ignas Murvanashak was convicted and sentenced to 13 years in 2015. The trial of him and Straight Musson, also a Rwandan national, began in May 2011. This is the first case of using Code of Crimes against International Law in Germany. In September 2015, Strata was sentenced to 8 years in prison [39].

In 2017, an investigation was launched in Germany against Syrian high officials from the National Security Bureau, various intelligence and military police units on charges of committing crimes against humanity and war crimes. A similar investigation was launched against Syrian officers [38].

The article 689 of the French Code of Criminal Procedure refers to violations that fall under the jurisdiction of French courts and are committed outside the French territory by both French nationals and foreigners [7].

Universal jurisdiction gives France the power to determine and to impose penalties for specific crimes of common interest. In 2010, the French Code of Criminal Procedure was amended to extend the jurisdiction of French courts to all international crimes, as defined in the Rome Statute. However, the legislation has established four new conditions limiting the application of universal jurisdiction in French courts, which contributes to the formation of the so-called quasi universal jurisdiction [34].

The first restriction concerns torture and requires the suspect to be present in the territory of France at the time of the complaint; in the case of genocide, crimes against humanity and war crimes, the suspect must reside in France. In addition, there is no requirement of subsidiarity (giving priority to the courts of the country in which the crime took place or international criminal courts) or the principle of double criminality (when there is jurisdiction, even if the act was not recognized as a crime at the time of its commission), although both apply to other crimes of the Rome Statute. The fourth condition, which does not apply here, relates to the civil process [7].

The first case under the principle of universal jurisdiction began in 2009 on Rwandan genocide and crimes against humanity. Pascal Simbikangwa was the head of the Rwanda Central Intelligence Agency during the 1994 genocide. In 2005 he moved to Mayotte (a French island off the coast of Southeast Africa) [35].

The International Commission of Inquiry for Rwanda reported that Symbikangwa was involved in the Rwandan genocide - presumably as one of the main actors - and was eventually wanted by Interpol. On March 3, 2008, he was indicted in Rwanda for genocide and complicity in genocide, conspiracy and organized crime. On October 28, 2008, he was arrested in Mayotte for producing and selling counterfeit identity cards [35].

On February 4, 2014, the case of Pascal Symbikangwa was heard by the court of Dis Assis de Paris, and this was the first case in a French court of Rwandan genocide. In March 2014, a Paris court sentenced Simbikangwa to 25 years in prison. Confirmation of his sentence marks the completion of France's first successful prosecution of genocide in Rwanda [10].

In July 2016, a French court found Octaun Ngenzi and Tito Barair, two former mayors of Rwandan cities, guilty of genocide and crimes against humanity, and sentenced them to life imprisonment [35].

The experience of universal jurisdiction in Spain is interesting and instructive. Article 24 (1) of the Spanish Constitution guarantees: "Everyone has the right to an effective defense of a judge and a court in the exercise of his legitimate rights and interests and shall in no case be refused such protection" [6]. Until 2009, Article 23.4 of the Judiciary Act established that crimes such as genocide, terrorism, piracy "and any other acts which, according to international treaties and conventions, are to be prosecuted in Spain" are prosecuted by Spanish courts, even if they are committed by foreigners outside the territory of Spain [19].

Article 607 of the Spanish Criminal Code of 1995 establishes responsibility for genocide. Articles 608-616 establish responsibility for war crimes, regardless of whether they were committed in the context of an international or internal armed conflict (Art. 608) [12].

Article 125 of the Spanish Constitution [16], the Law on the Judiciary and the Code of Criminal Procedure provide for the right of Spanish nationals who have their own interests in a particular case or represent the victim to initiate prosecution in the form of private prosecution (*accion popular*) [18], [19].

The criminal prosecution in Spain, based on universal jurisdiction, started the case of Augusto Pinochet when a Spanish court requested the arrest and extradition of a former Chilean

dictator in the UK. He was arrested in 1998 while undergoing treatment in the UK on a Spanish court order. Pinochet was charged with murder, Madrid demanded extradition, but failed to extradite: the court, and then the House of Lords, admitted that the former dictator as a head of state had immunity from prosecution. As a result, after two years of arrest, Pinochet returned to his homeland, where local law enforcement had charged him with the murder of political opponents, corruption, kidnapping and torture, as well as drug trafficking and the distribution of weapons [40].

Although Pinochet as a result has not yet issued, the case was a starting point for the continued use of universal jurisdiction in Spain. The following were the case against former Peruvian President Alberto Fujimori, the case of Argentinian officer Adolfo Shillingo, who was sentenced in 2005 by the National Judicial Chamber to 640 years in prison for crimes committed in the 1970s during Argentina's military dictatorship. [25, p. 78].

All cases currently pending before the Spanish courts in the universal jurisdiction have been brought in connection with statements made by victims or non-governmental organizations. That is, the decisive role was played by *the accion popular* procedure. In practice, until 2005, to establish jurisdiction of the Spanish court over international crimes committed by foreign nationals (which, under Spain's criminal procedure law, is set up by an investigating judge), the courts established a link between Spain's crime and interests. For example, in the Schillingo case, the reason for exercising jurisdiction was the fact that, among the hundreds of victims of crimes committed in an illegal place of detention, which included defendants, 14 persons were Spanish nationals [25, p. 80]. The situation changed in 2005, when, following the interpretation of the Spanish Constitutional Court, the existence of such a link was found not necessary to recognize Spain's jurisdiction over international crimes.

This unprecedented ruling was made in the context of the Spanish criminal case relating to crimes committed in the 1980s during the Guatemalan civil war (genocide case). It was launched in 1999 when his victims filed a complaint with the National Judicial Chamber of Spain in connection with the Mayan genocide in Guatemala. On March 27, 2000, an investigating judge declared that Spain had jurisdiction over the crime and commenced an investigation, despite the fact that no Spanish nationals were among the victims of the crime. However, the Supreme Court reversed that decision, citing the lack of a link between Spain's national interests and possible crimes [17].

This decision was challenged by the applicants before the Constitutional Court on the grounds of violation of their right to effective judicial protection. The Constitutional Court agreed with the applicants' main arguments and held that the Supreme Court had erred in its decision of 25 February 2003 and quashed it [13]. This gave impetus to new trials in accordance with the principle of universal jurisdiction. For example, on June 5, 2006, the Spanish Supreme Court recognized the right to hear a case of genocide to which the Tibet's population were subjected by Chinese authorities. An application for genocide against Chinese authorities was filed by expatriate Tibetan human rights organizations in Spain on June 28, 2005 [23, p. 597].

Thus, Spanish legislation on universal jurisdiction had an extremely broad potential by 2009. However, this has led to a sharp deterioration in international relations between Spain and a number of states, especially the People's Republic of China. Therefore, in 2009, the Spanish Parliament adopted amendments to Article 23.4 of the Judiciary Act, which narrow the scope of the principle of universality. It is now required that either the victim or the suspect be Spanish nationals, or that the suspect must be in Spain, or that the crime has to do with the interests of Spain. However, these amendments may conflict with Article 24 (1) of the Constitution of Spain in the interpretation given by the Constitutional Court of Spain [6; 18].

In addition to Spain, Belgium has most actively used the principle of universal jurisdiction. In 1993, the Belgian Parliament passed the “Universal Jurisdiction Act”, whose substantive jurisdiction extended to war crimes, crimes against humanity and genocide [30, p. 247]. In 2001, a group of Palestinians sued former Israeli Prime Minister Ariel Sharon and General Amos Jaron in Belgian court on charges of massacre of refugees at Sabr and Shatila camps in 1982 in West Beirut. The court against Sharon refused to start the case, citing the immunity of the head of state, and Jaron became accused, after which Israel recalled its ambassador from Belgium [21].

The turning point was the attempt by several Iraqi citizens to prosecute former US President George W. Bush, Vice President Dick Cheney and Secretary of State Colin Powell on charges of crimes against the Persian Gulf in Belgian court. The case began in March 2003. Washington then threatened Brussels with the loss of NATO capital status and the deterioration of relations, and as a result, the government, on the initiative of the government, restricted the right of the courts to institute cases against foreign statesmen [42]. Following this case, Belgium laid down the conditions for the application of the universal jurisdiction under which the accused must be a Belgian national or be in the territory of Belgium. As already mentioned, an arrest warrant issued in 2000 under this law against the then Minister for Foreign Affairs of the Democratic Republic of the Congo was challenged in the United Nations International Court of Justice in the Arrest Warrant case [4].

Also, in 2001, four Rwandan citizens were convicted and sentenced to between 12 and 20 years in prison for participating in the 1994 Rwandan genocide [41].

On August 1, 2003, the Belgian Parliament repealed the law on universal jurisdiction and approved a new law on extraterritorial jurisdiction, similar to the laws adopted in most European countries. However, some of the cases that have already begun have been considered further. These include those related to the Rwandan genocide and complaints filed against former President Chad Gissen Gabre (called "African Pinochet"). In September 2005, a Belgian court issued an international arrest warrant for Giessen Gabre on charges of "grave violations of international human rights". However, Senegal has never released Gissen Gabre. In February 2009, Belgium sued Senegal for refusing to extradite the former Chadian president. On July 20, 2012, the United Nations International Court of Justice demanded that the Government of Senegal "without delay" must either try Gabra on charges of crimes against him or extradite him to Chad. On June 30, 2013, Gissen Gabre was arrested in Senegal. On 30 May 2016, Gissen Gabre was sentenced to life imprisonment for crimes against humanity [28].

Let us now turn to the countries of the Anglo-Saxon legal system. Although the United States does not have a written law regarding universal jurisdiction, in some cases the federal government still detained suspected conspirators to commit U.S. crimes abroad or to commit crimes against U.S. officials. [36, p. 905].

In 1985, Humberto Alvarez-Mahaine, a Mexican citizen, was charged by the United States of America with torturing and killing in Mexico the agent of the United States Drug Enforcement Administration. Despite the existence of a bilateral extradition treaty, the US government hired a private individual, Mr. Sosa, to abduct Alvarez-Mahain from Mexico and return him to the US for trial. Alvarez claimed that his "arrest" by Mr. Sosa was arbitrary because the warrant only allowed arrests within the United States. The trial court found that Alvarez's arrest was unlawful. The United States Supreme Court in the United States v. Alvarez-Mahain case ruled that the US government had the right to "abduct" to bring him back to the United States for trial, because "the one-time case of Alvarez's unlawful detention is less than a day, followed by prompt bringing him to court does not constitute a violation of any international custom that would create a basis for appeal to a federal court" [9].

The Alien Tort Claims Act (ATCA), which is part of the United States Code, states: "Federal district courts should have jurisdiction over any foreigner civil lawsuit only if it relates to a breach of international law, or which results from a treaty, to which the United States is a party" [5]. Since 1980, courts have interpreted this law in such a way as to allow foreign nationals to sue U.S. courts for human rights abuses committed outside the United States [14, p. 394].

The main purpose of this law is to ensure accountability for violations of international law, in particular those concerning the rights of diplomatic agents and merchants [29, p. 239]. For example, the peace treaty that ended the American Revolution provided for repayment of debts to British creditors. The refusal of some states to repay such debts prompted Great Britain to blackmail - in 1784 an attack on a French diplomat was made, but he had no right to go to court. The incident received international publicity and prompted Congress to draft a resolution that recommended that states allow lawsuits to violate international law. However, only a few states have approved such a

provision, and Congress subsequently incorporated the ATCA into the Judiciary Act of 1789 [32, p. 6].

In 1980, the Second Circuit Court of Appeal ruled in the Filartiga v. Peña-Iral case, which paved the way for a new conceptualization of the ATCA [32, p. 11]. Two Paraguayan citizens residing in the United States filed a lawsuit against the former Paraguayan police chief, who also resided in the United States, through the Center for Constitutional Rights. The plaintiffs alleged that the defendant had tortured and killed a family member and that the US federal courts had jurisdiction over this claim under the ATCA. The District Court dismissed the claim for lack of jurisdiction, holding that international law did not regulate the conduct of public authorities with their citizens [8].

The Second Circuit Court of Appeals overturned the district court's decision. First, he acknowledged that the ATSA was delegating the constitutional authority of Congress to the courts, since "international law ... has always been part of the common federal law", and thus the law falls under the jurisdiction of a federal court [8]. Secondly, the court stated that international law prohibits torture by public authorities. The Court found that the prohibition of torture in international and national law testifies to the consistent legislative practice of prohibiting torture. The Court also acknowledged that many United Nations declarations contain provisions for the prohibition of torture by public authorities. Thus, the right to freedom from torture has become a principle of customary international law [38, p. 395].

Presently, the use of jurisdiction by the United States over actions that have taken place overseas is a rather controversial issue. Multilateral settlement of these issues may be more acceptable, for example through the Organization for Economic Co-operation and Development or the UN.

With regard to the scope of ATCA's violations of international law, the Supreme Court in the case of Sosa v. Alvarez-Machin recognized that ATCA defended international rules that were specific, universal and binding. Torture, cruel, inhuman or degrading treatment, genocide, war crimes, crimes against humanity, prolonged arbitrary detention and forced disappearance - all of these crimes are subject to ATCA [36, p. 1198].

In the administration of justice under universal jurisdiction over persons committing international crimes, priority should be given to national courts. This provision is confirmed by the Rome Statute, which stipulates that the International Criminal Court complements national criminal justice systems (Articles 1, 17) [3, p. 3].

Conclusions. Having analyzed the practices of some of the states that have most commonly used universal jurisdiction, we can say that national law has moved to a more narrow understanding of universal jurisdiction. Most often, in order to bring a case, the complainant must be in the territory of the state court. It is desirable that the crimes have a connection with state interests. However, in the case of grave crimes under international law, such a link may not be taken into account. The relevance of the public interest is determined by the courts. In any case, states are trying to limit the widespread use of universal jurisdiction, which raises many problems: possible accusations of interference with the internal affairs of the state, a large number of complaints in the courts of more developed states from states where the judiciary is considered opaque, and so on.

The problem is that the consolidation and application of universal jurisdiction at national level is not uniform. There are no principles that would unify the grounds for its application and the entities responsible for it. It will be easier for countries in the Anglo-Saxon legal system to adopt such practices using judicial precedents. States of the Romano-German legal system, including Ukraine, should make major changes to their own legislation.

In general, the analysis and comparison of national legal principles of the application of universal jurisdiction, together with the practical aspects of its implementation, is the basis for identifying best practices with a view to its further successful implementation into Ukrainian law.

References

1. Convention on the Prevention and Punishment of the Crime of Genocide, The Office of the High Commissioner for Human Rights. [Електроний ресурс]. - Режим доступу: <https://www.ohchr.org/en/professionalinterest/pages/crimeofgenocide.aspx>
2. Law Reports of Trials of War Criminals (L.R.T.W.C), Vol. 15. - [Електроний ресурс]. - Режим доступу: <https://www.loc.gov/rr/frd/Military_Law/pdf/Law—Reports_Vol—15.pdf>
3. The Rome Statute of the International Criminal Court. (1998), The International Criminal Court (ICC). - [Електроний ресурс]. - Режим доступу: <https://www.icc-cpi.int/nr/rdonlyres/add16852-aee9-4757-abe7-9cdc7cf02886/283503/romestatuteng1.pdf>
4. Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium). - [Електроний ресурс]. - Режим доступу: <http://www.icj-cij.org/docket/index.php?sum=591&p1=3&p2=3&case=121&p3=5>
5. 28 U.S. Code § 1350 — Alien's action for tort.). - [Електроний ресурс]. - Режим доступу: <https://www.law.cornell.edu/uscode/text/28/1350>
6. Constitución Española, Agencia Estatal Boletín Oficial del Estado. - [Електроний ресурс]. - Режим доступу: <https://www.boe.es/.../ConstitucionCASTELLANO.pdf>
7. Code de procédure pénale, Legifrance. - [Електроний ресурс]. - Режим доступу: https://www.legifrance.gouv.fr/affichCode.do;jsessionid=8D7A735D0F327A8D49651831AD29817E.tpdjo04v_2?idSectionTA=LEGISCTA000006151920&cidTexte=LEGITEXT000006071154&dateTexte=20090315>
8. Case Filartiga v. Pena—Irala (577 F. Supp. 860): E.D.N.Y., 1984. - [Електроний ресурс]. - Режим доступу: <https://law.justia.com/cases/federal/district—courts/FSupp/577/860/1496989/>
9. Case of Sosa v. Alvarez—Machain (03—339): 542 U.S. 692, 2004. 331 F.3d 604, reversed. - [Електроний ресурс]. - Режим доступу: <https://www.law.cornell.edu/supct/search/display.html?terms=sosa&url=/supct/html/03—339.ZS.html.>
10. Case of the Public Prosecutor v. Pascal Simbikangwa. - [Електроний ресурс]. - Режим доступу: <http://www.internationalcrimesdatabase.org/Case/2241/Simbikangwa/
11. Case of Zyklon B. (Trial of Bruno Tesch and 2 ors, 1946): Law Reports of Trials of War Criminals (L.R.T.W.C), Vol. 1. - [Електроний ресурс]. - Режим доступу: <http://www.worldcourts.com/imt/eng/decisions/1946.03.08_United_Kingdom_v_Tesch.pdf >
12. Del Código Penal de Española, Noticias. - [Електроний ресурс]. - Режим доступу: <http://noticias.juridicas.com/base_datos/Penal/lo10—1995.html>
13. El Caso de Genocidio en Guatemala. - [Електроний ресурс]. - Режим доступу: <http://cja.org/espanol—9/casos—3/el—caso—de—genocidio—en—guatemala/el—caso—de—genocidio—en—guatemala—2/>
14. Gesetz zur Einfuhrung des Volkerstrafgesetzbuch: Bundesgesetz blatt (2000). Volume I.
15. Guatemala Genocide Case, CONSTITUTIONAL COURT OF SPAIN. - [Електроний ресурс]. - Режим доступу: <http://www.tribunalconstitucional.es/en/memorias/Documents/Memoria%202005.pdf
16. Judgement District Court of Jerusalem, Case of Attorney General of Israel v. Eichmann *(40/61), 1961*. - [Електроний ресурс]. - Режим доступу: <http://www.nizkor.org/hweb/people/e/eichmann—adolf/transcripts/>
17. La Sección Tercera de la Sala de lo Penal de la Audiencia Nacional. - [Електроний ресурс]. - Режим доступу: <http://www.derechos.org/nizkor/espana/juicioral/doc/sentencia.html>
18. Ley de Enjuiciamiento Criminal. - [Електроний ресурс]. - Режим доступу: <noticias.juridicas.com/base_datos/Penal/lecr.html>
19. Ley Orgánica 6/1985. - [Електроний ресурс]. - Режим доступу: <https://www.boe.es › Buscar>
20. Nazis and Nazi Collaborators — Punishment — Law — 5710—1950. - [Електроний ресурс]. - Режим доступу: <http://www.mfa.gov.il/mfa/mfa—archive/1950—1959/pages/nazis%20and%20nazi%20collaborators%20—punishment—%20law—%20571.aspx

21. Sharon and Yaron, HSA v SA (Ariel Sharon) and YA (Amos Yaron), Final appeal/Cassation (concerning questions of law, Court of Cassation, 2003.
22. Völkerstrafgesetzbuch ("Code of Crimes against International Law"). - [Електроний ресурс]. - Режим доступу: http://www.iuscomp.org/gla/statutes/VoeStGB.pdf
23. Bakker C. A. E. (2006) Universal Jurisdiction of Spanish Courts over Genocide in Tibet: Can it Work? Journal of International Criminal Justice 4: 595-601.
24. Cassese A. (2003.) International Criminal Law. London: Oxford University Press.
25. Colangelo A. (2005) The Legal Limits of Universal Jurisdiction, Virginia Journal of International Law 47: 77-81.
26. David E. (2012) Principes de droit des conflits armés. Bruxelles: Bruylant.
27. Danner A., Martinez J. Guilty Associations: Joint Criminal Enterprise, Command Responsibility, and the Development of International Criminal Law, UC BERKELEY SCHOOL OF LAW. - [Електроний ресурс]. - Режим доступу: <https://www.law.berkeley.edu/students/curricularprograms/ils/workshop/fall04_Martinez.pdf>
28. Dewan, Angela; Swails, Brent (30 May 2016). Ex-Chad dictator sentenced to life for war crimes. CNN. - [Електроний ресурс]. - Режим доступу: https://edition.cnn.com/2016/05/30/africa/habre-africa-chad-war-crimes/
29. Haberstroh, J. (2004) The Alien Tort Claims Act & Doe v. Unocal: A Paquete Habana Approach to the Rescue in Denv. J. Int'l L. & Pol'y: 231–241.
30. Halberstam, M. (2003) Belgium's Universal Jurisdiction Law: Vindication of International Justice or Pursuit of Politics? Cardozo Law Review 25.
31. Henckaerts J. - M. (2005). Customary international humanitarian law. Cambridge Univ. Press.
32. Hufbauer G., Mitrokostas N. (2004) International Implications of the Alien Tort Statute. St. Thomas L. Rev.
33. Lillich R. (1985) Invoking International Human Rights Law in Domestic Courts. U. Cin. L. Rev.
34. Mikhail A. Ahead of the Game: Prosecuting Syrian Crimes in French Courts, Lawfare, <https://www.lawfareblog.com/ahead—game—prosecuting—syrian—crimes—french—courts >
35. Trouille H. Universal Jurisdiction and Rwandan génocidaires: The Simbikangwa Trial - [Електроний ресурс]. - Режим доступу: <https://academic.oup.com/jicj/article—abstract/14/1/195/2412001?redirectedFrom=fulltext>
36. Steiner H. (2008) International Human Rights in Context. London: Oxford University Press.
37. Schabas William. The UN international criminal tribunals: the former Yugoslavia, Rwanda and Sierra Leone. *Cambridge University Press*. 2006. 250 p.
38. Make way for Justice #4. - [Електроний ресурс]. - Режим доступу: <https://trialinternational.org/wp—content/uploads/2018/03/UJAR—Make—way—for—Justice—2018.pdf>
39. Rwanda: Ignace Murwanashyaka and Straton Musoni tried. - [Електроний ресурс]. - Режим доступу: <https://www.bbc.com/news/world—africa—13275795.>
40. The arrest of Augusto Pinochet: ten years on. - [Електроний ресурс]. - Режим доступу: <https://www.opendemocracy.net/article/the—arrest—of—augusto—pinochet—ten—years—on >
41. Universal Jurisdiction in Europe. - [Електроний ресурс]. - Режим доступу: <http://www.hrw.org/en/node/11297/section/2>
42. War Crimes Suits Filed In Belgium Against Bush, Blair. - [Електроний ресурс]. - Режим доступу: <http://www.rense.com/general38/belg.htm>
43. Бойцов А. И. (2004). Выдача преступников [Extradition of criminals]. Санкт-Петербург : Юрид. центр Пресс.
44. Измайлова П. Р. (2015) Уголовная ответственность должностных лиц государства за преступления по международному праву : дисс. канд. юр. наук: 12.00.10 / [Criminal responsibility of state officials for crimes under international law]. Институт государства и права. Москва.

45. Королев Г. А. (2010) Универсальная юрисдикция государств в отношении серьезных нарушений норм международного права :основания применения и порядок осуществления : автореф. дисс. ... канд. юр. наук: 12.00.10 / [Universal jurisdiction of states in respect of serious violations of international law]. Институт государства и права. Москва.

УДК 341.231.14

SHOULD EUTHANASIA BE A SOLUTION TO THE PROBLEM OF "DECENT" DEATH? (ON THE EXAMPLE OF THE CASE *LAMBERT AND OTHERS V. FRANCE*)

ЧИ МАЄ БУТИ ЕВТАНАЗІЯ РОЗВ'ЯЗАННЯМ ПРОБЛЕМИ "ГІДНОЇ" СМЕРТІ? (НА ПРИКЛАДІ СПРАВИ *LAMBERT AND OTHERS V. FRANCE*)

ДОЛЖНА ЛИ ЭВТАНАЗИЯ БЫТЬ РЕШЕНИЕМ ПРОБЛЕМЫ "ДОСТОЙНОЙ" СМЕРТИ? (НА ПРИМЕРЕ ДЕЛА *LAMBERT AND OTHERS V. FRANCE*).

Ostrovska B. V.
PhD (Law), Doctorate, Senior Researcher of International and Comparative Law Department of V. M. Koretsky Institute of State and Law, Expert of UNESCO Chair "Human Rights, Peace, Democracy, Tolerance and International Understanding" at National University of "Kyiv-Mohyla Academy". E-mail: ostrowskabogdana@gmail.com

Островська Б. В.
Кандидат юридичних наук, старший науковий співробітник відділу міжнародного права та порівняльного правознавства Інституту держави і права імені В. М. Корецького НАН України, експерт кафедри ЮНЕСКО з міжнародного права та біоетики "Права людини, мир, демократія, толерантність і взаєморозуміння між народами" в Національному університеті "Києво-Могилянська академія". E-mail: ostrowskabogdana@gmail.com

Островская Б. В.
Кандидат юридических наук, старший научный сотрудник отдела международного права и сравнительного правоведения Института государства и права имени В. М. Корецкого НАН Украины, эксперт кафедры ЮНЕСКО по международному праву и биоэтике "Права человека, мир, демократия, толерантность и взаимопонимание между народами" в Национальном университете "Киево-Могилянская академия". E-mail: ostrowskabogdana@gmail.com

Abstract. *The legal and bioethical problem of legalizing involuntary passive euthanasia as a practice of ending a person's life, which in particular is in a minimal conscious state and with disabilities, on the example of the case Lambert and Others v. France of the European Court of Human Rights, is explored in this article. Due to the differences between the national legislation of the states on the regulation of euthanasia and given the lack of the international consensus on this issue, as well as the unified position of the judges on the legality of its application in the context of protecting the right to life on the basis of Art. 2 and 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the need to ensure adequate medical care and treatment guaranteed by the state in order to maintain/prolong a person's life (first of all, artificial hydration and nutrition, mechanical ventilation, cardiopulmonary resuscitation, blood transfusions, dialysis, etc.), and subsequent rehabilitation, as well as palliative care as an alternative to euthanasia, is emphasized. Mandatory compliance with the principle of prohibition of discrimination against person based on health status is stressed. The consequences of using involuntary passive euthanasia, including the need to bring to legal liability, are analyzed.*

Keywords: *involuntary passive euthanasia, "decent" death, right to life, European Court of Human Rights, discrimination.*

Анотація. *У статті досліджується правова та біоетична проблема легалізації недобровільної пасивної евтаназії як практики припинення життя особи, зокрема яка знаходиться у стані мінімальної свідомості та з обмеженими можливостями, на прикладі справи Європейського суду з прав людини Lambert and Others v. France. У зв'язку з*

відмінністю національного законодавства держав щодо регулювання евтаназії та з огляду на відсутність міжнародного консенсусу у цьому питанні, а також уніфікованої позиції суддів щодо правомірності її застосування в контексті захисту права на життя на основі ст. 2 та 3 Конвенції про захист прав людини і основоположних свобод 1950 р., наголошується на необхідності забезпечення гарантованої державою належної медичної допомоги і лікування для підтримки/подовження життя особи (насамперед, гідратації, живлення, штучної вентиляції легень, серцево-легеневої реанімації, переливання крові, діалізу тощо) та подальшої реабілітації, а також паліативної допомоги як альтернативи евтаназії. Підкреслюється обов'язковість дотримання принципу заборони дискримінації особи за станом її здоров'я. Аналізуються наслідки застосування недобровільної пасивної евтаназії, зокрема й необхідність притягнення до юридичної відповідальності.

Ключові слова: *недобровільна пасивна евтаназія, "гідна" смерть, право на життя, Європейський суд з прав людини, дискримінація.*

Аннотация. *В статье исследуется правовая и биоэтическая проблема легализации недобровольной пассивной эвтаназии как практики прекращения жизни человека, который в частности находится в состоянии минимального сознания и с ограниченными возможностями, на примере дела Европейского суда по правам человека Lambert and Others v. France. В связи с различием национального законодательства государств по регулированию эвтаназии и учитывая отсутствие международного консенсуса в этом вопросе, а также унифицированной позиции судьей о правомерности ее применения в контексте защиты права на жизнь на основании ст. 2 и 3 Конвенции о защите прав человека и основных свобод 1950 г., отмечается необходимость обеспечения гарантированной государством надлежащей медицинской помощи и лечения для поддержания/продления жизни человека (прежде всего, гидратации, питания, искусственной вентиляции легких, сердечно-легочной реанимации, переливания крови, диализа и т.д.), и последующей реабилитации, а также паллиативной помощи как альтернативы эвтаназии. Подчеркивается обязательность соблюдения принципа запрета дискриминации личности по состоянию её здоровья. Анализируются последствия применения недобровольной пассивной эвтаназии, включая необходимость привлечения к юридической ответственности.*

Ключевые слова*: недобровольная пассивная эвтаназия, "достойная" смерть, право на жизнь, Европейский суд по правам человека, дискриминация.*

Introduction. A separate international legal problem related to the end of a human life is the legalization of euthanasia, which raises many legal and bioethical issues concerning the acceleration of the process of dying, defining the criteria of death, the inalienability of the human right to life, as well as the possibility of its limitations. It encourages research and discussions among lawyers, physicians, philosophers and representatives of religious communities, since the concept of life is a fundamental interdisciplinary category. Increasingly, in the context of human rights and dignity, there are speculative discussions regarding the concepts of "quality" of life and "decent" death, which cause considerable public resonance.

Euthanasia is often connected with the right to the dignity of a person linked to a decent life and decent death, to the right to privacy (such as non-interference with privacy), and the prohibition of torture. According to this approach a decent life is identified with the quality of life. However, life is the highest intangible benefit for everyone regardless of their qualitative or quantitative characteristics, otherwise the quality of life becomes the highest good than life itself, when death is offered as a way out to get rid of a "worthless life" [*Островська*, 2017a: 51].

Sometimes the value of life depends on the cost of treatment, and the meaning of life without pain and suffering fits into the concept of "quality" of life. In this context, euthanasia is promoted as an alternative to "decent" human death. Dissemination of such statements discredits lives of people with disabilities, patients with fatal illnesses, etc., which is a manifestation of discrimination against

these individuals. Moreover, there is a probability of further expansion of the use of euthanasia to sick newborns, mentally ill, lonely disabled and elderly people as well. In this context, it threatens to become a new form of eugenics, the roots of which reach the *Nazi race purification program.* At the same time, "increase of temporal, age, geographical or any other mortality rate does not diminish the cost of living in such conditions" [*Медведєв,* 2019: 69].

The purpose of the article is, on the example of the case Lambert and Others v. France of the European Court of Human Rights to draw the attention of the scientific community to the legal and bioethical problem of legalizing of involuntary passive euthanasia as a practice of ending a person's life, which in particular is in a minimal conscious state and with disabilities.

Due to the differences between the national legislation of states on the regulation of euthanasia and lack of the international consensus on this issue, as well as a unified position of the European Court judges on the legality of its application in the context of protecting the right to life on the basis of Art. 2 and 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, the need to ensure adequate medical care and treatment guaranteed by the state in order to maintain/prolong a person's life (first of all, artificial hydration and nutrition, mechanical ventilation, cardiopulmonary resuscitation, blood transfusions, dialysis, etc.), and subsequent rehabilitation, as well as palliative care as an alternative to euthanasia, is emphasized. Mandatory compliance with the principle of prohibition of discrimination against person based on health status is stressed.

Research problem setting. Legal science raises the question of a person's "right" to a "decent" death and euthanasia as a means of exercising that right, in particular at the level of the domestic law of states as evidenced by the case-law of the European Court of Human Rights (hereinafter referred to as the European Court) in the context of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 (hereinafter referred to as the European Convention), in particular, its Art. 3 (prohibition of torture) and Art. 8 (right to respect for private and family life) [*Островська*, 2017b: 20-30]. The European Court tried to find the answer on the legality of the use of euthanasia when a person is unable to express his or her own will. In addition, the issue of termination of life usually requires assistance of other people or committing the active actions that, as a consequence, cause the death of a person ("mercy killing"), which blurs the line between the concepts of "letting die" and "force to die". The European Court "accordingly finds that no right to die, whether at the hands of a third person or with the assistance of a public authority, can be derived from Article 2 of the Convention" (see *Pretty v. the United Kingdom*, para. 40) [3], that establishes the right to life while recognizing the possibility of internal regulation of the issue of euthanasia for states.

Recent literature review. The works of Ukrainian and foreign experts in the field of law, medicine, philosophy, etc., concerning the legal regulation of the end of human's life, are the scientific and theoretical basis of this research. Particularly, M. Medvedieva (the bioethical aspects of human rights in international law), V. Glushkov, V. Kuts (the criminal legal issues of using the euthanasia), J. Trinyova (the legal regulation of human's life deprivation by request in medical law), V. Pashkov (ensuring the right to life in the palliative care system), B. Zupančič, G. Puppinck, R. Clarke (the international practice of using the euthanasia in the case-law of the European Court of Human Rights), V. Medvediev, P. Muzychenko (the problem of euthanasia legalization in the context of medical ethics and the value of human's life in a terminal state), S. Pustovit (philosophical analysis of the problem of death) and others.

Basic research material. A recent example of the European Court's case-law on the use of euthanasia is the high-profile case of Lambert and Others v. France on 5 June 2015, which gained significant international resonance [2]. It concerned an appeal against the decision of the French Council of State (*Conseil d'État*) on legalizing the doctor's decision to interrupt artificial nutrition and hydration against citizen Vincent Lambert, who was injured in a road-traffic accident in 2008, which left him in a state of altered (or so-called, minimal) consciousness after a traumatic brain injury (leaving the ability to respond to stimuli – to lead the eyes, cry, feel pain, have autonomous breathing, which are distinctive features from the vegetative state). The applicants in the case were

his parents and relatives, who believed that such actions were contrary to the State's obligations under Art. 2 (right to life) of the European Convention and strongly opposed his euthanasia, despite the fact that he was not able to express such desire.

The essence of the consideration of this case before the European Court was to answer whether the state's permission to terminate or not apply a treatment, that artificially supports life of a person in a state of complete dependence, can be considered as lawful deprivation of life (that is, a de facto recognition of the right to passive euthanasia due to medical evasion from acting or assisting suicide), and whether such permission is compatible with the observance of the positive state obligations under Art. 2 of the European Convention.

In its judgment, the European Court stated that this case did not concern the State's negative obligations (intentional deprivation of life) within the meaning of Art. 2, and its consideration based solely on the positive obligations of the state (protecting the lives of all, who fall under its jurisdiction). In its final part, unanimously acknowledging the admissibility of the applicants' complaint filed under Art. 2, the European Court held that "there would be no violation of Article 2 of the Convention in the event of implementation of the *Conseil d'État* judgment of 24 June 2014" (para. 182) [2]. At the same time, the European Court emphasized the lack of consensus among Council of Europe member states on the authorization to disconnect the life-support devices of an individual, and therefore in the field of end-of-life "States should be allowed a margin of appreciation in striking a balance between patients' personal autonomy and the protection of their lives" (para. 135) [2]. The European Court also stressed the importance of the problem raised in this case as it deals with "extremely complex medical, legal and ethical matters" (para. 181) [2].

At the same time, Judges Khanlar Hajiyev, Ján Šikuta, Nona Tsotsoria, Vincent A. De Gaetano and Valeriu Gritsko (in a joint partly dissenting opinion), in para. 2 emphasized that "Article 2 protects the right to life but not the right to die (see *Pretty v. the United Kingdom*, no. 2346/02, §§ 39-40, ECHR 2002-III). Likewise, Article 3 guarantees a positive right not to be subjected to ill-treatment, but not the "right" whatsoever to waive this right and to be, for example, beaten, tortured or starved to death. To put it simply, both Article 2 and Article 3 are "one-way avenues". The right not to be starved to death being the only right that Vincent Lambert himself could have validly claimed under Articles 2 and 3, we fail to see how it is logically possible to find any lack of "convergence of interests" between him and the applicants in the present case, or even entertain the slightest doubt on this point" [10].

Furthermore, this case cannot be compared with the termination of treatment for a person who has clearly expressed his or her desire not to continue treatment due to his or her physical condition and pain, and accordingly has expressed a reluctance to live or, in view of that situation, clearly refused food and water. Then there could be no objections to discontinuation of hydration and feeding, if domestic legislation provides for that, including the right of medical professionals to refuse to participate in this procedure if it is contrary to their religious, ethical beliefs or other objections to conscience (as an act of conscience). In this context, if, in some situations, "the two rights of the Convention… are at odds with one another: the right to life (with the corresponding duty of the State to protect life), on the one hand, Article 2 and the right to personal autonomy, which falls under Article 8, 'respect for human dignity and human freedom' (emphasized in *Pretty v. the United Kingdom*, para. 65) may prevail. "But that is not Vincent Lambert's situation" (para. 3), who, "according to the evidence available, is in a stable vegetative state, with minimal, if any, consciousness. However, he is not dead - it is a failure of function at one level of the brain, but not at all levels. In fact, he can breathe on his own (without the aid of a life-support apparatus) and can digest food (the gastrointestinal tract is intact and functioning), but has difficulty swallowing, moving solid food down into the esophagus. More critically, there is no evidence, convincing or otherwise, that he is suffering from pain (as opposed to the apparent discomfort of being permanently in bed or in a wheelchair)" [10].

At the same time, the decision states: "food and water are two basic life-sustaining necessities, and are intimately linked to human dignity" (para. 4) [8], that was repeatedly emphasized in numerous international documents, particularly in General Comment No. 12 on the

right to adequate food (Art.11 of the International Covenant on Economic, Social and Cultural Rights), adopted by the United Nations Committee on Economic, Social and Cultural Rights at its twentieth session on 12 May 1999, as well as in General Comment No. 15 on the right to water (Arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights), adopted by the United Nations Committee on Economic, Social and Cultural Rights at its twenty-ninth sessions respectively in November 2000.

According to the judges, "By no stretch of the imagination can Vincent Lambert be deemed to be in an "end-of-life" situation. Regrettably, he will be in that situation soon, after feeding and hydration are withdrawn or withheld. People in an even worse plight than Vincent Lambert are *not in an imminently terminal condition* (provided there is no other concurrent pathology). Their nutrition – regardless of whether it is considered as treatment or as care – is serving a life-sustaining purpose. It therefore remains an *ordinary* means of sustaining life and should, in principle, be continued" (para. 6) [10]. As a result, the judges expressed their regret for the "frightening" decision for Vincent Lambert, which marked as "a retrograde step in the degree of protection which the Convention and the Court have hitherto afforded to vulnerable people" (para. 1) [10].

After the judgment of the European Court, the case received a new course. On 26 June 2015, Mr Lambert's parents applied to the European Court for review the case due to newly discovered circumstances, but on 6 July the European Court refused to accept it. Then, on 15 July, the doctors decided to turn off the life support equipment, in response to that the parents appealed to the law enforcement agencies with an application for attempted murder of their son and after that on 23 July, the life support system was restored again. Subsequently, there was a long legal battle between the patient's wife – Rachel Lambert for the termination of her husband's treatment and his parents – Viviane and Pierre Lambert on the protection of Vincent's life (in the Châlons-en-Champagne Administrative Court and Reims, Supreme Court of France).

On 9 April 2018, another withdrawing of artificial feeding and hydration of the patient began. On 18 April 2018, "The Call of 70 Doctors: It's Obvious that Vincent Lambert is not at the end of life" [11] was published, in which 70 doctors who specialized in the care of person with disabilities (with altered consciousness) condemned euthanasia and asked to transfer Vincent Lambert from the Palliative Care unit to the Specialized unit for people in this condition, and treat him the same way as person with a disability, but not as a dying person whom he was not.

Subsequently, Vincent's family members urgently appealed to the Administrative Court of Chalon-en-Champagne with a request to stop the abolition of life support measures for their son. After the examination, the court rejected their application on 31 January 2019. Then the applicants referred the case to the State Council (*Conseil d'État*) as the highest administrative court of the French Republic, which on 24 April 2019 also dismissed their appeal and ruled that the medical decision to withdraw Vincent's hydration and nutrition until his death was not illegal.

On the same day, the applicants requested the European Court to take an interim measure aimed at prevention of the suspension of treatment which supported the life of V. Lambert, in accordance with Rule 39 of the Rules of Court, requesting the suspension of the State Council's decision from the 24 April 2019, as well as the ban on the exportation of Vincent *from France.* On 30 April 2019 the European Court decided to dismiss their application [24]. It stressed that the judgment of the Grand Chamber of 5 June 2015 found that it would not be a violation of Art. 2 (right to life) of the European Convention in case of implementation of the decision of the State Council of 24 June 2014, which withdraw nutrition and hydration of Mr Lambert.

Supported by the European Center for Law and Justice (an international non-governmental organization established in 1998 that dedicated to the promotion and protection of human rights in Europe and worldwide, including the European Court and the United Nations, and has held special Consultative Status before the United Nations/ECOSOC since 2007 [1]), Lambert's parents submitted an application to the UN Committee on the Rights of Persons with Disabilities, which on 3 May 2019 adopted the decision on the need of protecting Mr Lambert's life, which contained a petition to the French government to prevent his euthanasia by continuing nutrition and hydration [20]. Based on its previous decision to consider the report submitted by Spain on 19 October 2011

under Art. 35 of the Convention on the Rights of Persons with Disabilities 2006, UN Committee on the Rights of Persons with Disabilities stated, that "the right to life is absolute and … decision-making as to whether to stop or suspend treatment essential for the maintenance of life is not compatible with this right" (para. 29) [7]. In addition, this Committee is responsible for ensuring the proper application of the Convention. Therefore, France, having recognized the authority of this Committee, should have complied with the provisions of Part 1 Art. 4 of the Optional Protocol to this Convention, which states that: "At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary to avoid possible irreparable damage to the victim or victims of the alleged violation" [14]. Moreover, respect for these measures is a condition for the effectiveness of the right to appeal to the court.

Two days later, on 5 May 2019, the French Minister of Health, in her response to the Committee, declared, that the medical team responsible for this case was entitled to terminate the care, since the decisions of the UN Committee on the Rights of Persons with Disabilities were not legally binding for them. Although the decisions of this Committee are no subject to direct implementation within the framework of the internal legal order of states (their domestic law), the international system of human rights protection requires cooperation from States. UN committees, including Committee on the Rights of Persons with Disabilities, have global competence. Besides, they "specialize in the protection of certain rights, or categories of persons, while the European Court of Human Rights is non specialized, so that the former consider they should determine the international norm in their field. It should therefore be up to the European Court of Human Rights to fall into line with the Committee on the Rights of Persons with Disabilities on the rights of persons with disabilities, and not the other way around" [19].

Besides, the Minister of Health of France refused to recognize V. Lambert's status of a disabled person, who is in a state of altered consciousness after traumatic brain injury, supporting the position of the doctor who, in agreement with the French authorities, decided to terminate supporting treatment for him, stating that the patient is in a vegetative state. Instead, Art. 25 (f) of the Convention on the Rights of Persons with Disabilities envisages that "States Parties shall … prevent *discriminatory denial of health care or health services or food and fluids on the basis of disability*" [5], *that the European Court did not even take into account.* Moreover, the principles of the Universal Declaration of Human Rights of 1948 and subsequent international documents, adopted on its basis, prohibit discrimination against a person on grounds of his or her health or disability.

Currently, nearly 1,700 patients in France "are waiting" for the same fate as V. Lambert (through "compassion" or for budgetary reasons). There is a direct threat that they will no longer be treated as patients under the protection of the law, but as a "dead weight", according to the director of the European Center for Law and Justice Grégor Puppinck [16].

On the example of the case of V. Lambert, the international community became witness of the fragility of the modern concept of the human right to life and respect for human dignity. The awareness of these concepts by society, in particular by national authorities, determines the further fate of millions of people with disabilities around the world, who may not be treated as patients but as persons at terminal stages of their lives and may receive a death sentence instead of proper medical care due to "compassion" for them.

In 1946, during hearings in Nuremberg, doctors who applied euthanasia for the disabled under a special Nazi program started by Adolf Hitler, were convicted, that formed the basis of modern medical ethics. The present case has become real long-term research of the conformity of the French law on patients' rights and the end of life of 22 April 2005 ("la loi Leonetti") [12] with international law, which de facto permits the euthanasia of persons with disabilities. The main idea laid down in this law – there is the need to apply its provisions only in cases when artificial nutrition and hydration at the end of a person's life make his condition worse. However, the application of this law in the case of Lambert was unacceptable, since these means were necessary

to maintain the vital activity of his body and did not cause him any harm, and on the contrary – their deprivation condemned him to imminent death.

Since the European Court did not qualify whether nutrition and hydration could be stopped, but simply, as always, referred to the "lack of European consensus" on this key issue, it left V. Lambert virtually doomed to death. After the European Court judgment of 30 April 2019, Mr Lambert's parents filed an emergency petition to the Court of Appeal of Paris, which, after hearing their application, decided to renew treatment on 20 May. The same day, another petition to the European Court was filed by members of Vincent Lambert's family with a request under Rule 39 of the Rules of Court "to indicate to the French State the immediate application of the interim measures demanded of France by the UN Committee on the Rights of Persons with Disabilities (UNCRPD) on 3 May 2019" [22]. However, on 20 May 2019 the European Court "observed that on 30 April 2019 it had decided, having regard to the circumstances, to reject the requests for interim measures submitted to it" and pointed out that "the applicants had submitted no new evidence such as to induce it to change its position" [22].

On June 28 the same year the French Supreme Court, as a court of cassation, reversed the Court of Appeal's decision of May 20 and ruled on the possibility to disconnect the life-support devices that supported Mr Lambert. However, this court did not consider the arguments for or against the support of his life, but only found that the lower court had no proper jurisdiction to hear this case.

On July 1, the European Center for Law and Justice helped V. Lambert's mother organize a request for assistance to the UN Human Rights Council at its 41st session. The motive for such an appeal was that "on two occasions, the Committee on the Rights of Persons with Disabilities asked France to not provoke Vincent's death. But the French government refused the measures, and violates in a shameful fashion its obligations under international law" [23].

But the last hope was lost when on 2 July 2019 doctor of University Hospital of Reims – Vincent Sanchez announced the beginning of the termination of "treatment" (nutrition and hydration), which after a 9-day agony ultimately ended in the painful death of 42-year-old V. Lambert on 11 July, who had not waited for a decision to recognize his legal right to life. For his part, Reims prosecutor Matthieu Bourrette announced the opening of an investigation for "the causes of the death", which would include toxicological tests to clarify all the circumstances of the death [21].

At present two proceedings started before the death of Vincent are still pending. The first – against doctor V. Sanchez (at the Reims Criminal Court) and the second one – against France (at the UN Committee on the Rights of Persons with Disabilities). These proceedings must be completed, since the death of Vincent Lambert there are testimonies of forced euthanasia [17].

In some cases, if a doctor stops treatment, a patient may die. However, if a doctor deprives the patient of water and food, then a patient will certainly die, moreover with a painful death, since it means not "let him die" but "make him die", which is essentially his murder [6]. Generally, in these and similar cases attention should be paid to the detailed investigation of all the circumstances of the case in order to determine the objective and subjective reasons (motives) of such action, as well as to investigate human rights violations of all involved in involuntary euthanasia of a person.

Unfortunately, the European Court did not find sufficient legal grounds to preserve the life of V. Lambert, in contrast to the Parliamentary Assembly of the Council of Europe, which, citing the same article of the European Convention, substantiated the importance of prohibiting the deliberate deprivation of life of terminally ill or dying, insisting that "the right to life, especially with regard to a terminally ill or dying person, is guaranteed by the member states, in accordance with Article 2 of the European Convention on Human Rights which states that "no one shall be deprived of his life intentionally" (para. 9.3.1.) [18]. Even "a terminally ill or dying person's wish to die never constitutes any legal claim to die at the hand of another person", as well as it "cannot of itself constitute a legal justification to carry out actions intended to bring about death" (para. 9.3.2.-9.3.3.).

In general, the question of the possibility of legalizing euthanasia of persons with disabilities indicates the level of morality in society and tendency of returning to a new level of eugenics, that begins with the selection and reduction (destruction) of embryos, which may have certain developmental disabilities, including their genetic characteristics.

Conclusion. At the UN level, the importance of caring for the preservation of each individual's life, regardless of their health status, and especially – persons with disabilities or temporary health disorders, was recognized. Since the European Court did not qualify whether nutrition and hydration could be considered as treatment that could be stopped, but simply, as always, referred to the "lack of European consensus" on this key issue, it left V. Lambert virtually doomed to death.

According to Boštjan Zupančič, the longest-serving judge at the European Court (from 1998 to 2016), judge of the Constitutional Court of Slovenia and vice president of the United Nations Committee Against Torture, "in the French case *Lambert and others v. France* (2015) the Court gave an unconvincing verdict, holding that Mr Lambert had no right to life, even though it acknowledged his legal subjectivity considering this case from the perspective of the right to life (Article 2 of the Convention)" [15]. Although the European Court has to respect a certain "margin of appreciation of States" as a restriction of its action to interfere with the internal affairs of States, "however, over the years, the Court has gradually reduced its self-restraint, stating in hundreds of judgments that the European Convention is a 'living instrument' which should not be taken literally, but the meaning of which should be interpreted "in the light of current conditions", thus allowing its scope to be extended" [15].

"In 2010, to mark its 50th anniversary, the Court accepted the title of *The Conscience of Europe* when publishing a book with that very title. Assuming, for the sake of argument, that an institution, as opposed to the individuals who make up that institution, can have a conscience, such a conscience must not only be well informed but must also be underpinned by high moral or ethical values. These values should always be the guiding light, irrespective of all the legal chaff that may be tossed about in the course of analyzing a case. It is not sufficient to acknowledge, as is done in paragraph 181 of the present judgment, that a case 'concerns extremely complex medical, legal and ethical matters'; it is of the very essence of a conscience, based on *recta ratio*, that ethical matters should be allowed to shape and guide the legal reasoning to its proper final destination. That is what conscience is all about. We regret that the Court has, with this judgment, forfeited the above-mentioned title" [10], as it is stated in paragraph 11 of the joint partly dissenting opinion in this case.

In agreement with the above comments and emphasizing the true essence of "conscience", European Center for Law and Justice in 2017 published the book "Conscience of Europe?", that contained, according to the opinion of authoritative former judge of the European Court Javier Borrego Borrego, "*useful keys for unlocking the important, but complex,* jurisprudence *of Europe's highest human rights court*" [13], which deals with the sometimes unpredictable jurisprudence of the European Court in the controversial spheres of marriage, family life, the sanctity of human life (especially, abortion, euthanasia, artificial reproduction and surrogacy).

The choice of each of the judges, as well as each person, deciding in favor of someone's life or death, directly depends on the ideas about the dignity of a person and the value of one's life. This choice usually depends on the superiority of the materialistic or humanistic qualities in the person, one's religious affiliation, which influences the formation of such ideas. In an objective sense, the value of life does not depend on its biological or functional characteristics, nor on the level of consciousness. Such universal concept of dignity for every person, laid down in the basis of the Universal Declaration of Human Rights of 1948 and subsequent international documents based on its provisions, proclaims the dignity inherent in every person and prohibits discrimination on the grounds of disability or health. Therefore, dignity as an inherent property belongs to each person just because he or she is a person and is not afforded by a decision of the judges. The same applies to "the right to life", which is the only right described by the International Covenant on Civil and Political Rights 1966 as "the inherent right" of every human being (Article 6) [9].

As V. Medvedev rightly points out, "…maximally rationalizing, legally defining and narrowing the existence of ethically controversial phenomena, there should be left small, precedent surrounding of individual variations of decisions … that are formed *ad hoc* within pre-trial or even judicial proceedings" [*Медведєв,* 2019: 68], in particular, "by introducing a rule on adherence to their adoption formed *ad hoc* the circle of relatives and persons, who reflect both public and ideologically significant arguments" [*Медведєв,* 2019: 69].

Therefore, it is the duty of the state to create conditions for alleviating the sufferings of people, but not stopping them with a "decent" death. In particular, the realization of the human right to palliative care is an important bioethical component of the right to life. In general, the use of euthanasia is an international problem that concerns human rights and encourages the search for interdisciplinary ways of solution through the prism of bioethics, which has become a bridge for combining the natural sciences and humanities (including biology, medicine, law and philosophy), as well as an important area of state cooperation that promotes dialogue between science, cultural and spiritual values [*Островська*, 2019: 125].

References

1. *About* the ECLJ (n.d.) <https://eclj.org/about-us>
2. *Case of Lambert and others v. France* (2015) 5 June 2015, Appl. No. 46043/14. <http://hudoc.echr.coe.int/eng?i=001-155352>
3. *Case of Pretty v. the United Kingdom* (2002) 29 April 2002, Appl. No. 2346/02. <http://hudoc.echr.coe.int/eng?i=001-60448>
4. *Clarke R.* (2017) The "Conscience of Europe?": Navigating Shifting Tides at the European Court of Human Rights. Kindle Edition. <https://adfinternational.org/resource/the-conscience-of-europe/>
5. *Convention on the Rights of Persons with Disabilities and its Optional Protocol* (2006) adopted by the General Assembly resolution A/RES/61/106 on 13 December 2006, opened for signature on 30 March 2007. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>
6. Dr. John and Barbara Willke (2003) Why Can't We Love Them Both? Questions and Answers About Abortion. Hayes Publishing Co. 2nd edition.
7. *Examen des rapports soumis par les États parties conformément à l'article 35 de la Convention* (2011) Observations finales du Comité des droits des personnes handicapées. Espagne. CRPD/C/ESP/CO/1. 19 Octobre 2011.
8. *General Comment No. 12 The right to adequate food (Art.11 of the International Covenant on Economic, Social and Cultural Rights)* (1999) adopted by the United Nations Committee on Economic, Social and Cultural Rights at its twentieth session on 12 May 1999. <https://www.escr-net.org/resources/general-comment-12>
9. *International Covenant on Civil and Political Rights* (1966) adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force 23 March 1976. <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>
10. *Joint partly dissenting opinion of judges Hajiyev, Šikuta, Tsotsoria, De Gaetano and Gritco* (2015) <https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-155352%22]}>
11. *L'appel de 70 médecins: «Il est manifeste que Vincent Lambert n'est pas en fin de vie»* (2018) *Figaro*. 18 avril 2018. <http://www.lefigaro.fr/vox/societe/2018/04/18/31003-20180418ARTFIG00261-l-appel-de-70-medecins-il-est-manifeste-que-vincent-lambert-n-est-pas-en-fin-de-vie.php>
12. *Loi № 2005-370 du 22 avril 2005 relative aux droits des malades et à la fin de vie* (2005) <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000446240&categorieLien=id>

13. *Myjer E. The Conscience of Europe: 50 Years of the European Court of Human Rights* (2010) Strasbourg: Council of Europe; London: Third Millennium Publishing, 2010. <https://www.echr.coe.int/Documents/Anni_Book_content_ENG.pdf>
14. *Optional Protocol to the Convention on the Rights of Persons with Disabilities* (2006) adopted on 13 December 2006, entered into force on 3 May 2008. <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities/optional-protocol-to-the-convention-on-the-rights-of-persons-with-disabilities.html>
15. *Puppinck* G. (n.d.) About the ECHR: full interview with Boštjan M. Zupančič. <https://eclj.org/geopolitics/echr/about-the-echr--interview-with-bostjan-m-zupancic?lng=en>
16. *Puppinck G.* (2019) Affaire Vincent Lambert: après la décision de l'ONU, l'État français au pied du mur, *Valeurs actuelles*. 7 mai 2019. <https://www.valeursactuelles.com/societe/affaire-vincent-lambert-apres-la-decision-de-lonu-letat-francais-au-pied-du-mur-106697>
17. *Puppinck G.* (2019) Par-delà la mort, l'affaire Vincent Lambert continue, *Valeurs actuelles*. Jeudi, 8 Decembre 2019 <https://www.valeursactuelles.com/clubvaleurs/politique/par-dela-la-mort-laffaire-vincent-lambert-continue-113606>
18. *Recommendation 1418 (1999) Protection of the human rights and dignity of the terminally ill and the dying* (1999) adopted by the Assembly on 25 June 1999 (24th Sitting). <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16722&lang=en>
19. *The U.N. demands France not to euthanize Vincent Lambert* (n.d.) <https://eclj.org/euthanasia/un/lonu-demande-a-la-france-de-ne-pas--debrancher--vincnet-lambert>
20. *Vincent Lambert: his mother's moving testimony at the UN in Geneva* (n.d.) <https://eclj.org/euthanasia/un/vincent-lambert-his-mother-moving-testimony-at-the-un-in-geneva>
21. *Vincent Lambert: ouverture d'une enquête en recherche des causes de la mort* (n.d.) <https://www.valeursactuelles.com/societe/vincent-lambert-ouverture-dune-enquete-en-recherche-des-causes-de-la-mort-108824>
22. *Vincent Lambert: request for interim measures rejected* (2019) Press Release issued by the Registrar of the Court. European Court of Human Rights. ECHR 180 (2019).
23. *Viviane Lambert: At the Human Rights Council for her son Vincent* (n.d.) <https://eclj.org/euthanasia/un/viviane-lambert--au-conseil-des-droits-de-lhomme-pour-son-fils-vincent>
24. *Withdrawal of Vincent Lambert's treatment: Court denies request for suspension* (2019) Press Release issued by the Registrar of the Court. European Court of Human Rights. ECHR 161 (2019).
25. *Медведєв В.* (2019) "Людина та її мозок: чи доречна тотожність на облямівці життя?" [A man and his brain: is identity possible in the edge of life?] *Правове регулювання темпоральних меж життя людини*: матеріали засідання "круглого столу", м. Київ, 22 жовтня 2019 р., укладач Я.О. Триньова. К., 2019. С. 59-72.
26. *Островська Б. В.* (2019) ""Якість" життя та "гідна" смерть: біоетична проблема застосування евтаназії в контексті права, медицини, філософії та релігії" ["Quality" of life and " decent " death: bioethical problem of application of euthanasia in the context of law, medicine, philosophy and religion], *VIII Міждисциплінарні гуманітарні читання*: матеріали міжнародної наукової конференції (Київ, 21 листопада 2019 р.). С. 121-125.
27. *Островська Б. В*. (2017a) "Евтаназія *vs* права на життя: проблема прав людини" [Euthanasia vs Right to Life: Human Rights Problem], *Наукові записки Інституту законодавства Верховної Ради України.* 2017. № 3. С. 47-53.
28. *Островська Б. В.* (2017b) "Практика Європейського суду з прав людини щодо захисту права на життя у біоетичних питаннях" [The practice of European court of human rights on protecting the rights to life in bioethical issues], *Держава і право. Серія: "Юридичні науки":* зб. наук. праць / Ін-т держави і права ім. В. М. Корецького НАН України. Київ: Вид-во «Юридична думка», 2017. Вип. 75. С. 20–30.

ОСОБЛИВОСТІ РОЗВИТКУ СВІТОВОГО ГОСПОДАРСТВА ТА МЕВ

УДК 330.131.7/342

RISK APPETITE STATEMENT AS MULTINATIONAL ENTERPRISES' INNOVATIVE RISK MANAGEMENT TOOL

ДЕКЛАРАЦІЯ РИЗИК-АПЕТИТУ ЯК ІННОВАЦІЙНИЙ ІНСТРУМЕНТ РИЗИК-МЕНЕДЖМЕНТУ БАГАТОНАЦІОНАЛЬНИХ ПІДПРИЄМСТВ

ДЕКЛАРАЦИЯ РИСК-АППЕТИТА КАК ИННОВАЦИОННЫЙ ИНСТРУМЕНТ РИСК-МЕНЕДЖМЕНТА МНОГОНАЦИОНАЛЬНЫХ ПРЕДПРИЯТИЙ

Rasshyvalov D.
PhD (Economics), Head of the Chair of the Department of International Business of the Institute of International Relations of Taras Shevchenko National University of Kyiv. Email: rasshyvalovd@ukr.net

Rushkovskyi M.
PhD Student, Department of International Business of the Institute of International Relations of Taras Shevchenko National University of Kyiv. E-mail: rushkovskyi@gmail.com

Расшивалов Д. П.
Кандидат економічних наук, Завідувач кафедри міжнародного бізнесу Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: rasshyvalovd@ukr.net

Рушковський М. В.
Аспірант, кафедра міжнародного бізнесу Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: rushkovskyi@gmail.com

Расшивалов Д. П.
Кандидат экономических наук, Заведующий кафедры международного бизнеса Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: rasshyvalovd@ukr.net

Рушковский М. В.
Аспирант, кафедра международного бизнеса Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: rushkovskyi@gmail.com

Abstract. *This article analyzes the preconditions and genesis of the concept of risk appetite from the first works on rational decision problem in the conditions of risk and uncertainty, researched by John von Neumann and Oscar Morgenstern in the mid of 20th century within the description of the utility function, to the modern use of Risk Appetite Statement as an innovative risk management tool of the multinational enterprises (MNE). A special focus is placed on the practical use and benefits of the Risk Appetite Statement within the process of internationalization and MNE development of the both financial and non-financial sectors of economy of the US, European Union and Ukraine. The paper argues that the Risk Appetite Statement tool not only sets limits on risks, but also provides other important advantages for MNE in forming a business development strategy*

and implementing key projects. Practical application of the Risk Appetite Statement in the largest state-owned enterprise of Ukraine NJSC "Naftogaz of Ukraine" is considered in detail.

Key words: *risk appetite, risk appetite statement, risk management, multinational enterprises, strategy.*

Анотація. *Стаття аналізує передумови виникнення та генезу концепції ризик-апетиту від перших робіт з вирішення задач раціонального вибору в умовах ризику та невизначеності, які були досліджені Джоном фон Нейманном та Оскаром Моргенштерном у середині XX століття в рамках описання функції корисності, до сучасного використання Декларації ризик-апетиту як інноваційного інструменту ризик-менеджменту багатонаціональних підприємств (БНП). Окрема увага приділяється практичному застосуванню та перевагам Декларації ризик-апетиту в рамках процесів інтернаціоналізації та розвитку БНП як фінансового, так і нефінансового секторів економіки США, Європейського Союзу та України. В статті аргументовано, що інструмент Декларації ризик-апетиту не лише встановлює обмеження на ризики, але також забезпечує інші важливі переваги для БНП при розробці стратегії розвитку бізнесу та реалізації ключових проектів. Детально розглянуто практичне застосування Декларації ризик-апетиту в найбільшій державній компанії України НАК «Нафтогаз України».*

Ключові слова: *ризик-апетит, декларація ризик-апетиту, ризик-менеджмент, багатонаціональні підприємства, стратегія.*

Аннотация. *Статья анализирует предпосылки возникновения и генезис концепции риск-аппетита от первых работ по решению задач рационального выбора в условиях риска и неопределенности, которые были исследованы Джоном фон Нейманном и Оскаром Моргенштерном в середине XX века в рамках описания функции полезности, до современного использования Декларации риск-аппетита как инновационного инструмента риск-менеджмента многонациональных предприятий (МНП). Особое внимание уделяется практическому применению и преимуществам Декларации риск-аппетита в рамках процессов интернационализации и развития МНП как финансового, так и нефинансового секторов экономики США, Европейского Союза и Украины. В статье аргументировано, что инструмент Декларации риск-аппетита не только устанавливает ограничения на риски, но также обеспечивает другие важные преимущества для МНП при разработке стратегии развития бизнеса и реализации ключевых проектов. Детально рассмотрено практическое применение Декларации риск-аппетита в крупнейшей государственной компании Украины НАК «Нафтогаз Украины».*

Ключевые слова: *риск-аппетит, декларация риск-аппетита, риск-менеджмент, многонациональные предприятия, стратегия.*

Introduction

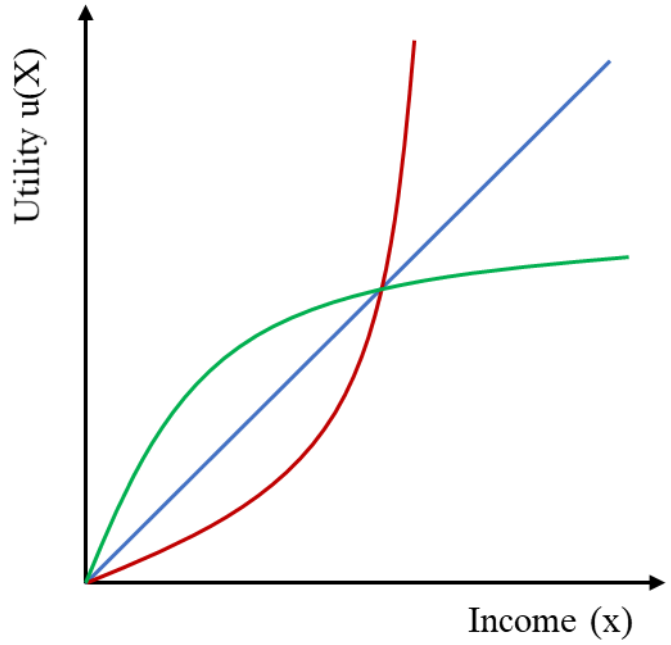
Rapid internationalization and development of multinational enterprises (MNE) over the past two decades, and the global financial crisis of 2008-2009, have highlighted the relevance and urgency of developing effective tools for identifying and assessing the risks and threats faced by MNE in the pursuit of their strategic goals, providing necessary resources to reduce them. Successful MNE are paying more and more attention to the development of internal risk management systems that enhance strategic planning, help to achieve goals, and increase responsiveness to emerging challenges. The concept of risk appetite definition has become an innovative tool for the development of such systems in the last decade. In addition to meeting the requirements of corporate governance standards, stakeholders at all levels (shareholders, analysts, investors, the public) formulate a demand for MNE in both financial and non-financial sectors to clearly define their readiness to risk in order to achieve strategic goals, i.e formulate their risk

appetite. Today, more and more MNE of the US, European Union and Ukraine are developing and implementing Risk Appetite Statement in order to be able to respond to existing and future challenges in a timely and effective manner.

Theoretical approaches review

The first scientific research in the field of risk compensation, which is embedded in the concept of risk appetite, can be traced in the utility function formulated by John Von Neumann and Oskar Morgenstern in 1947 [*Neumann, Morgenstern*, 1947]. The utility function describes decision making in terms of risk and uncertainty. An individual who takes a decision in terms of uncertainty (lottery) determines which level of income will increase its utility. Based on this assumption, the utility function *u(X)* can describe three approaches to risk – risk-seeking, risk-neutral and risk-averse, as shown in Figure 1 below.

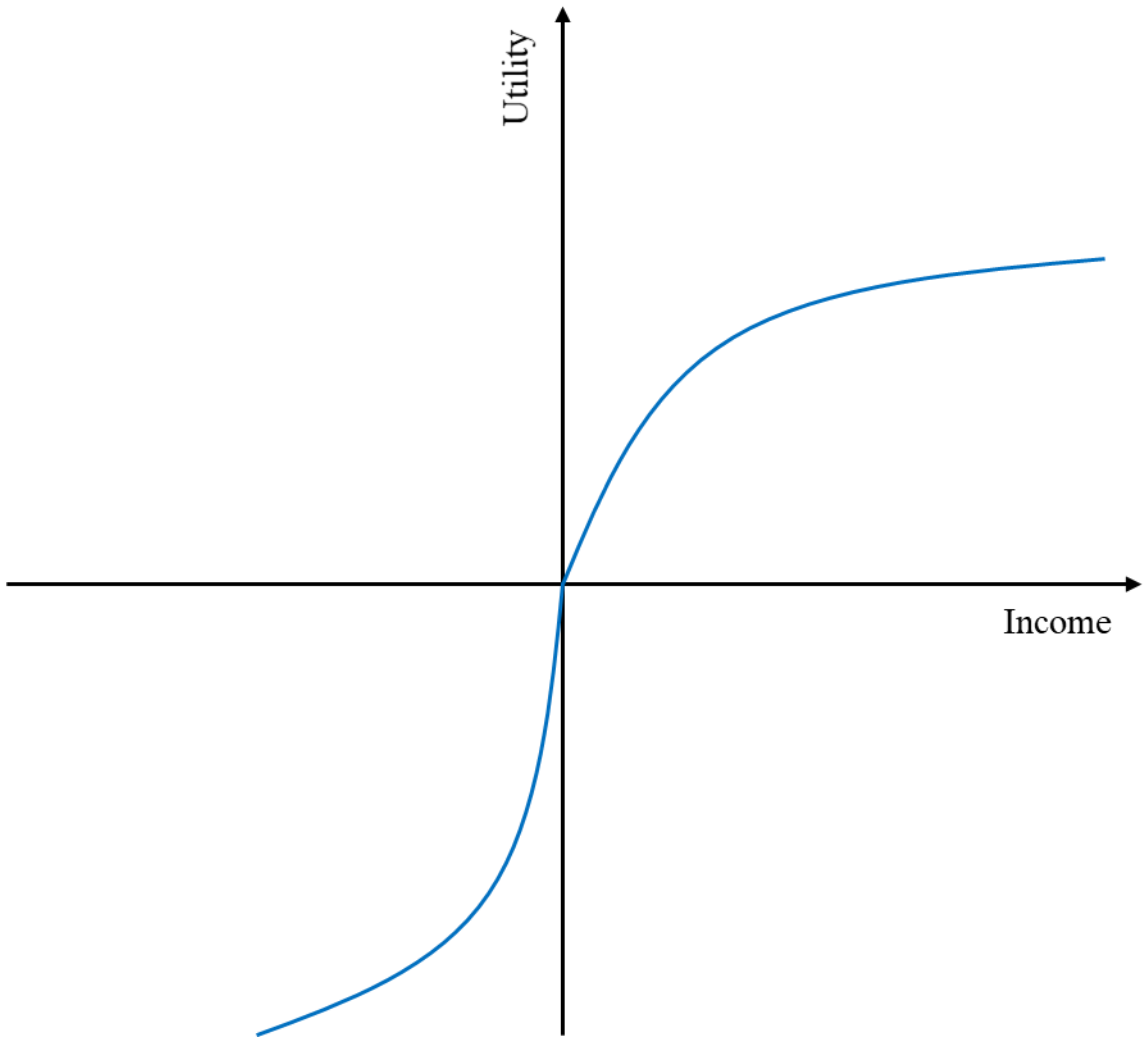
Figure 1



Risk-seeking condition (high risk appetite) is marked on the chart in red and indicates that additional utility unit is provided by less income than at risk-neutral approach (blue straight line) and risk-aversion, i.e. low risk appetite (marked in green).

Another important step in the development of scientific knowledge that describes individual's behavior under uncertainty is Prospect Theory, which was formulated by Daniel Kahneman and Amos Tversky in 1979 in the article “Prospect Theory: An Analysis of Decision under Risk” [*Kahneman, Tversky*, 1979]. According to Prospect Theory, individuals tend to overweight low probability and underweight high probability. This trend, called the certainty effect, contributes to the risk-averse in the choice that assumes certain benefits, and the risk-seeking that involves certain loss, which is accordingly reflected in Figure 2.

Figure 2



Risk-seeking condition in Prospect Theory partially describes the moderate or high risk appetite of an individual in the certainty conditions.

The modern concept of risk appetite was formulated in 2004 by the British Treasury in the book "The Orange Book Management of Risk – Principles and Concepts" [*HM Treasury*, 2004], as the amount of risk that an organisation is prepared to accept. Further development of the risk appetite tool appeared in document "Enterprise Risk Management – Integrated Framework" [*Committee of Sponsoring Organizations of the Treadway Commission*, 2004], issued by the Committee of Sponsoring Organizations (COSO) in 2004, and identified risk appetite as an important MNE management tool for evaluating strategic alternatives and projects, setting related objectives, and developing mechanisms to manage related risks.

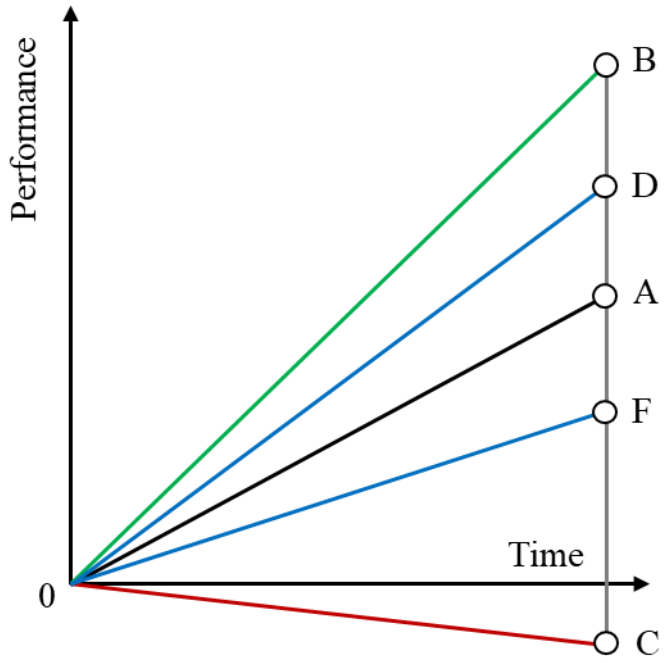
During the global financial crisis of 2008-2009, many companies around the world faced unknown or underestimated risks. In addition, financial losses and negative economic impact were multiplied by systemic risks associated with financial counterparties, business partners, as well as macroeconomic and interstate relations. In response, governments and regulators have introduced much higher regulatory standards and capital requirements. The focus was on the financial sector, which appeared to be the most vulnerable to global financial turmoil. In particular, the Basel Committee on Banking Supervision developed a regulatory framework Basel III [*Basel Committee on Banking Supervision*, 2010], which regulates requirements for bank capital adequacy, stress testing mechanisms and management of liquidity risk and sets binding definition of risk appetite [*Basel Committee on Banking Supervision*, 2009]. Basel III regulatory framework was introduced alternately in the US and the European Union.

Current stage of risk appetite concept development

Today, leading MNE, when forming a business development strategy and implementing key projects, make decisions about the trade-offs and deviations they may encounter during implementation. That is why it is extremely important for the successful implementation of the developed strategy to have it mutually integrated with MNE's risk appetite, which is comprehensively reflected in the Risk Appetite Statement.

Risk Appetite Statement determines the level and amount of risk that MNE can afford to incur based on their financial and operational capabilities, and thus be able to achieve their goals. This is necessary to protect MNE against potential damage with the threat level, under certain circumstances, that could be fatal for the company, or cause large losses. Figure 3 below shows an example of a combination of a MNE's strategy, potential risks and opportunities, and risk appetite over time.

Figure 3



On Figure 3:

- segment 0A reflects the strategic goals set by MNE;
- zone B0A reflects potential positive opportunities that may arise;
- zone A0C reflects potential risks and negative consequences that may arise;
- zone B0C reflects uncertainty and potential changes in the operational environment of MNE;
- zone D0F reflects MNE's risk appetite.

MNE's management must clearly define how the strategy will work in line with risk appetite, how it will encourage the organization to set goals and ultimately allocate resources effectively.

Although the main purpose of the Risk Appetite Statement is to establish limits on risk, it also provides other important benefits, including [*Institute of Management Accountants*, 2015]:

- developing a common understanding and language for discussing risk at management and business levels;
- promoting risk awareness and enforcing the desired risk culture throughout MNE;

- aligning business strategy with risk management to provide a balance between financial performance and risk control requirements;
- quantifying, monitoring and reporting risks to ensure that they are within acceptable and manageable levels;
- embedding risk-oriented approach into strategic and operational decisions;
- integrating risk appetite with other risk management tools, including key performance indicators (KPIs) and key risk indicators (KRIs), economic capital and stress-testing;
- meeting the needs of external stakeholders (e.g., regulators, investors, rating agencies and business partners) for risk management system transparency, financial, economic and social sustainability.

Current practice of Risk Appetite Statement utilization at MNE and in Ukraine

At the present stage more and more MNE of the US and the European Union are developing and implementing the Risk Appetite Statements to protect themselves against systemic risks associated with counterparties, partners, macroeconomic and international links in the framework of implementation of their strategy and key projects. According to a survey of the National Association of Corporate Directors (NACD) conducted by the international company PwC, in 2013-2014 26% [*National Association of Corporate Directors*, 2013-2014] of the companies had comprehensive Risk Appetite Statements. In 2015 this figure reached 35% [*National Association of Corporate Directors*, 2015]. Among these companies leading MNE of financial and non-financial sectors, for example, French financial conglomerate *Société Générale* [*Société Générale*, 2019], transnational oil & gas company *BP* [*BP*, 2018], Nordic and Baltic countries development bank *Nordic Investment Bank* [*Nordic Investment Bank*, 2019].

Best practices of corporate governance, including risk management, are being actively implemented in the operations of large companies in Ukraine. In 2015, corporate governance reform developed in line with the OECD principles started for state-owned enterprises. In particular, one of the main tasks of the newly formed in 2016 Supervisory Board of the largest state-owned company of Ukraine NJSC "Naftogaz of Ukraine", was to establish a comprehensive risk management function [*Naftogaz of Ukraine*, 2016]. One of the steps in the formation of the vertically integrated risk management system at Naftogaz Group in 2018 was the development of Risk Appetite Statement, which was approved by the Supervisory Board [*Naftogaz of Ukraine*, 2018]. This document defines risk appetite of Naftogaz Group in its main areas of operations: production, transit and distribution of natural gas, implementation of the PSO regulations, corporate governance and reform and unbundling, liquidity and currency risk management, meeting the requirements of existing and new licenses for production and distribution of natural gas, etc.

Conclusions

The general concept of risk appetite emerged in the 20th century and began to develop actively in the last two decades within the framework of development of risk management system as an integral component of operations of successful MNE. Risk Appetite Statement is an innovative risk management tool that allows to diagnose risk level across all operations of MNE, identify the most problematic areas, and map actions that will reduce the risk of activity where it exceeds the permitted levels, or maintain acceptable risk levels in those areas, where it is today. On the other hand, Risk Appetite Statement is used as a single platform for discussing risks at the management level, as well as in dialogue with the external stakeholders (regulators, investors, rating agencies and business partners).

Today, more and more attention is being paid to the Risk Appetite Statement tool at both MNE and government levels around the world, including Ukraine.

References

1. *Neumann J., Morgenstern O.* (1947) 'Theory of games and economic behavior, 2nd edition', Princeton: Princeton University Press.
2. *Kahneman D., Tversky A.* (1979) 'Prospect Theory: An Analysis of Decision under Risk', Econometrica – March 1979 – Vol. 47 – No. 2, pp. 263-292.
3. *HM Treasury* (2004) 'The Orange Book Management of Risk – Principles and Concepts', Crown copyright, <https://www.who.int/management/general/risk/managementofrisk.pdf>
4. *Committee of Sponsoring Organizations of the Treadway Commission* (2004) 'Enterprise Risk Management – Integrated Framework'.
5. *Basel Committee on Banking Supervision* (2010) 'Basel III: international regulatory framework for banks' <https://www.bis.org/bcbs/basel3.htm?m=3%7C14%7C572>
6. *Basel Committee on Banking Supervision* (2009) 'Enhancements to the Basel II framework' < https://www.bis.org/publ/bcbs157.pdf>
7. *Institute of Management Accountants* (2015) 'Implementing an Effective Risk Appetite' < https://www.imanet.org/-/media/8150b134bafd42aaaf5267bf49d6d2a3.ashx>
8. *National Association of Corporate Directors* (2013-2014) 'Public Company Governance Survey'.
9. *National Association of Corporate Directors* (2015) 'Public Company Governance Survey'.
10. *Société Générale* 'Integrated Report 2018-2019' <https://www.societegenerale.com/sites/default/files/documents/Rapport-integre/2019/ri_sg_2019_eng.pdf>
11. *BP* 'BP Annual Report and Form 20-F 2018' <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/investors/bp-annual-report-and-form-20f-2018.pdf>
12. *Nordic Investment Bank* (2019) 'Risk Appetite Statement' <https://www.nib.int/filebank/a/1559825579/0da81db1c3a0db6015ec2f4e69054275/9592-NIB_Risk_Appetite_Statement_June_2019.pdf>
13. *NJSC "Naftogaz of Ukraine"* (2016) 'Naftogaz supervisory board was fully formed' <http://www.naftogaz.com/www/3/nakweben.nsf/0/E495C1CDCD218F2EC2257F9D003F2592?OpenDocument&Highlight=0,corporate%20governance>
14. *NJSC "Naftogaz of Ukraine"* (2019) 'Annual Report 2018' pp.108-109 <http://www.naftogaz.com/files/Zvity/Annual-Report-2018-engl.pdf>

УДК 339.166.5

FORMATION OF BABY ECONOMY IN UKRAINE AS A FACTOR OF NATIONAL ECONOMY ADAPTATION TO THE MODERN GLOBAL ENVIRONMENT

ФОРМУВАННЯ БЕБІЕКОНОМІКИ В УКРАЇНІ ЯК ФАКТОР АДАПТАЦІЇ НАЦІОНАЛЬНОЇ ЕКОНОМІКИ ДО СУЧАСНОГО ГЛОБАЛЬНОГО СЕРЕДОВИЩА

ФОРМИРОВАНИЕ БЕБИЭКОНОМИКИ В УКРАИНЕ КАК ФАКТОР АДАПТАЦИИ НАЦИОНАЛЬНОЙ ЭКОНОМИКИ К СОВРЕМЕННОЙ ГЛОБАЛЬНОЙ СРЕДЕ

Ostapenko T.
Ph.D., associate professor of the Department of Management of Foreign Economic Activity of Enterprises National Aviation University, Kyiv. E-mail: ostapenco@ukr.net

Остапенко Т.Г.
кандидат економічних наук, доцент кафедри менеджменту зовнішньоекономічної діяльності підприємств Національного авіаційного університету, м. Київ. E-mail: ostapenco@ukr.net

Остапенко Т.Г.
кандтдат экономических наук, доцент кафедры менеджмента внешнеэкономической деятельности предприятий Национального авиационного университета, г. Киев. E-mail: ostapenco@ukr.net

Abstract. *The article substantiates the problem of forming baby economy as a factor of national economic development in the global environment. The main baby economy evolution directions as a component of the nanoeconomic system are formulated in the course of research. In addition, Ukraine's baby economy subsystem, particularly the practice of growing up, socialization and relationship process, is analysed. It has been revealed how little people in this country can influence the course of economic development. The factor analysis is conducted on baby economy factors' impact on GDP per capita which determines that our GDP manufacturing does not actively depend on the performance of baby economy. This dependence is 0.57. Therefore, it is necessary to introduce the levers of deploying baby economy processes in Ukraine's economic environment. Furthermore, it has been estimated that the number of people with higher education is gradually increasing as well as the number of foreign students that results in attractiveness of Ukraine's higher education. As a result of research, the conclusions are based on the necessity of updating baby economy and the beginning of the national economic system development, taking into account the formation of common approaches to education and upbringing. World experience shows that if the economic behaviour of a child is developed by the appropriate education, the level of national economy adaptation to the global environment becomes a decisive issue.*

Keywords: *baby economy, nanoeconomics, human economy, nanotechnology economy, growing up, socialization, kinship, factor analysis.*

Анотація. *У статті визначається обґрунтування проблеми формування бебіекономіки як фактору розвитку національної економіки в глобальному середовищі. В результаті дослідження були сформульовані напрями еволюції бебіекономіки як складової системи наноекономіки. Крім того, була оцінена підсистема бебіекономіки саме в Україні, зокрема практика дорослішання, соціалізації та процесу спорідненості. Визначено, яким*

чином маленька людина в нашій державі може вплинути на хід економічного поступу. Був проведений факторний аналіз впливу чинників бебіекономіки на ВВП на душу населення країни, який визначив, що наше виробництво валового продукту не досить активно залежить від показників розвитку бебіекономіки, така залежність становить 0,57. Тому в Україні необхідно вводити важелі розгортання процесів бебіекономіки в національному економічному середовищі. Також в статті було визначено, що кількість осіб, що мають вищу освіту поступово зростає, більш того, зростає кількість студентів-іноземців, та, відповідно, привабливість української вищої освіти. В результаті дослідження було зроблено висновки щодо необхідності актуалізації бебіекономіки та початку розвитку національної економічної системи від формування загальних підходів до виховання та навчання. Провідні країни світу засвідчують, що якщо розвивається економічна поведінка дитини та її відповідне виховання, то і рівень адаптації національної економіки до глобального середовища стає визначальним питанням.

Ключові слова: *бебіекономіка, наноекоеноміка, економіка людини, економіка нанотехнологій, дорослішання, соціалізація, спорідненість, факторний аналіз.*

Аннотация. *В статье определяется обоснование проблемы формирования бебиэкономики как фактора развития национальной экономики в глобальной среде. В результате исследования были сформулированы направления эволюции бебиэкономики как составляющей системы наноэкономики. Кроме того, была оценена подсистема бебиэкономики в Украине, а именно практика взросления, социализации и процесса родственности. Определено, каким образом маленький человек в нашей стране может повлиять на ход экономических событий. Был проведен факторный анализ влияния факторов бебиэкономики на ВВП на душу населения, который определил, что наше производство валового продукта не достаточно активно зависит от показателей развития бебиэкономики, такая зависимость составляет 0,57. Поэтому в Украине необходимо вводить рычаги разворачивания процессов бебиэкономики в современной экономической среде. Также в статье было определено, что количество лиц, которые имеют высшее образование, постепенно увеличивается, кроме того растет число иностранных студентов и, соответственно, растет привлекательность украинской высшей школы. В результате исследования были сделаны выводы относительно актуализации бебиэкономики в начале развития национальной экономической системы от формирования общих подходов воспитания и обучения. Наиболее развитые страны мира акцентируют на том, что если развивается экономическое поведение ребёнка и его соответствующее воспитание, то уровень адаптации национальной экономики к глобальной среде увеличивается.*

Ключевые слова: *бебиэкономика, наноэкономика, экономика человека, экономика нанотехнологий, взросление, социализация, родственность, факторный анализ.*

Problem Statement. It is important to use all the levers particularly nanoeconomic one's for the national economic development. According to scholar, K. Arrow [19] nanoeconomics is a human economy, which is at the lowest level in the structure of international economic relations (IER). Nanoeconomics consists of baby economy, human economy and nanotechnology economy [8,12]. This approach to the topicality of IER nanoscale development is used worldwide. The leading countries with the advanced level of economies have the nanosystem in the arsenal of their national economies. According to the system, a child from birth to a specialist's retirement becomes important for using a personal factor in economic relations development, particularly international ones. There is a topical issue for modern Ukraine to form a nanoeconomic system with baby economy, as one of its components. With the development of baby economy, the innovative system [18] in the country, a creative economy [Business Week, 2000; 16], human capital [6, 11], as well as the information economy [1] are being formed. Thus, the problem of forming baby economy is closely related to the problem of creating an effective and efficient national economic system in the conditions of global environment development.

Purpose Statement. The article is aimed at identifying the ways of forming baby economy within the national economic system in compliance with global development conditions.

Analysis of recent research and publications. Scientist V. Borysenko [15] investigates the possibilities of parents to give birth to a child and describes the rituals of the early years of life as well as singles out the conditions of adulthood and a transition period to a parental status. On the whole, a great number of contributions on baby economy issues are of culturological character. Thus, O. Telizhenko in the textbook "Fundamentals of National Culture" [14] shows that the peculiarity of forming nanoeconomics and baby economy lies in traditions, habits, folk arts in the society which are the basis for public relations development. G. Lozko, a known ethnologist, PhD, expounded cognitive information about the origin of the Ukrainians, their spiritual culture, economy, housekeeping and family in the textbook "Ukrainian Ethnology"[10]. Moreover, the author also emphasized the role of family relationships, family rituals, ethnic education and children's folk art in the formation of public relations and their impact on the economic development.

Russian scientist and economist G. Kleiner [9] determined that one of the approaches for understanding nanoeconomics is the interpretation of its componential features - baby economy. Researcher T. Hodovana [5] focuses on the formation of economic thinking of younger schoolchildren who are involved in the basics of economic literacy to form a new economic thinking. They learn about the life of people and animals, their needs and the ways to satisfy them, economic laws, thus creating a basis for further study of economic courses at secondary and high schools. In this case, baby economy is regarded as the economic behaviour of a child.

A. Chygyr [17] describes the interaction in the parental family as a factor of financial behaviour directionality. He identifies the following areas of family influence on the financial behaviour: focus on saving money (thrift); focus on unnecessary spending (wastefulness); moderation, the category of people who have no apparent orientation in any of the two directions mentioned above (this category of people accounts for the majority). It is to be noted that baby economy in the course of research should operate such categories as economic behaviour and financial behaviour in particular as the things going on in childhood form the basis of intelligence, fruitful creative life in the adult life.

I. Hubeladze [7] analyzes the process of forming a sense of ownership in preschool children in the process of economic socialization. It is emphasized that baby economy based on forming a sense of ownership in children will contribute to the positive development of economic, personal, business, governmental and international behaviour in the adult life. I. Hubeladze notes that one of the most important features characterizing economic socialization of a preschooler is a sense of ownership available before acquiring basic knowledge about money, valuables, economic phenomena and learning to perform basic operations and costs planning. There appears the main thing in the process of formation - a sense of ownership.

Exposition of unsolved aspects of the general problem in the article. The general problem of improving Ukraine's economy development can be resolved through economic revitalization and socialization of a child as well as the baby economy subsystem within the nanoeconomic system in the global development conditions.

Presentation of main research findings. Baby economy is responsible for the growing up process at the transition of a newborn baby to a preschooler, primary school, secondary and high school student and university student. The process involves the use of a certain baby economy resource as an input point and production of certain goods as an output point. The process of growing up is the gradual formation of economic behaviour of an adult, beginning with the use of certain resources – natural factors.

The internal factors include heredity, living conditions, a sense of security, the possibility of early learning, socialization, the opportunity to do creative work. There are also external factors: macroeconomic situation, political imperatives, legal conflicts. It is worth considering the impact of natural resources on the development and formation of baby economy in Ukraine.

The kinship system plays a decisive role in baby economy and social culture of a traditional society. The more archaic society is, the greater role family bonds play: they are based not only on personal relationships between people, but also on the economic system of society and self-government.

Kinship is not only the result of a child's birth, biological process but also implies certain rights and responsibilities, identifying it as a social phenomenon, that can be transformed to an economic phenomenon with the resources applied and goods produced. Thus, mother and father are related to the child not only by blood but also in a social way through the performance of certain social functions (care, education, upringing).

Kinship is a type of social ties that unite people into a group of "relatives"[15]. The kinship system is a classification of relatives in a certain order by a well- established principle [3]. The kinship system reflects social and economic ties of one or another ethnic community according to the principle of grouping blood and non-blood relatives. Kinship implies the possibility of housekeeping for the benefit of all family members. The more members of a related society, the more opportunities arise for the development of the society in general and its individual members.

Every ethnic community has their specific approaches to identifying and grouping relatives that is why there are different ethnic systems of kinship. Human kinship systems paved a long way from classification (primary) characteristics of primitive societies to genealogical (secondary) characteristics of most nations. [15]

Since the Middle Ages, there has been a genealogical kinship system in Ukraine which is an extensive scheme of the family tree type, built by the family members of a person. Such types of kinship can be distinguished as: biological (blood, real), social (socio-family, fictitious) and economic (housekeeping), indicating that the hierarchy is arranged in the nuclear family, extended relatives and the head of family affairs [13].

Biological or blood relationship in the traditional society is referred to the concept "genus". Unlike modern societies (industrial, post-industrial, information), where the main value is an individual, traditional societies focus on the genus. Blood relationship was the foundation for the whole family superstructure.

Social relationship emerged within one family (between non-blood relatives) and outside it, through marriage (relatives-in-law), adoption, the sacrament of baptism.

Economic relationship generated fraternities or companies which formed a superstructure for the production of certain goods. The head of the subjects of economic relationship was the most effective host, with the other family members being dependent on him. A specific feature of Ukrainian traditional economic culture is the prevalence of a small family over the large patriarchal one.

Gender and age stratification like the kinship is a biological, social, and economic phenomenon. A person is born with gender and his age is related to his physical growth. Gender and age of people in different societies became the basis for traditional subcultures' formation – children, women, youth as well as a special hierarchical system of gender and age groups. From a social point of view, belonging to a particular age group plays an extremely important role in the life of any individual in the traditional society, since gender and age determine the behaviour of a person, his rights and obligations, etiquette rules for the appropriate treatment with the representatives of other gender and age groups.

There is a hierarchy of social and economic groups by gender and age. Thus, in all traditional societies, the male gender is ranked higher in the hierarchy than the female one respectively while the age group of children is at the lowest position. It is necessary to have preferences at a young age to become a leader of the group at an older age. This also applies to gender groups and their leadership. Gender approaches indicate that the group can be headed by a woman, and a man can serve as a guardian of the family hearth. If the family becomes a centre in the economic plane, the leader of family business can be a person of any gender and age, so the main skill is in managing an economic ship that produces benefits for all members of society.

It should be noted that such resource as heredity involves the use of kinship, gender and age stratification in shaping baby economy. Traditions within the genus and its hierarchical system allow to make an economic person [4]. These systems are interconnected in the international environment where the European system of values affects the systems that exist in different regions of the world. So, the Japanese often follow European traditions in the way they get dressed. Meanwhile, the Europeans show great respect to age and ability to use the experience of older people for identity formation among young people. It is common practice, that nations with the highest figures of national economic development have more grounds to compile social and economic behaviour. In Ukraine, there is a prevalent category of middle-aged people (man, woman).

It should be emphasized that transition from one age group (subgroup) to another is always accompanied by certain rituals in a traditional society – transition rituals forming a stage-by-stage socialization of man.

Socialization occurs within families. Family is the smallest social union, which is based on marriage, blood bonds. It exists in all human societies. It is believed that the only universal characteristic of different types of families, including modern unconventional or modern alternative ones is a mutual help which mainly provides social coexistence of people.

Mutual help has an economic background when one owning wealth shares with those being on a tight budget. At present, mutual help has an international aspect as the Ukrainians, who departed to work abroad, send some of the earnings to their relatives in Ukraine. This is a considerable part of income of modern Ukrainian families. Moreover, there are many examples of marriages of the Ukrainians and the representatives of other ethnic groups. When international families are made, there is a mix of family cultures, households and family relationships in general. The Ukrainians assimilate into the countries they leave for and Ukrainian traditions become the basis for improving the gene fund of other nations. The economic content of international marital relations and the Ukrainians involved is that newly created households produce benefits for the whole society and consume them by themselves as the subjects of globalization. If the unification occurs at the nanoscale, even a child depends on the ability to apply knowledge acquired at school and convert it to the background that will assist in the economic life of an adult. G. Kleiner claims that nanoeconomics is the skills in making optimal economic decisions for the development of individuals and their environment (family in particular).

Another resource for the baby economy process is early learning opportunities, which are advanced by the Conception of Preschool Education Development in Ukraine compiled in 2010-2016. The conception points out that the state recognizes the priority role of preschool education and creates the proper conditions for its acquisition. The changes in the world and in Ukraine today, related to the spiritual development of a human in the information period, are significant in their scope and social consequences. The current situation in the preschool education system of Ukraine can be defined as a stage between the old system of values, directives, habits and the new one, which is being formed, aiming at providing optimal conditions of education and upbringing for the personality development. The XXI century puts forward new requirements for the goals, objectives, structure and content of preschool education in Ukraine. This is explained by globalization processes, changing world positions and values, our country's aspirations to integrate into the European space. In these circumstances, preschools must acquire a new status, expand their functions and become compulsory institutions for attendance of children, especially older children.

The Conception of Preschool Education Development in Ukraine formulated the principles that are particularly important in developing nanoeconomic system and its component - baby economy. Therefore, these principles are as follows:

- science, providing support for classical and modern scientific achievements in the field of pedagogy and psychology of preschool education. It is to be admitted that preschool education should be developed within baby economy as a system of knowledge, skills and competencies to make better decisions about its own existence and its existence in the family and

household. In addition, the world and regional heritage to create preschool education institutions should be used in the global environment;

- humanization and democratization of education, concentrating on the personality of a child with the maximum disclosure of its inclinations, abilities and interests. A child must learn to use its potential including the economic one. A child has to answer the following questions: What are the opportunities in our family? Is it possible to have certain benefits without losses? How can the possibilities of our families and certain individuals be increased? Can the experience of families from other partner countries or joint business relationships be made use of?
- access to education. Access should not be synonymous with poor quality. Every kid under six (seven) should be able to join the world's leading technologies in preschool education. Baby economy requires a financial basis as a possibility for parents to pay for preschool education and as an investment in the future of their child;
- close contact with real life, its problems and contradictions, preschool living space expansion. There are global problems that must be solved by all members of international community. Their solution begins with the kindergarten, when a preschooler understands its problem situations and tries to solve them by making well-grounded decisions. In Ukraine, this practice is at the development stage. After all, what is taught must have a practical value and become the basis for future achievements;
- social cohesion, family education and upringing. The directions of a preschooler's upringing should be a continuation of the existing family values. There are such values in Ukraine as: respect for elders, respect for women, respect for learning and academic achievements, an individual approach to business and business practice in Ukraine. The ability to run business has to be explained in the kindergarten, when a child can do everything for itself or for its family. Society approves of this idea and welcomes new entrepreneurs and effective managers of the leading companies in the world.

Thus, the possibility of early learning in kindergartens becomes a resource that should be supported by the state, on the one hand, and private kindergartens with the right to exist, on the other hand. These institutions should be included in the system of baby economy and become a starting point for further achievements of preschoolers.

Another resource for baby economy process formation is socialization. Socialization is the process of acquiring a system of knowledge, learning norms and values that enable a child to function as a full-fledged member of society. The term "socialization" is correlated with another term "upbringing", since the concept of socialization involves a purposeful influence on the person in various ways. But it takes on a broader sense because it also covers chaotic, spontaneous processes regardless of the educators' will. In addition, the term "socialization" refers not only to children and young people who study but also to the representatives of all age groups and socio-cultural adaptation of one or another individual to changing social conditions: for example, the involvement of a woman into the group of married women that is also accompanied by the process of socialization .

The process of socialization in the economic environment provides entry to the group of economically active people who can provide themselves. So, students who work while studying are economically socialized as they have to make their own decisions about paying for tuition and living expenses without parental assistance. Economic socialization experience shows that adult children without parental care work to be able to pay for studying and provide financial support to their parents. This process is objective and covers most of the progressive countries in the world.

According to ethnographic sources socialization of a child in the Ukrainian society began even from the mother's womb. There was a popular belief that a child's future, including its social status, was stipulated by parents' behaviour during pregnancy. Parents had to follow a number of strict rules and prohibitions. The violation of a taboo had disastrous consequences: disabled children, illegitimate children, individuals with an irregular social status and minimum rights, being often despised and ignored by society.

Another resource is an opportunity to be engaged in creative work on one's own or in a group. Development of crafts is particularly important for baby economy and nanoeconomics. Thus, a child was taught such aspect of creativity that affected the ability to be a craftsman in the future. These young people had an opportunity to perfect the craft and implement new technologies to improve the production process of certain goods.

So, craft is a small production process based on the use of hand tools, personal skills and allows to make high-quality things, often top-class pieces of art [15]. Craft emerged at the start of a human production activity, getting through a long historical development, thus acquiring different forms – from domestic crafts on order and to the craft market. There was sprawl and development of cities as craft and shopping centres with the emergence of crafts on order, especially for the market. Home craft is often called home industry (production of non-agricultural products), crafts on order and for the market – handicraft industry.

Ukrainian lands have long been famous for a large number of artisans who ran their own farms and made products on order. Crafts connected with the processing of minerals, animal products have existed since the period of Tripoli culture. It is worth recalling the world-famous Trypillian ceramics. In Kievan Rus there were over 100 craft professions and more than 270 ones in the XV-XVII centuries. The first union of craftsmen was founded in workshops. Nearly every peasant family was engaged in spinning, weaving with the use of such tools as: scutchers, spinning wheels, self-spinning, Krosno weaving tools. There was a smithy in almost every village [15].

The emergence of professional crafts, especially in cities, led to the development of a new field of production and a new social layer - urban artisans. The emergence of developed forms of their organization - workshops that protected the interests of artisans, created special favourable conditions for the development of urban craft in the Middle Ages. Leading industries of urban craft were textile industry, production of metal products, glassware and others. In the process of industrial revolution (mid-XVIII - first half of the XIX century) the factory industry displaced the craft. Crafts (on order and for the market) were preserved in the industries related to serving the consumer's individual needs or the production of expensive pieces of art such as pottery, weaving, carving and others.

All countries in the world are divided into traditional and corporate. The former provide the production of craft (handicraft) products. These countries include Italy, Greece, Spain, etc. The latter are the countries having many corporate goals and producing standardized products that may be bought in different parts of the world. Ukraine lost its handicraft capabilities during the Soviet Union period. Nowadays these crafts are beginning to revive in the framework of small businesses with skills and traditions being acquired for further production of consumer goods, which are usually handicraft. Certainly, crafts have the characteristics of factory forms of production. However, small business is being increasingly focused on the technologies that are becoming unique.

Traditions are inherited from generation to generation, so training successors in a particular industry becomes a matter of survival and experience sharing for a long-term business existence (even a small one). Baby economy is a platform for creative pursuits of younger generation that will become the basis for the future development of business environment in their country and global environment as a whole.

The influence of external environmental factors on the economic situation, political imperatives and legal conflicts in particular becomes the basis for identifying these resources as the leading ones in the formation of baby economy and nanoeconomics in general. The multiple factor analysis reflects the impact of baby economy factors on GDP per capita in Ukraine.

Construction of the linear regression model

Dependent variable - GDP per capita (% previous year)

Y - GDP.

The vector of independent variables - (the number of persons in preschool education institutions, thousand; the number of students in secondary education institutions, thousand; the number of

people in higher education institutions, thousand; the number of postgraduates, persons; the number of doctorals, persons)
X - (dosh; ser; vysh; phd; doc)
The model of linear regression is:

$$GDP = a_0 + a_1 \cdot dosh + a_2 \cdot ser + a_3 \cdot vysh + a_4 \cdot phd + a_5 \cdot doc$$

The data studied from 1991 to 2017.
Research results:
Coefficients:
(Intercept) dosh ser vysh phd doc
1.520e + 02 -1.935e-02 -2.912e-03 1.635e-03 2.132e-04 -1.449e-02

$$GDP = 152 - 0.0194 \cdot dosh - 0.0029 \cdot ser + 0.0016 \cdot vysh + 0.0002 \cdot phd - 0.0145 \cdot doc$$

Call:
lm (formula = GDP ~ dosh + ser + vysh + phd + doc, data = REG)

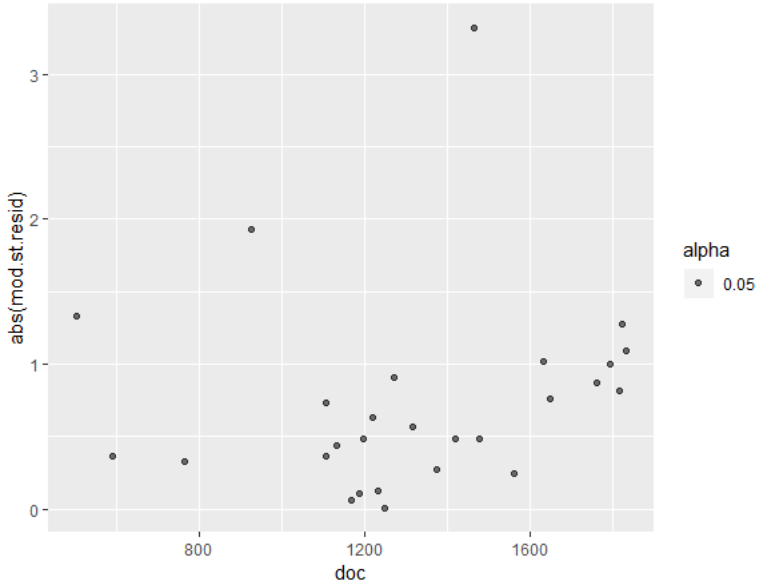
residuals:
Min 1Q Median 3Q Max
-19,937 -2,529 1,429 4,211 6,645

Coefficients:
Estimate Std. Error t value Pr (> | t |)
(Intercept) 1.520e + 02 4.810e + 01 3.160 0.00473 **
dosh -1.935e-02 7.802e-03 0.02170 -2.480 *
ser -2.912e-03 3.396e-03 0.40098 -0.857
vysh 1.635e-03 1.336e-02 0.122 0.90374
phd 2.132e-04 1.273e-03 0.167 0.86861
doc -1.449e-02 1.726e-02 0.41050 -0.840

Signif. codes: 0 '***' 0.001 '**' 0.01 '*' 0.05 '.' 0.1 " 1

Residual standard error: 6.608 on 21 degrees of freedom
Multiple R-squared: 0.5749, Adjusted R-squared: 0.4737
F-statistic: 5.681 on 5 and 21 DF, p-value: 0.001822

The results indicate a sufficiently low model quality, only the coefficient at the dosh variable is statistically significant, the coefficient of determination is 0.57.
The model check against heteroscedasticity, multicollinearity and autocorrelation.
Check against heteroskedasticity using Breusch-Pagan test:
Figure residual dispersion models:



Non-constant Variance Score Test

Variance formula: ~ fitted.values
Chi Square = 0.1366334, Df = 1, p = 0.71165

The test shows that residual dispersion is constant and there is no heteroskedasticity.
p = 0.71165, which enables to accept the hypothesis of Homoscedasticity.

Check against multicollinearity model according to Belsen method:

The correlation matrix X is being considered

	dosh	ser	vysh	phd	doc
dosh	1.0000000	0.2387704	-0.5975791	-0.5861140	-0.4834307
ser	0.2387704	1.0000000	-0.6051253	-0.8058572	-0.8805223
vysh	-0.5975791	-0.6051253	1.0000000	0.9138170	0.5219850
phd	-0.5861140	-0.8058572	0.9138170	1.0000000	0.7949878
doc	-0.4834307	-0.8805223	0.5219850	0.7949878	1.0000000

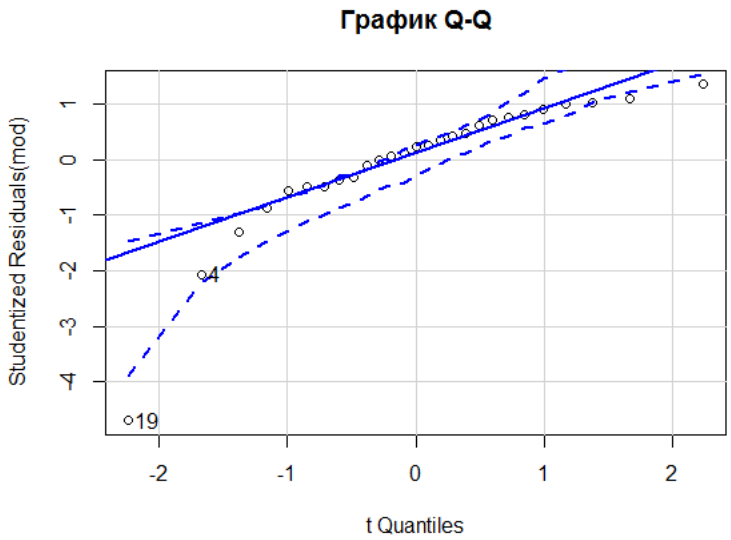
Watching pair high correlation coefficient (> 0.6) between many pairs of variables, we can conclude that multicollinearity is present in the system.
Overall Multicollinearity Diagnostics

MC Results detection
Determinant | X'X |: 0.0009 1
Farrar Chi-Square: 161.8910 1
Red Indicator: 0.6724 1
Sum of Lambda Inverse: 110.6973 1
Theil's Method: 2.2753 1
Condition Number: 111.4098 1

1 -> COLLINEARITY is detected by the test
0 -> COLLINEARITY is not detected by the test

Given all the indicators of Belsen test, the presence of multicollinearity is confirmed.

Check against residual autocorrelation according to Durbin-Watson method:
Let's construct a graph of standardized residual model:



lag	Autocorrelation	DW Statistic	p-value
1	0.1597491	1.613839	0.028

Alternative hypothesis: rho! = 0

Durbin - Watson test results p-value = 0.028 confirm the presence of residual autocorrelation in the model.

The processes of transforming resources into active economic behaviour are the processes of education and upbringing. Education and upbringing form a coherent concept of education, which is an integral pedagogical mechanism of an individual's social development. It is through this mechanism that the society realizes the involvement of an individual to the achievements of his own production, science, culture with a view for their further reproduction and development.

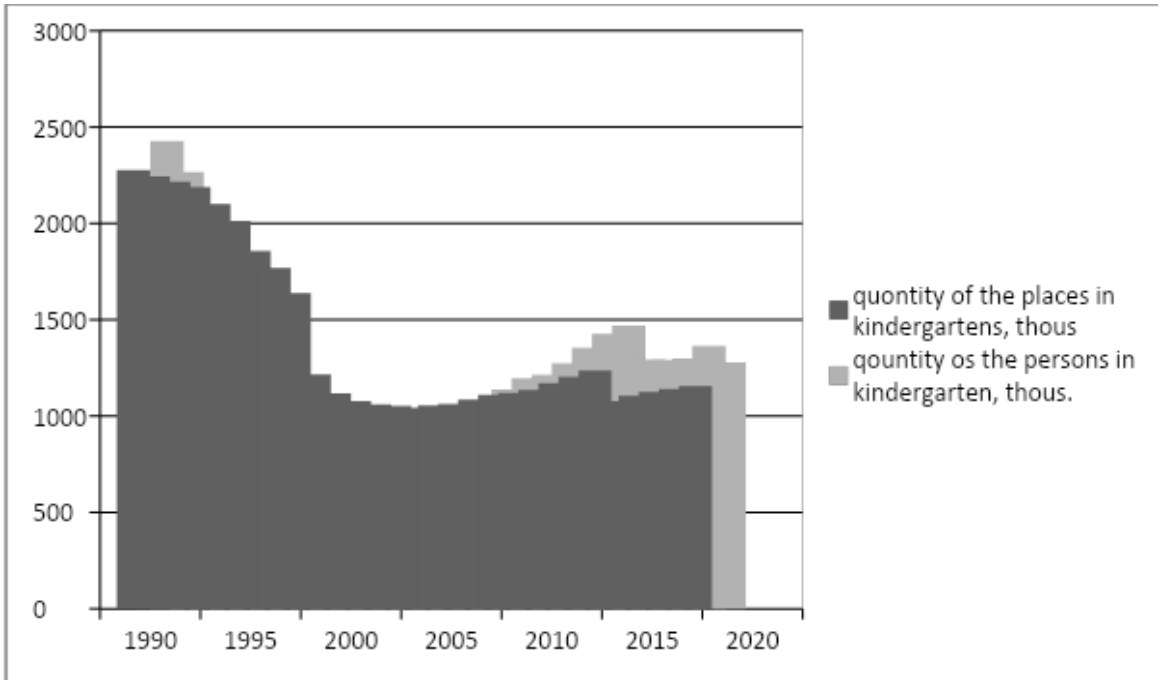


Fig. 1. Preschool education institutions in Ukraine, 1990-2018 [22]

Fig. 1 shows that the processes of education and upbringing start with pre-school education. So, there was an abundance of places in kindergartens of Ukraine by 2006, and since 2006 there has been a shortage of them, when there are more pre-schoolers than the preschool education system can provide. The positive tendency for the birth rate growth implies the need for places in preschool education institutions with more and more parents preferring kindergartens rather than family education. The system of decision-making regarding the future of a child aims to interest and encourage it to go to the kindergarten. Parents make such a nano-decision that influences the skills of a young person for his further development. Any child has to go to secondary school with a knowledge base similar to that of the kindergarten so that it could acquire skills and use them in high school. Being capable of learning is the task of a preschool education institution.

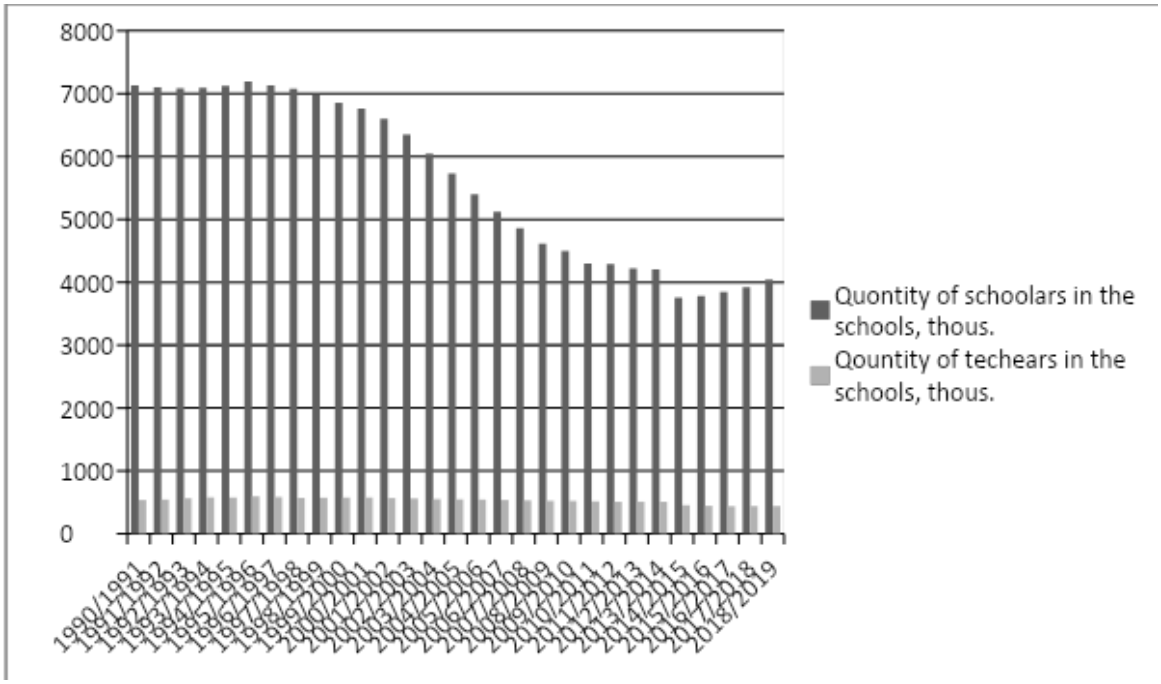


Fig. 2. The development of general secondary education in Ukraine (1990-2019 academic year) [22]

Studying in general secondary education institutions of Ukraine related to the demographic situation and the decrease in birth rate caused the reduction in the number of secondary school students. The number of teachers in our state schools is steady but has a sign of gradual decrease. For baby economy, reduction in the number of students at schools affects the number of students in classes. But it is evident that a teacher can work with each student more thoroughly and cause feedback from the student to activate learning. An individual approach to learning is the basis for developing children's skills in making optimal decisions in learning and in real life. Interactive learning in classes with fewer children influences the effectiveness of the learning process. It is well-known that the use of the world achievements in education will be the key to integrating education into the appropriate world space. On the other hand, advanced teaching methods in various fields of knowledge provide the opportunity to continue studying at leading universities in the developed countries of the world. In addition, schools focus on teaching worldview disciplines, knowledge of which will enable to become cosmopolitan students in the future. The latter has advantages over the narrow knowledge of students of closed systems within the national field of knowledge. It is well known that studying languages and world literature, mathematics and natural sciences means being a citizen of the world evolving in the context of globalization.

An individual has to acquire certain competencies (humanities, technical, natural, artistic, etc.) in secondary education. These competencies need to be defined in the seventh grade of middle school. A high school graduate has access to appropriate knowledge and may enter a particular higher education institution. If there are career offices at universities, there should be career counsellors at schools who can be useful for students to determine the profile of further education after the sixth year of schooling. The secondary school should provide worldview knowledge, competency profile and skills in the future profession. Future Nobel laureates start kindergartens and acquire specialized learning in general secondary education institutions. Schools teach a range of subjects that can be used by a person of the world.

A person of the world is completely formed at university. Ukraine is a member of the Bologna process and our higher education is developed on its basis. Being popular in 1990-2000, private (commercial) education gave way to state schools, most of which are currently presented by national universities. According to statistic data of 2019, between 15% and 25% of school graduates did not pass the External Independent Testing (EIT), while the rest of the school graduates became potential university students. There are statistic data on the number of Ukrainian higher education institutions from 1990/1991 academic year to 2018/2019, which are shown in Fig. 3.

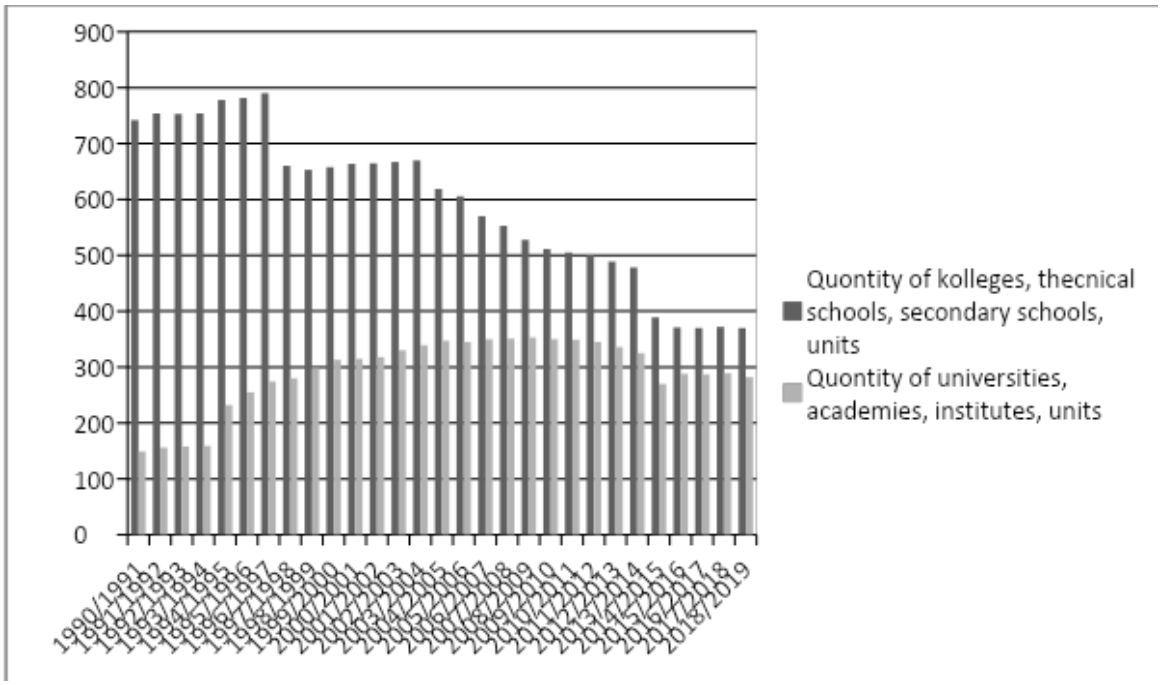


Fig. 3. Higher education institutions in Ukraine (1990-2019 academic year) [22]

As can be seen in Fig. 3, the number of colleges has almost halved since Ukraine gained its independence while the number of universities doubled but recently the number of universities have tended to decrease. The data presented testify the popularity of higher education in our country. An increasing number of school graduates are becoming students of higher education institutions (HEI). The main motto of an HEI graduate is "to make maximum use of theoretical knowledge in practice and to make optimal professional decisions." The theory must indicate various possibilities of its practical application. A famous thesis that science is separated from practice is a feature of the Soviet Union years. Nowadays knowledge should be used to the fullest. Thus, higher education is gradually changing as well as the manufacturing sector, in which changes must be made according to the requirements of modern times. Practical innovations all over the world are being implemented in the manufacturing sector of the economy in most cases. Basic technologies are the prerogative of higher education and academic institutions. Baby economy continues developing within human economy, when all the basics from preschool education to HEI must constitute an integrated system. In order to have an active baby economy, it is necessary to form an educational complex with the system of extensive baby specialization and appropriate requirements for the future specialist.

In addition, national baby economy must be implemented in global processes of nanoeconomic intensification. This is not only the exchange of students, it is the ability to meet new requirements of global innovation development, an opportunity to keep up with the world scientific and technological innovations.

The international aspect of baby economy is determined by the data on education of national youth abroad and foreigners in our country. According to the Ministry of Economic Development

and Trade of Ukraine, 70,000 Ukrainian students study abroad. From 2009 to 2016, the number of Ukrainian students abroad increased by 186%. According to the Institute of Public Relations (IPR), only 7% of Ukrainians studying outside Ukraine plan to come back. 30% of people plan to go to other European Union countries after graduation. According to the data of 2017, more than 35,500 Ukrainian students were enrolled to Polish institutions. The main reasons for choosing Polish education are: obtaining a European diploma (51%); poor living conditions in Ukraine (47%); gaining better knowledge (45%) [21].

It should be noted that Ukraine does not only send students, but accepts them as well. Thus, about 25,263 foreign students received invitation to study in Ukraine at the beginning of 2018. A list of countries that sent most of their students to study in Ukraine is as follows:

1. Morocco - 4254 students;
2. India - 3210;
3. Nigeria - 1987;
4. Turkmenistan - 1724;
5. Egypt - 1161;
6. Ghana - 1136;
7. Algeria - 1115;
8. Pakistan - 950;
9. China - 882;
10. Turkey - 634.

These data indicate that Ukrainian education is attractive to foreign students. Ukraine is actively involved in international educational processes. The balance in external educational processes is positive when we send more than we accept. The situation requires optimizing the educational process. It is important for baby economy and its system to make family-friendly decisions about studying abroad with the appropriate school training. Thus, a child of 14-15 years of age should decide on the choice of university, based on the training programme of career guidance that is the close link of school and university education and its development within baby economy. In addition, sending and accepting students envisages the membership of our country in the world educational projects. These projects are stipulated by the possibility of involving national universities in global educational programs and improving the quality of education. In the context of globalization, such projects are the basis for optimization of educational processes in higher education. This is an important issue for Ukraine. According to the world ranking of universities: 401 – V.N.Karazin Kharkiv National University, 411 - Taras Shevchenko National University of Kyiv, 501 - Igor Sikorsky National Technical University "Kyiv Polytechnic Institute", 701 - National Technical University "Kharkiv Polytechnic Institute", 801 - shared by Donetsk National University and Sumy State University [23].

Baby economy formation will enable to improve the quality of education and educational services in Ukraine and abroad. In addition to improving the quality of the educational process, it is necessary to optimize the following educational areas[23]:

−Academic reputation (40% importance);
−Employer reputation (10%);
−Student-teacher ratio (20%);
−Number of publications for one teacher (20%);
−Number of foreign teachers (5%);
−Number of foreign students (5%).

Conclusions. Baby economy involves teaching younger generation to make the best economic decisions and live a professional life with a set of knowledge, competencies and skills that will help them work for the benefit of the country and the world. The experience of leading universities shows that not only the educational process within the country needs to be improved, but the economic development in the country is worth enhancing as well. These processes are interrelated – where there is a high level of education, there is an opportunity to maintain high rates of development.

Baby economy ends at the first workplace after graduation from university or vocational education institution. A young professional pursues a career path with an ability to create and to be creative in different spheres. Baby economy is closely connected with creative economy where creative thinking must be instilled in preschool institutions and developed at schools and universities. Creativity is the ability to think unconventionally to combine unrelated ideas. These ideas should be extracted from world practice and should facilitate the discovery of innovations that would improve the world order in various fields of human activity. Such improvement must occur through active self-realization of an individual and influence the spread of knowledge all over the world.

The determinants of baby economy development are processes of kinship, gender-age stratification, early learning opportunities, socialization, an ability to engage in creativity and optimize craft. All these factors of the baby economy development should transform a young person into an economic personality with the ability to make effective decisions (managerial, technological and industrial) regarding their own development, the society and the economic component. It can be stated that the baby economy system in Ukraine is only at the stage of formation. At present, there are some separate components that can only be integrated by the will of the state policy. However, the private sector (enterprises and private research institutions) must be ready to cooperate with educational institutions regarding the practice and career guidance. In addition, baby economy needs to be implemented in global educational processes, especially at the university level. The inclusion of Ukraine in the world educational projects provides the possibility of optimizing secondary and higher education to the level of the best representatives of these institutions. Compliance with the models of the educational process should influence the development of the national economy of Ukraine and its relations with different countries of the world.

References

1. Бажал Ю. Інформаційна економіка. http:// www.ekmair.ukma.edu.ua/bitstream/handle/123456789/2430/Bazhal_Informatsiyna_economica.pdf [Bazhal Yu. information economy. http: //www.ekmair.ukma.edu.ua/bitstream/handle/123456789/2430/Bazhal_Informatsiyna_economica.pdf]
2. Балабанов В., Балабанов И. Нанотехнологии. Правда и вымысел. - М.: ЭКСМО, 2017. – 530с. [Balabanov IV, Balabanov I. Nanotechnology. True and fantasy. - M .: Eksmo, 2017. – 530 p.]
3. Борисенко В.К. Весільні звичаї та обряди на Україні. К., 1988. [Borisenko VK Wedding customs and rituals in Ukraine. K., 1988.]
4. Вовк Хв. Студії з української етнографії та антропології. К., 1995.[Vovk Hv. Studies in Ukrainian Ethnography and anthropology. K., 1995.]
5. Годована Т.Л. Формування економічного мислення молодших школярів [Електронний ресурс] / Т.Л. Годована. – Режим доступу: http://www.klasnaocinka.com.ua/uk/article/formuvanna-ekonomichnogo-myslennia-molodshikh-shk.html [Hodovana T.L. Formation of economic thinking younger students [electronic resource] / T.L. Hodovana. - Access mode:http://www.klasnaocinka.com.ua/uk/article/formuvanna-ekonomichnogo-myslennia-molodshikh-shk.html]
6. Грішнова О.А. Ефективність інвестицій в людський капітал в Україні: збірник матеріалів міжнародної науково-практичної конференції «Проблеми розвитку ринку праці та поліпшення зайнятості населення в умовах трансформації економіки України», (20-21 листопада 2003 року) / О.А. Грішнова. – Луганськ: Східноук. нац. університет ім. В. Даля, 2003. – С. 13 [Grishnova O.A. The efficiency of investment in human capital in Ukraine: Proceedings of the international scientific conference "Problems of the labor market and improve employment in the economic transformation of Ukraine" (20-21 November 2003) / A.A. Grishnova. - Lugansk: Shidnouk. nat. University. Dal, 2003. - S. 13]

7. Губеладзе І. Формування почуття власності у дошкільників у процесі економічної соціалізації. [Електронний ресурс] / І. Губеладзе. – Режим доступу: http://www.search.ukr.net/?go=http%3A%2Г%Firbis-nbuv/261mage_file_name%3DPDF%2FVnadps_2013_/_18.pdf [Hubeladze I. Forming sense of ownership in preschool children in the process of economic socialization. [Electronic resource] / I. Hubeladze. - Access mode:http://www.search.ukr.net/?go=http%3A%2Г%Firbis-nbuv/261mage_file_name%3DPDF%2FVnadps_2013_/_18.pdf]
8. Киреев В. Нанотехнологии: история визникновения и развития // Наноиндустрия. – 2008. - № 2. – С. 2-10. [Kireev V. Nanotechnology: History of Origin and Development // Nanoindustry. - 2008. - № 2. - P. 2-10.]
9. Клейнер Г. Наноэкономика // «Вопросы экономики» 2004, №12., с. 1-17. [Kleiner G. Nanoeconomy // "Questions of Economy" 2004, №12., P. 1-17.]
10. Лозко Г.С. Українське народознавство. – Вид. 5-те, зі змін. та доповн. – Мандрівець, 2011. – 512с. [Lozko G.S. Ukrainian ethnology. - Kind. 5 things to change. and fulfill. - Mandrivets, 2011. - 512p.]
11. Мельничук Д.П. Людський капітал: пріоритети модернізації суспільства у контексті поліпшення якості життя населення: монографія / Д.П. Мельничук. – Житомир: Полісся, 2015. – 564с. [Melnychuk D.P. Human capital: priorities for the modernization of society in the context of improving the quality of life: monograph / D.P. Melnychuk. - Exactly: Woodlands, 2015. – 564 p.]
12. Свидиненко Ю. Нанотехнологии в нашей жизни. // Наука и жизнь, 2018 - №1, с. 13-31. Режим доступу http://www.nkj.ru/archive/articles/1239/ [Svydynenko Yu. Nanotechnology in our lives. // Science and Life, 2018 - №1, p. 13-31. Access mode http://www.nkj.ru/archive/articles/1239/]
13. Таланчук О.М. Українознавство: Усна народна творчість. К., 1998. [Talanchuk O.M. Ukrainian Studies, Folklore. K., 1998.]
14. Теліженко О.В. Основи національної культури : навч. посібник / Олександра Василівна Теліженко. – К.: УБС НБУ, 2012. – 443с. [Telizhenko O.V. Basics of national culture: teach. manual / Olexandra Telizhenko. - K .: UB NBU, 2012. – 443 p.]
15. Українська етнологія: Навч. посібник / За ред. В. Борисенко. – К.: Либідь, 2007. – 400 с. [Ukrainian ethnology: Training. manual / Ed. V. Borisenko. - K.: Lybid, 2007. – 400 p.]
16. Флорида Р. Креативный класс: люди, которые меняют будущее / Р. Флорида. – М.: Издательский дом «Классика XXI », 2007. – 421с. [Florida R. Creative class: people changing future / R. Florida. - M .: Publishing Home "Classics XXI", 2007. – 421 p.]
17. Чигир О.М. Взаємодія в батьківській сім'ї як чинник спрямованості фінансової поведінки [Електронний ресурс] / О.М. Чигир. – Режим доступу: http://www.search.ukr.net/?go=http%3A%2Г%Firbis-nbuv/261mage_file_name%3DPDF%2FVnadps_2013_/_18.pdf [Chygyr O.M. Interaction in parent family as a factor in the direction of financial behavior [electronic resource] / O.M. Chygyr. - Access mode:http://www.search.ukr.net/?go=http%3A%2Г%Firbis-nbuv/261mage_file_name%3DPDF%2FVnadps_2013_/_18.pdf]
18. Шумпетер Й.А. Теория экономического развития. – М.: Прогресс, 1982. – 455 с. [Schumpeter J.A. The Economic Theory of development. - M .: Progress, 1982. – 455 p.]
19. Arrow K. Reflection of the essays. In: Arrow and the Foundations of the Theory of Economic Policy / Ed .: GR Feiwel. - L .: Macmillan. 1987. - № 12, с. 1-17.
20. The Creative Economy. BusinessWeek (Special double issue. The 21st century corporation), 28 august 2000. P.1-5.
21. http: //www.gazeta.ua.
22. http: //www.ukrstat.gov.ua.
23. http: //www.volynnews.com/news/society.

339.924(477):061.1ЄС]:339.548(470+571)

QUANTITATIVE ANALYSIS OF TRADE COMPLEMENTARITY BETWEEN UKRAINE AND THE EU

КІЛЬКІСНИЙ АНАЛІЗ КОМПЛІМЕНТАРНОСТІ ТОРГІВЛІ МІЖ УКРАЇНОЮ ТА КРАЇНАМИ ЄС

КОЛИЧЕСТВЕННЫЙ АНАЛИЗ КОМПЛИМЕНТАРНОСТИ ТОРГОВЛИ МЕЖДУ УКРАИНОЙ И СТРАНАМИ ЕС

Shnyrkov O. I.
Doctor of Economic Sciences, Professor, Head of the Department of World Economy and International Economic Relations of Taras Shevchenko National University of Kyiv. E-mail: aisch@ukr.net

Pliushch D. S.

PhD (Economics) of Institute of International Relations of Taras Shevchenko National University of Kyiv. E-mail: d.pliushch@gmail.com

Шнирков О. І.
Доктор економічних наук, професор, завідувач кафедри світового господарства і міжнародних економічних відносин Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: aisch@ukr.net

Плющ Д. С.

Аспірант кафедри світового господарства і міжнародних економічних відносин Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. E-mail: d.pliushch@gmail.com

Шнырков А. И.
Доктор экономических наук, профессор, заведующий кафедрой мирового хозяйства и международных экономических отношений Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: aisch@ukr.net

Плющ Д. С.

Аспирант кафедры мирового хозяйства и международных экономических отношений Института международных отношений Киевского национального университета имени Тараса Шевченко. E-mail: d.pliushch@gmail.com

Abstract. *The article outlines the perspective benefits of deepening integration processes between Ukraine and the European Union. Groups of Ukrainian goods have been identified, which exports to the EU are increasing dynamically. EU countries have been identified in which exports from Ukraine have been growing rapidly in recent years. The relations and nature of Ukraine's trade with the EU countries have been analyzed. The conclusions on the development of trade potential after signing the Association Agreement with the EU have been formulated. The assessment of the Complementarity Index of Trade for Ukraine and the EU by 97 commodity groups according to the Ukrainian Classification of Goods for Foreign Economic Activity and the Harmonized Commodity Description and Coding System for 2011-2018 has been carried out. The dynamics of change of complementarity indices are analyzed and the predicted indices of the*

countries for 2019 and 2020 are calculated. It has been proven that mutual trade in a free trade area is mutually beneficial for Ukraine and the EU, as Ukraine and the EU benefit from increased trade, and establishing international partnerships between their businesses and organizations can be particularly beneficial in the long term perspective. It is proposed to deepen international industry cooperation in order to develop competitive advantages and strengthen its position both on the Ukrainian market and the European market.

Keywords. *Free trade area, trade complementarity, international economic integration, trade partnership, foreign trade effects.*

Анотація. *У статті визначені перспективні переваги поглиблення інтеграційних процесів між Україною та Європейським Союзом. Визначено групи українських товарів, експорт яких до ЄС активно зростає. Виявлено країни ЄС, до яких стрімко зростає експорт з України протягом останніх років. Проаналізовано зв'язки, характер торгівлі товарами України з країнами-членами Європейського Союзу. Сформульовано висновки про розвиток торговельного потенціалу після підписання Угоди про асоціацію з ЄС. Проведено оцінку індексу компліментарності торгівлі для України та ЄС за 97 групами товарів згідно УКТЗЕД та Гармонізованої системи опису та кодування товарів для 2011–2018 років. Проаналізовано динаміку зміни індексів та розраховано прогнозні показники індексів країн на 2019 та 2020 роки. Доведено, що взаємна торгівля в умовах зони вільної торгівлі є взаємовигідною для України та ЄС, адже Україна та ЄС виграють від збільшення торгівлі, а встановлення міжнародних партнерських відносин між їх підприємствами та організаціями може бути особливо корисним в довгостроковій перспективі. Запропоновано поглиблювати міжнародну галузеву співпрацю для розвитку конкурентних переваг та посилення своїх позицій як на ринку України, так і в межах європейського ринку збуту.*

Ключові слова. *Зона вільної торгівлі, компліментарність торгівлі, міжнародна економічна інтеграція, торговельні партнери, зовнішньоторговельні ефекти.*

Аннотация. *В статье определены перспективные преимущества углубления интеграционных процессов между Украиной и Европейским Союзом. Определены группы украинских товаров, экспорт которых в ЕС активно растет. Проанализированы связи, характер торговли товарами Украины со странами-членами Европейского Союза. Сформулированы выводы о развитии торгового потенциала после подписания Соглашения об ассоциации с ЕС. Выявлено страны ЕС, в которых стремительно растет экспорт из Украины в последние годы. Проведена оценка индекса комплиментарности торговли для Украины и ЕС за 97 группам товаров согласно УКТВЭД и системы описания и кодирования товаров Всемирной таможенной организации для 2011-2018 годов. Проанализирована динамика изменения индексов и рассчитан прогнозные показатели индексов стран на 2019 и 2020 годы. Доказано, что взаимная торговля в условиях зоны свободной торговли является взаимовыгодным для Украины и ЕС, ведь Украина и ЕС выиграют от увеличения торговли, а установление международных партнерских отношений между их предприятиями и организациями может быть особенно полезным в долгосрочной перспективе. Предложено углублять международную отраслевую сотрудничество для развития конкурентных преимуществ и усиления своих позиций как на рынке Украины, так и в пределах европейского рынка сбыта.*

Ключевые слова. *Зона свободной торговли, комплиментарность торговли, международная экономическая интеграция, торговые партнеры, внешнеторговые эффекты.*

Introduction. European integration processes in Ukraine significantly affect the functioning of the country's economic system. The signing of the Association Agreement has a number of

economic consequences. Ensuring sustainable development in free trade zone between Ukraine and the EU requires a thorough analysis of the complementarity effect of trade.

The purpose of research. The purpose of this article is to investigate the tendencies in the bilateral complementarity of trade relations between Ukraine and the European Union.

Analysis of the latest publications. The methodology of assessing the complementarity of international trade is described in the work of Andreosso-O'Callaghan B., who studied economic structural complementarity of Korea-EU FTA [O'Callaghan, 2010] and in the work of Chandran S., where trade relations between India and Asian countries under the creation of free trade zone are outlined [Chandran, 2010]. Khadan J. and Hossein R. calculated the complementarity index of trade between Caribbean countries [Khadan and Hossein, 2013]. Shuai C. M. and Wang X. provided empirical analysis of comparative advantages and complementarity of agricultural trade between China and USA [Shuai and Wang, 2011]. Hoang V. studied agricultural trade complementarity of the Association of Southeast Asian Nations [Hoang, 2018]. Vahalík B. provided a thorough analysis of Regional Bilateral Trade of the European Union, China and ASEAN using indices of regional trade intensity and trade complementarity [Vahalík, 2014].

In Ukraine the essence of the concept of "complementarity" is covered in the scientific works of O. Borodina, who studies the methodology and principles of trade complementarity in various spheres of economic research [Borodina, 2015]. N. Dekhtiar provides theoretical recommendations on the estimation of complementarity index, which is related to the country's competitiveness indicators in foreign economic relations [Dekhtiar, 2017].

Ukrainian scientists studied complementarity of trade between Ukraine and the Republic of China as an indicator of the effectiveness of bilateral cooperation (L. Vlasenko [Vlasenko, 2019], Z. Makogin [Makohin, 2012]). V. Panchenko studied the dynamics of the complementarity index after creation of free trade zone between Ukraine and the EU [Panchenko, 2013].

The important research results. The process of economic integration of Ukraine into the world economy is a strategically important aspect of ensuring sustainable growth in the modern economy. The available resource potential of Ukraine is a promising base for the formation and development of progressive forms of competitive advantage of priority sectors of the economy.

The emergence of Ukraine as a full participant in the international arena of trade relations begins with its accession to the WTO in 2008. The next step in this direction was creation of a Deep and Comprehensive Free Trade Area between Ukraine and the European Union, which came into force on January 1, 2016, as well as signing the Association Agreement between Ukraine and the EU (entered into force on September 1, 2017).

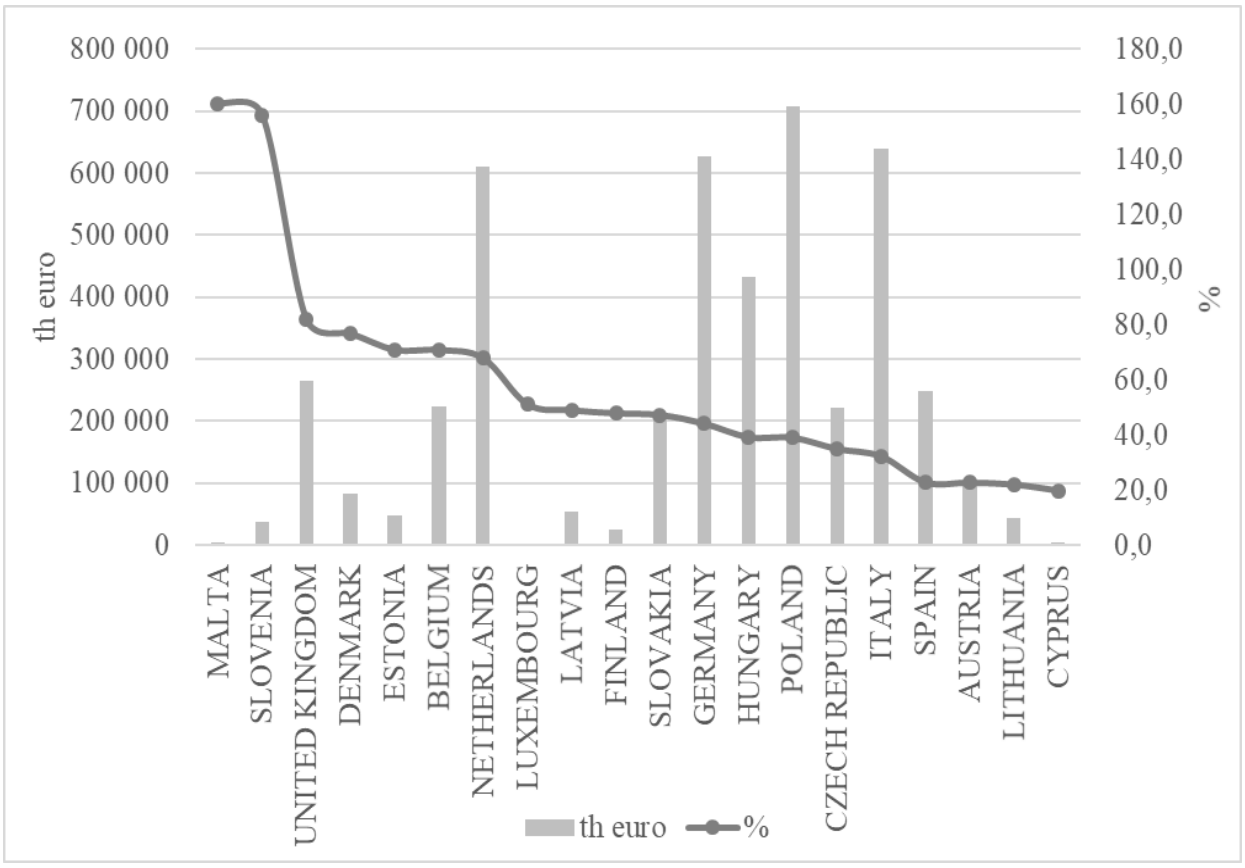
Integration processes between Ukraine and the EU have considerable potential for comparable benefits, namely [Klymenko, 2012:]:

- a favorable business environment will be formed in Ukraine as a result of the reforming of national legislation;
- the removal of barriers helps to harmonize the supply and demand balance of trade;
- deepening of inter-state sectoral cooperation will ensure stable mutual development;
- stimulating scientific and technological development helps to form market competition [Fedirko, 2015].

Thanks to the removal of tariff barriers, national enterprises become able to seize the large and stable Eurozone market as well as grow into a participant of public procurement of EU countries [Bilenko, 2015]. In addition, integration processes facilitate the establishment of new business relationships between Ukrainian suppliers and European enterprises and organizations (Figure 1).

Figure 1

Increase in Ukraine's exports to EU countries (in 2018 compared to 2016)



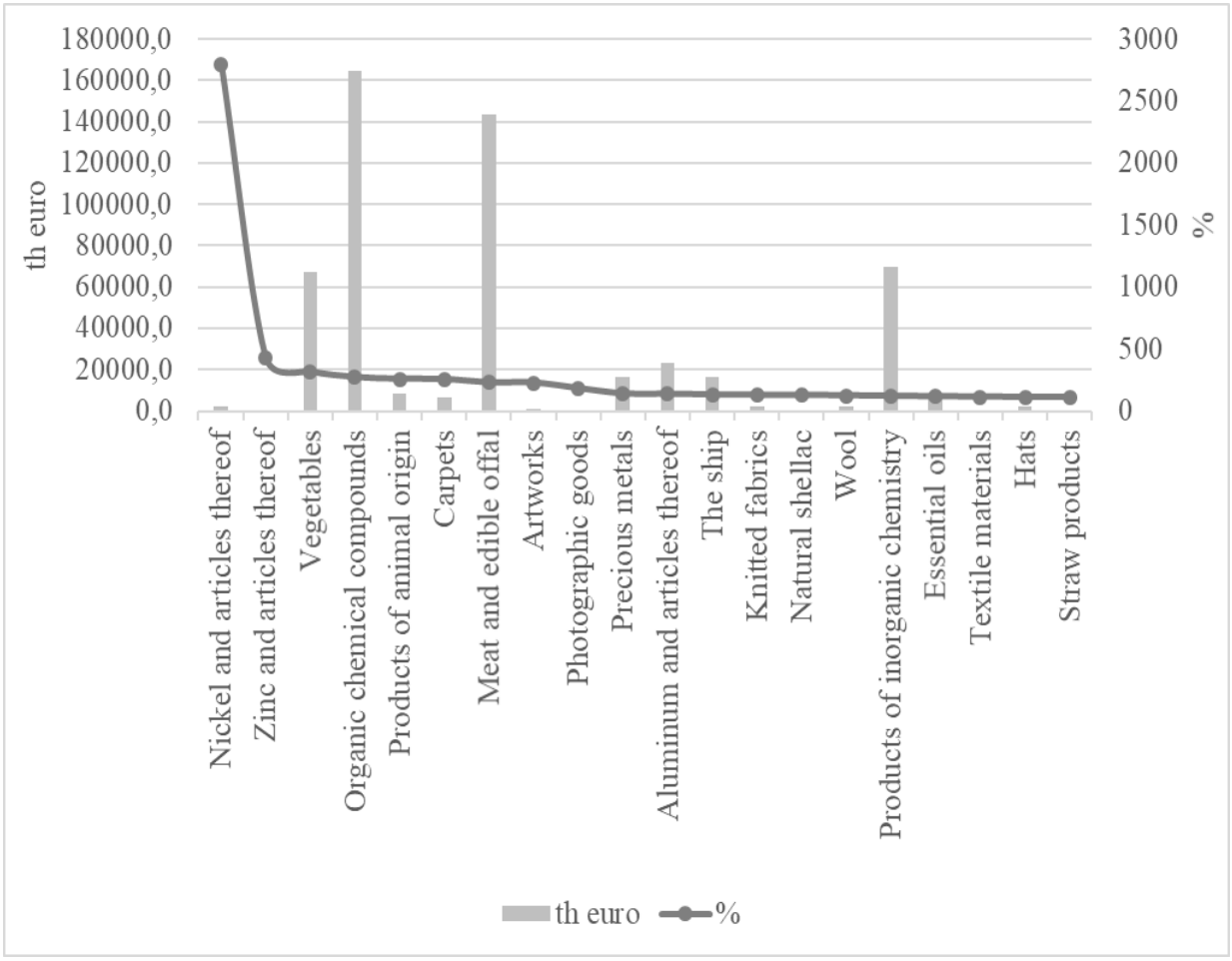
Source: authors' calculations based on [State Statistics Service of Ukraine, 2019].

The signing of the Association Agreement resulted in a dynamic increase in exports of goods from Ukraine to EU countries, namely: Malta (160.3% growth compared to 2016), Slovenia (156.0%), the United Kingdom (82.0%), Denmark (76.8%), Estonia (70.8%) and other countries.

Analysis of Ukraine's exports of goods to the EU in 2018 compared to 2016 revealed a significant increase in the following product groups: nickel and by-products by EUR 2.5 million (29 times), zinc by EUR 234 thousand (424%), vegetables by EUR 67.5 million (316%), organic chemicals by EUR 164 million (271%), meat and by-products by EUR 143 million (229%) and other livestock products by EUR 8.7 million (258%), and other goods (Fig. 2). At the same time, 5 product groups occupy the highest positions of exports from Ukraine to the EU during 2011–2018, namely: ferrous metals; cereals; electric machines; ores, scales and ash; mineral fuels.

Figure 2

Increase in exports of Ukrainian goods to the EU (in 2018 compared to 2016)



Source: authors' calculations based on [State Statistics Service of Ukraine, 2019]

The European integration vector envisages the emergence of a new concept of doing business, which is the result of expansion of market and increasing of the number of competitors. This increase in the number of participants in economic relations implies the need to develop competitive advantages, that is, the introduction of new production technologies to ensure the high quality of products, which requires significant financial resources [Holikovoi, 2014: 59].

Ukraine's European foreign trade orientation dictates new requirements for doing business that involve forming partnerships with various organizations in EU countries. That is why it is advisable to determine whether the country is a "natural trading partner", which is carried out by the assessment of the complementarity index.

The Complementarity Index is calculated as the sum of the variations in the share of imports of each product by the partner country in the total imports of the country for each product and the shares of exports of each product by the partner country in the total exports of each product:

$$TCI_K = 100 - \frac{1}{2} \cdot \left(\sum_{i=1}^{n} \left| M_i^P - X_i^K \right|\right); \quad (1)$$

where TCI_K – complementarity index of country K;

M_i^P – the ratio of exports of goods from country K to country P to total imports of goods by country P;

X_i^K – the ratio of exports of goods from country K to country P to total exports of goods by country K;

i – the commodity number by the code of foreign economic activity;

n – total number of goods by the code of foreign economic activity;

K – country for which the index is calculated;

P – partner of country K.

The index value is calculated as a percentage from 0% (indicating absolute lack of complementarity as result of absence of export from country K to country P) to 100% (indicating complete complementarity, which is possible due to the equality between total imports of goods by country P and total export of goods by country K).

To calculate the Complementarity Index of Ukrainian-European trade relations, official data of the State Statistics Service of Ukraine [State Statistics Service of Ukraine, 2019] and the Statistical Office of the European Union [Statistical Office of the European Union, 2019] for 2011-2018 is used. The classification list includes 97 commodity groups according to the Ukrainian Classification of Goods for Foreign Economic Activity and the Harmonized Commodity Description and Coding System, on the basis of which the indexes were evaluated (Table 1).

Table 1.

Assessment of mutual complementarity between Ukraine and the EU in 2018

	Meu	Xu	Mu	Xeu	Complementarity index of Ukraine	Complementarity index of EU
01 live animals	0.00	0.02	0.96	0.02	0.01	0.47
02 Meat and edible offal	0.05	0.36	0.87	0.01	0.16	0.43
03 fish and crustaceans	0.00	0.78	0.19	0.02	0.39	0.08
04 milk and dairy products, poultry eggs; natural honey	0.10	0.26	0.94	0.01	0.08	0.47
05 other products of animal origin	0.01	1.06	0.36	0.01	0.53	0.18
06 live trees and other plants	0.00	0.30	1.62	0.02	0.15	0.80
07 vegetables	0.02	0.43	0.27	0.01	0.21	0.13
08 Edible fruits and nuts	0.01	0.80	0.16	0.02	0.40	0.07
09 coffee, tea	0.00	0.25	0.48	0.04	0.12	0.22
10 cereals	0.33	0.34	0.70	0.02	0.00	0.34
11 products of the flour and cereals industry	0.08	0.11	0.43	0.00	0.02	0.21
12 seeds and fruits of oil plants	0.09	0.56	0.54	0.05	0.23	0.24
13 natural shellac	0.00	0.51	0.53	0.01	0.26	0.26
14 vegetable materials for manufacture	0.16	1.18	0.19	0.01	0.51	0.09
15 Animal or vegetable fats and oils	0.10	0.25	0.21	0.01	0.08	0.10
16 meat and fish	0.00	0.12	0.35	0.02	0.06	0.17

	Meu	**Xu**	**Mu**	**Xeu**	**Complementarity index of Ukraine**	**Complementarity index of EU**
products						
17 sugar and sugar confectionery	0.03	0.15	0.53	0.01	0.06	0.26
18 cocoa and its products	0.01	0.26	0.71	0.04	0.12	0.34
19 finished grain products	0.04	0.30	0.71	0.01	0.13	0.35
20 vegetable processing products	0.02	0.62	0.55	0.02	0.30	0.27
21 different foods	0.01	0.34	0.55	0.02	0.17	0.26
22 alcoholic and non-alcoholic beverages and vinegar	0.01	0.17	0.52	0.01	0.08	0.26
23 food industry residues and wastes	0.05	0.47	0.77	0.03	0.21	0.37
24 tobacco and industrial tobacco substitutes	0.00	0.00	0.37	0.02	0.00	0.17
25 salt; sulfur; earth and stones	0.06	0.74	0.23	0.02	0.34	0.11
26 ore, slag and ash	0.08	0.69	0.03	0.00	0.31	0.01
27 mineral fuels; oil and its distillation products	0.00	0.78	0.19	0.02	0.39	0.08
28 products of inorganic chemistry	0.01	0.17	0.22	0.01	0.08	0.11
29 organic chemical compounds	0.00	1.12	0.27	0.00	0.56	0.13
30 pharmaceutical products	0.00	0.05	0.73	0.01	0.02	0.36
31 fertilizers	0.01	0.36	0.25	0.06	0.18	0.10
…	…	…	…	…	**...**	…
Total					**79.19**	**72.72**

Source: authors' calculations based on [State Statistics Service of Ukraine, 2019; Statistical Office of the European Union, 2019; WBG, 2019; IMF, 2019].

The results of the calculations indicate that Ukraine and the European Union are "natural trading partners". In 2018, EU exports met the needs of the Ukrainian market by 72.72%, and Ukrainian exports met the needs of the EU market in goods by 79.19%. This trend is observed during 2011-2018 (Fig. 4).

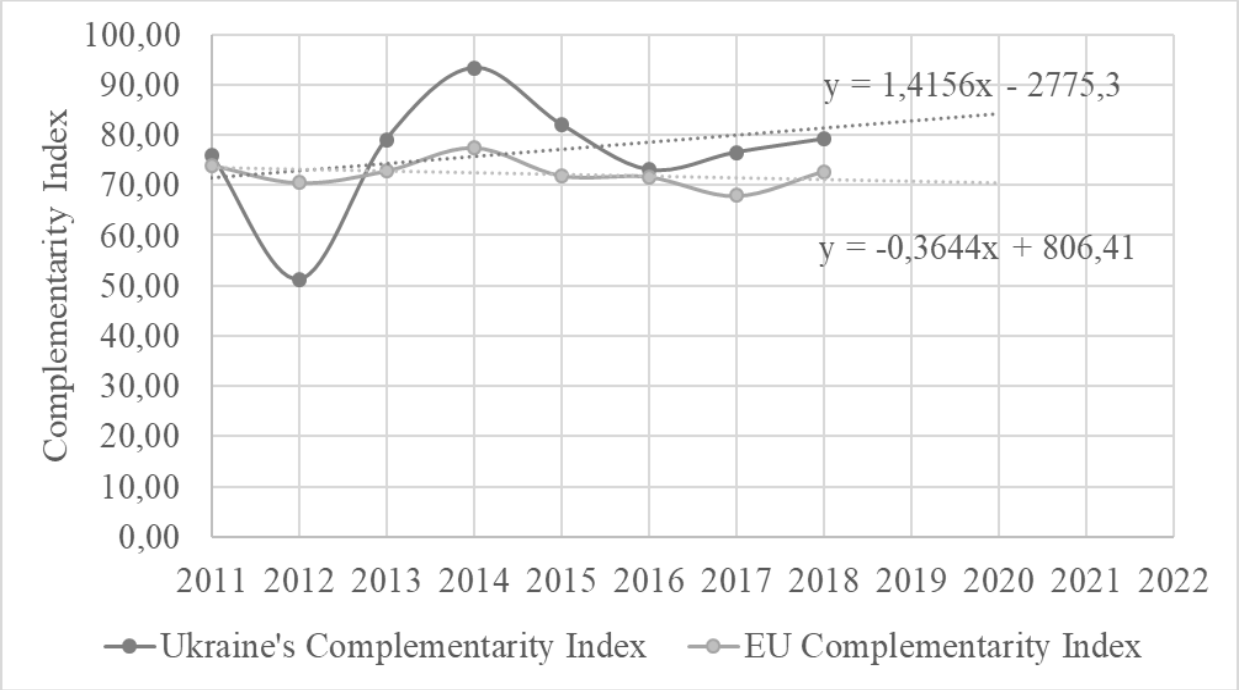


Figure 3. Dynamics of mutual complementarity between Ukraine and the EU during 2011-2018

Source: authors' calculations based on [State Statistics Service of Ukraine, 2019; Statistical Office of the European Union, 2019; WBG, 2019; IMF, 2019].

Based on Fig. 3, we predict similar complementarity indices for 2019 and 2020. According to the linear forecast, in 2019 the complementarity of Ukrainian exports will increase by 3.51% (will be 82.7%), and in 2020 - by 1.41% (will be 84.11%). The complementarity of European exports to Ukrainian imports will be 70.71% (2.01% down), and in 2020 - 70.35% (0.36% down).

Thus, mutual trade in a free trade area is beneficial for both partners, as Ukraine and the EU benefit from increased trade, and establishing international partnerships between their businesses and organizations can be particularly beneficial in the long term perspective.

Conclusions. It has been found out that the EU and Ukraine are "natural trading partners", as evidenced by the high level of mutual trade complementarity. The dynamics of Ukraine's complementarity index tend to gradually increase, which is a positive result of signing the Association Agreement with the EU. The creation of a free trade area has contributed to the dynamic growth of exports of nickel, zinc, vegetables, animal products to EU countries such as Malta, Slovenia, the United Kingdom, Denmark, Estonia and others.

Integration processes intensify market competition, which stimulates the development of business entities in Ukraine and takes them to a new level of doing business. Domestic enterprises should focus on developing competitive advantages to strengthen their positions both in the Ukrainian market and the European market, which is possible in the case of close international sectoral cooperation.

References

1. Біленко Ю. І. (2012) Динамічні ефекти створення зони вільної торгівлі України з Європейським Союзом [Dynamic effects of Ukraine's free trade area with the European Union]. Київ: Актуальні проблеми міжнародних відносин 111(2): 30-39, <http://nbuv.gov.ua/UJRN/apmv_2012_111%282%29__6>

2. Бородіна О. С. (2015) Принцип компліментарності в міждисциплінарних дослідженнях економіки [The principle of complementarity in interdisciplinary studies of economics]. Київ: Економіка і прогнозування 2: 47–58, <http://nbuv.gov.ua/UJRN/econprog_2015_2_6>

3. Галайда Л. В. (2018) Облікові аспекти відображення стану та зміни власного капіталу підприємства [Accounting aspects of the reflection of the state and changes in the equity of the enterprise] Економіка. Фінанси. Менеджмент: актуальні питання науки і практики 1:134–142 <http://nbuv.gov.ua/UJRN/efmapnp_2018_1_13 >
4. Дегтяр Н. А. (2017) Дослідження феномена внутрішньогалузевої торгівлі як чинника конкурентоспроможності країни в зовнішньоекономічних відносинах [Investigation of the phenomenon of intra-industry trade as a factor of the country's competitiveness in foreign economic relations] Biznes-inform 11: 67–74 <nbuv.gov.ua/j-pdf/ binf_2017_11_12 >
5. Голівкова Т. В. (2014) Інструменти регулювання просторово-економічного розвитку України [Instruments of regulation of spatial and economic development of Ukraine] Київ: НАН України, ДУ «Ін-т екон. та прогнозув. НАН України»
6. Клименко І. В. Ризики європейського інтеграційного проекту: виклики та можливості для України [Risks of the European integration project: challenges and opportunities for Ukraine] НІСД: 88.
7. Макогін З. Я. (2012) Комплементарність структури українсько-китайських економічних відносин [Complementarity of the structure of Ukrainian-Chinese economic relations] Науково-технічна інформація 2: 24-31, <http://nbuv.gov.ua/UJRN/NTI_2012_2_6>
8. Панченко В. Г. (2013) Вплив створення зони вільної торгівлі з ЄС на економіку України [The impact of the creation of a free trade area with the EU on the economy of Ukraine] Київ: Міжнародний центр перспективних досліджень: 22-23, <http://icps.com.ua/assets/uploads/files/analitical_research.pdf>
9. Федірко Н. (2015) Макроекономічні ефекти міжнародної регіональної економічної інтеграції: світова практика та виклики для України [Macroeconomic effects of international regional economic integration: world practice and challenges for Ukraine] Міжнародна економічна політика 1: 155-179, http://nbuv.gov.ua/UJRN/Mep_2015_1_9
10. Andreosso-O'Callaghan B. (2009): Economic structural complementarity: how viable is the Korea-EU FTA? Journal of Economic Studies, 36: 147–167
11. Chandran S. (2010) Trade Complementarity and Similarity Between India and Asean Countries in the context of the RTA, https://mpra.ub.uni-muenchen.de/29279/
12. Hoang V. (2018): Assessing the agricultural trade complementarity of the Association of Southeast Asian Nations countries. Agric. Econ. – Czech, 64: 464–475, https://www.agriculturejournals.cz/publicFiles/253_2017-AGRICECON.pdf
13. Khadan J. (2013) New Empirical Insights into the "Natural Trading Partner" Hypothesis for CARICOM Countries. Munich: MPRA Paper, <https://ideas.repec.org/p/pra/mprapa/50493.html>
14. Shuai C.M., Wang X. (2011): Comparative advantages and complementarity of the Sino-US agricultural trade: an empirical analysis. Agricultural Economics – Czech, 57: 118–131
15. Vahalík B. (2014) Regional Bilateral Trade Analysis of the European Union, China and ASEAN. Procedia Economics and Finance 12: 709 – 717, https://core.ac.uk/download/pdf/82500988.pdf
16. Vlasenko L. V. (2019) Complementarity of Trade between Ukraine and the People's Republic of China as an Indicator of the Effectiveness of Bilateral Cooperation; Elektronne naukove fakhove vydannia z ekonomichnykh nauk «Modern Economics» 15, https://modecon.mnau.edu.ua/issue/15-2019/vlasenko.pdf
17. An official website of the European Union (2019) Database <https://ec.europa.eu/eurostat/web/international-trade-in-goods/data/database>
18. International Monetary Fund (2019) Databases <http://www.imf.org/>
19. State Statistics Service of Ukraine (2019) Statistical Information <http://ukrstat.gov.ua/>
20. The World Bank Group (2019) World Bank Data <http://www.worldbank.org/>

ЗМІСТ

ПОЛІТИЧНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

СУЧАСНА СИСТЕМА МІЖНАРОДНОГО ПРАВА

ОСОБЛИВОСТІ РОЗВИТКУ СВІТОВОГО ГОСПОДАРСТВА ТА МЕВ

АКТУАЛЬНІ ПРОБЛЕМИ МІЖНАРОДНИХ ВІДНОСИН

Збірник наукових праць

ВИПУСК 141

Заснований в 1996 році.

Засновник : Інститут міжнародних відносин
Київського національного університету імені Тараса Шевченка.

Свідоцтво про державну реєстрацію: К1 №292 від 05.11.1998 р.

Науковий редактор: **Дорошко М. С.,** доктор історичних наук, професор.

Рекомендовано до друку Вченою радою Інституту міжнародних відносин Київського національного університету імені Тараса Шевченка. Протокол № 5 від 19 грудня 2019 року.

Підписано до друку 27.12.2019 року.
Наклад 100 примірників

Інститут міжнародних відносин
Київського національного університету імені Тараса Шевченка
Тел. 044-481-44-68
Сайт: **http://apir.iir.edu.ua/index.php/apmv/index**